



Research Report

AFA Cases on Large Scale Land Acquisition in Asia

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Table of Contents

Foreword.....	3
Cambodia	4
Cambodian Case 1:	4
Cambodian Case 2:	11
Cambodian Case 3:	19
Large-scale Agricultural Land Investments: The Cambodian Experience.....	23
Philippines	46
Philippine Case 1:	46
Philippine Case 2:	59
Philippine Case 3:	73
Large-scale Agricultural Land Investments: The Philippine Experience.....	100
Indonesia.....	117
Large-Scale Agricultural Land Investments: The Indonesian Experience.....	117
Widening the Dialogue on Large-Scale Land Acquisitions in Asia: A Regional Paper.....	140

Foreword



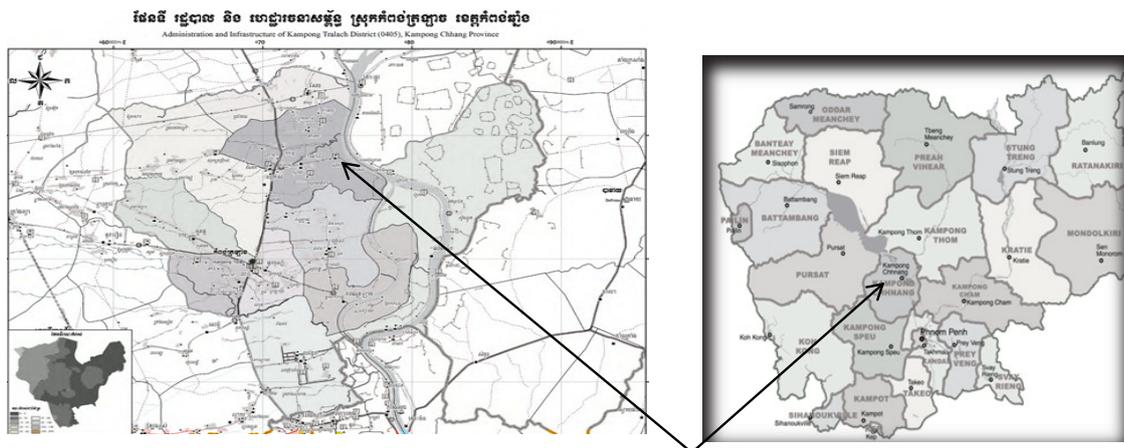
Cambodia

Cambodian Case 1:

Impact of Large Scale Land Acquisition in Cambodia: The Case of the Villagers of La Peang, Ta Ches Commune, Kampong Chhnang Province

1. Socioeconomic and Political Situation of the Area

1.1. Location



The land dispute case is situated in La Peang village, one of the 16 villages of Ta Ches commune, Kampong Tralach district, Kampong Chhnang province, located in central Cambodia. Ta Ches commune is about 60 kilometers away from Phnom Penh along national road No. 5. The other 15 villages of Ta Ches commune are Boeng Kak, La Peang, Ou Rung, Samraong, Svay Krom, Souvong, Snay, Svay Bakav, Voat Thmei, Thlok Yol, Ta Kaoh, Trapeang Preal, Banteay Meas, sampoar, Kampong Ta Ches.

1.2. Climate

Like the rest of Cambodia, the commune has a tropical monsoon climate. December and January are the coolest months, while March and April are the hottest. The province's rainy season extends from May to October. Average annual rainfall is about 1,200 to 1,400 millimeters. The average annual temperature is about 27°C (about 80°F).

1.3. Natural Resources

In general, the commune has scarce natural resources. It has about 2,010 hectares of wet season rice and 640 hectares of dry season rice. Its forests have mostly disappeared, and its soil fertility is also declining; actually it has become infertile due to natural and human-made activities. Average yield of rice within the commune has decreased in the past years. In 2008¹, estimated yield for both wet and dry season rice in Ta Ches commune was 0.5 ton/ha. It was considered the lowest among the 10 communes of Kampong Tralach district.

¹National Committee for Sub-National Democratic Development (NCDD): Kampong Tralach District Data Book 2009. District Code Nr: 405 of Kampong Chhnang province. October 2009, Page 31

1.4. People and Culture

The National Statistics Demographic census states in 2008 that the total population of Ta Ches commune was 12,359 persons². Among them are 119 families, equivalent to 543 persons (275 are female), living in La Peang village. Approximately 92 percent of the villagers are rice subsistence farmers. In general, the villagers have a low level of education.

1.5. Economy

The main sources of income of the villagers are rice farming and fruit cropping. Some move to the cities or to Thailand to work in garment factories. About 2.7 percent of the population, from ages 18 to 60, in Ta Ches commune have uncertain or irregular jobs.

2. History of the Case

Families had lived peacefully in the village of La Peang since the early 1980s. The government gave the land to these families to farm. The peaceful life of the villagers got disrupted in 1996 when a development company, KDC International Company, came to the area and started acquiring land from the villagers.

The company is owned by Chea Keng, the wife of the Minister of Industry, Mines and Energy, Suy Sei. It bought pieces of land through a village chief who served as broker. He allegedly informed the villagers that the government needed the land for economic development.

From the accounts of some community members, KDC's representative, Dy Deoun, told the people the company would give them compensation for their land, provide them with chemical fertilizers, and buy their agricultural products. Besides, they were told, the land would be returned to them after three years. Initially, the villagers refused to sell their lands as their lands were their only source of livelihood.

A villager shared, "The commune's agricultural official and district cadastral survey official came to measure the land. We, the villagers, were unaware of the intent of the officials. We wondered why our land was being surveyed and measured. After the survey, we were all called to get our money. We refused to sell, because our land was our only means of livelihood. The company told us whether we liked it or not, they would take our land away. Fearful of losing our entire land, we sold only a portion. I myself sold only 0.5 hectare of my 2.5 hectare-land. But later, they took away all of it."

In interviews, some villagers shared that they sold only the portion of their land along the main road. They also said they did not sign any written agreement with KDC. Each family received 100,000 riels, the equivalent of US\$25 at the time. But no fertilizers were ever given and no agricultural products were bought.

Immediately after the purchase of the land, the company started digging ditches, demarcating and fencing the land, including areas the villagers claimed were not part of the deal. The entire land demarcated covered a total of 522 hectares.

Three years later, in 1999, the company started prohibiting the villagers from entering the demarcated area, or to farm on the remaining land villagers believed still belonged to them. The villagers began

²National Committee for Sub-National Democratic Development (NCDD): Kampong Tralach District Data Book 2009. District Code Nr: 405 of Kampong Chhnang province. October 2009, Page 25

protesting and demanding for the company to give back their lands. Their protests fell on deaf ears. Two protesters were arrested and jailed.

The 108 affected families filed a class suit against KDC before the provincial court in 2007. They questioned the legality of KDC's claim to the land and demanded the return of their lands. The provincial court rejected their complaint, as they failed to pay the required court fee.

A villager, Phen Rom, explained, "Our joint complaint against KDC was rejected by the chief of provincial clerk, because we did not pay the U\$8,000 filing tax."

In 2008, the company destroyed 14 houses of villagers who had remained inside the compound despite orders to leave.

In July 2011, the villagers filed another complaint, demanding KDC to return a total of 145 hectares of land. The court again rejected the complaint, as the villagers again failed to pay the US\$2,000 filing fee.

Provincial Court Director Teang Sotha said, "We will not accept their complaint unless they pay their court fee."

The villagers filed a complaint a third time in September 2011. But this time, only a total of 52 out of the 108 families, were named as plaintiff, demanding the return of a total of 114 hectares of land. The other 56 families backed out for fear of arrest and imprisonment as had been the fate of two of their fellow villagers.

3. Recent Developments

In the early morning of September 15, 2011, representatives of 50 families from La Peang village in Kampong Tralach district traveled on tractors to the provincial courthouse of Kampong Chhnang³ to file their latest complaint against KDC.

Phen Rom shared, "We wanted to ask the provincial court to order Ms. Chea Keng to testify under oath along with us to tell the truth. We wanted her to pay the filing fee and one riel in compensation [if the judge rules in their favor]."

At the courthouse, the villages waited for court officials to accept their complaint. Unfortunately, despite their long wait, their complaint was not accepted. With hopes dashed, the villagers decided to take their case to the Ministry of Justice in Phnom Penh. To draw attention to their case, they planned to walk the 90-kilometer stretch from La Peang to Phnom Penh. They believed the Ministry would listen to their complaint and finally hand down a favorable decision on their nearly a decade-old dispute with KDC.

Ou Keat, a 76 year-old villager, said, "I think the court is under pressure from someone [to refuse our complaints]. So, we will walk from Kampong Chhnang to the Ministry of Justice to file our complaint."

³Ibid



4. Current Status of the Case

As of this writing, the case is still pending in court. The court decided to create an investigative panel to determine the size of each family's plot prior to the so-called sale of the land to the KDC.⁴

Chan Saveth, senior investigator of ADHOC, a local NGO engaged in human rights advocacy, said that the court's latest move of creating an investigative panel placed great pressure on the villagers. "The court tends to side with the company and powerful people. There is no fairness or justice as far as the villagers are concerned," he explained.

Up until now, no development has been done on the land. The affected villagers do not know the reason why the land was taken from them. They believe the company has already distributed or sold portions of the land to various individuals.

Koy Vutha, 2nd Deputy Chief of Ta Ches commune, shared, "At first it was a local company who claimed ownership of the land. But the land has since been apportioned and sold to various individuals. I do not know now who really owns the land."

5. Socioeconomic Impacts

5.1. Further impoverishment, with women and children bearing the brunt

Loss of their only source of livelihood has further impoverished the villagers of La Peang. With no land to till and space to raise their livestock, the families barely had anything to eat. They have resorted to eating cooked-manioc tuber and wild yam/potato, especially in the months of September- December, to fill their empty stomachs.

Chhit Than, whose family lost 4.5 hectares of land to the company and whose husband has been jailed for staging protest actions against the company, has been living in hardship and dire poverty with her small daughter. "We cannot feed our animals by allowing them to graze on the land, because we are not allowed to enter the compound anymore."

5.2. Increased migration specially among the young

Incidence of migration has increased, according to the village's 2nd deputy chief. Villagers, especially the youth, were forced to migrate to the cities or other countries, such as Thailand, to find work.

Neang Ngat, a mother, said two of her sons were forced to work on fishing boats in Thailand to help support her family⁵.

Plao Deth, 50, said he could not understand why the court continued to refuse their complaints. He shared, "We are all getting hungry. We don't have enough food to eat. Our sons had to cross the border to work illegally in Thailand."

⁴ The Phnom Penh Post: "Court Again Frustrates Villagers in with KDC". By Chhay Channyda, Page 5

⁵ Ibid

5.3. Engaging in alternative sources of livelihood

Some villagers have started engaging in alternative sources of income such as harvesting earthworms to sell in the market, sewing palm leaves, and working as hired labor.

6. Recommendations

The following are the villagers' expressed desires and appeals to concerned public and private agencies and individuals as regards their case:

To the company:

1. Return our land that is not part of the sale.
2. We want to be owners of our own lives. We do not want to become workers of the company.
3. Let us negotiate and compromise on humanitarian grounds. We need our normal lives back.

To the government:

1. Take effective legal action to settle our case.
2. Assistance from Samdech Prime Minister Hun Sen to solve our case and get our lands back.
3. Intervene for the release of two villagers who are in jail for protesting against the company.

To NGOs and other stakeholders (e.g., ADHOC and media):

1. Continue to assist the poor villagers by continuing to advocate for our cause, take stronger and serious measures, including legal action.

To fellow villagers:

1. Be unafraid and continue our struggle through the courts and appeal to Samdech Prime Minister Hun Sen who always takes care of poor and vulnerable people.

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National Committee for Sub-National Democratic Development (NCDD): Kampong Tralach District Data Book 2009. District Code Nr: 405 of Kampong Chhnang province. October 2009, Page 25.

The Phnom Penh Post: "Court Again Frustrates Villagers in with KDC". By Chhay Channyda, Page 5.



individuals (4,725 males and 4,737 females). However, in 2005, UNESCO , placed the total population at 2,690 households⁹ or 13,142 individuals, 6,237 of which are females.

Majority of the people are farmers. About 50 percent of the population, or 3,273 individuals (1,585 of whom are girls), are school age children between six and 12 years old. Of these, 1,205 children (757 of whom are girls), have never gone to school. Inaccessibility of schools (children have to travel long distance to get to school) is identified as the main reason for this high incidence of out of school children.

Illiteracy rate is high, with 3,911 of the total population (2,403 of whom are women), not able to read and write. Lack of potable drinking water is a main concern. Only about 13 percent of the population has access to pump or open well water. The rest get their drinking water from ponds, rivers, or rain water reservoir.

Incidence of child malnutrition is high. Malaria and diarrhea are also prevalent, with at least one in every family suffering from either disease. Majority seek cure from traditional healers, numbering 167 in the commune, and engage in selfmedication, i.e., taking medicines without doctor's advice. There is no hospital in the area, but there is a health center servicing 18 villages.

Social problems and crimes such as domestic violence, gambling and excessive drinking are prevalent in the commune. Rape cases have also been reported. Issues like human rights, freedom of expression, and democratic process have yet to receive importance in the area. In such a situation, women and children generally end up the most vulnerable¹⁰.

1.5. Economy

Villagers of the Koh Sla region, specifically the Trapang Phlang and Taken communes, are mainly rice farmers. Of late, the region has been facing a series of social and environmental difficulties. Land concessions, illegal logging and land disputes make the Koh Sla region one of the poorest in Kampot province.¹¹ Land concessionaires are not managing the land in an appropriate or sustainable manner, and land investments seem to have no tangible benefits for local communities.¹²

Three large companies have been able to get economic land concessions in the region from the government. These are as follows:

1. Tri Star with 9,800 hectares of land for cultivating maize, bean, cassava, acacia. This is the company in conflict with the Trapang Phlang community.
2. Camland with 16,400 hectares for palm oil. The number of hectares granted is beyond what is stipulated in the 2001 land law.
3. First Bio-Tech with 10,000 hectares for cultivation of beans, cassava, and eucalyptus. No action has been undertaken so far.

2. History of the Case

Villagers of the two communes of Koh Sla region, Trapang Phlang and Taken, have been affected by large scale agricultural land development in the area. This study focuses on the Trapang Phlang commune

⁹ Krishna K C. and Project Team: Conflict Prevention & Resolution in Cambodia: Education for Peace and Development Project "Koh Sla, Kampot". Half-yearly Report June 2004. Page 8

¹⁰ Ibid. (P 3-4)

¹¹ Sahnakum Teang Thaut: FACTS & FIGURES, August 2007, No. 4, Page 6

¹² Source: OHCHR report June 2007



even as it mentions a little about the Taken commune case. All six villages of Trapang Phlang commune with close to 2,000 families have been affected by the entry of the company. Of these six villagers, two, Tuol Dauntei and Dom Pdao, are affected the most.

Tuol Dauntei and Dom Pdao villages are home to a total of 163 families. Family heads were former soldiers of the resistance army during the Khmer Rouge regime. The government granted them land certificates in 1998 following their reintegration into the Cambodian society. Each family was given 0.5 hectares of land. During the inauguration ceremony of the Taken-Koh Sla region by Samdech Prime Minister Hun Sen, the villagers were told they could farm on the land. Since then, the land had been the source of livelihood of the families.

The villagers' relatively peaceful existence started to get threatened with the arrival of a company, the Tri Star Company, in 2005. Initially, the villagers did not object when the company started clearing parts of the more than 50,000 hectares of land of the Koh Sla region. They were convinced that developing the land was beneficial to them, as it would create jobs and provide additional income. They started reacting and protesting only when the company started clearing even the small plots of land around their homes.

Such clearing of the land took the villagers by surprise. They thought their land would be spared, as the company asked them about their land boundaries beforehand. The farmers were forced to stop farming on the land. They have now lost their only source of livelihood and food on their table. As the villagers shared, "Losing our rice fields is like losing our pots for cooking rice."

Meanwhile in 2006, 40 families in Chey Sena village, Taken commune were asked by the commune leader to vacate their lands, as they had been sold to a company. They were offered minimal sums for their land (approximately US\$100/hectare). All families refused to leave. Sao Kuern and her husband, Sao Ky, took upon themselves the responsibility to lead the villagers against the company but did not know where to seek help. The case has not been resolved and is one of many throughout the area that are pending, thus creating feelings of uncertainty and fear among the villagers.¹

A former soldier from Veal Krasang village in Taken commune described how the company was taking over key economic lands in the commune. It did not offer any compensation to or signed any agreement with the villagers on the land. Nobody from the company talked or negotiated with the villagers. The villagers feared their land would be taken away from them, as they did not have titles to the land. All they had were land certificates signed by the commune chief.

The villagers believed the company's taking over and developing the land would not have been an issue if they cleared only the land located on the western part of the mountain area. It should not have included their farms. It would have been better if the company revised its boundaries to exclude the villagers' farms.

The size of the Trapang Phlang commune is more than 50,000 hectares but only about 10,000 hectares are occupied and farmed by the villagers. The commune chief shared that government granted the land concession to the company in 2005. Residents of Prey Tea, a village in Trapang Phlang, protested against the entry of the company to their village. They threatened to set fire to the company's tractors. The company retreated and organized a meeting with the villagers. In the meeting, the company's representative presented the company's and the government's purpose in developing the land. He

¹Sahmakum Teang Tnaut: FACTS & FIGURES, August 2007, no. 4, p. 8

explained that the land is an individual-state property given to the company under the government's economic land concession program. The company had a legal document stating it was leasing the land for a certain period of time in order to put up an economic venture in the area. He also said it had followed the law on forestry cover in 2002.

Initially, the company got more than 10,000 hectares. Later, the total number of hectares awarded to the company was reduced to 9,800 hectares. Early on, the local authority informed the company that villagers occupying a total of 5,100 hectares of the 10,000 hectares would be affected.

Following protests from the villagers, the local government ordered the company to return the 5,100 hectares to the villagers. The company relented and gave back 3,000 of the 5,100 hectares to the villagers. It had yet to return the remaining 2,000.

3. Current Status of the Case

Recently, the company came back to resume clearing of the land amid protests from the villagers. A villager shared, "They told me to take my animals and farming tools out of the land in the early dry season. They further said if I got my land certificate from the government, I should take my problem to the government, as it was the same government that gave the company the legal right to develop the area." He did as told with the other affected villagers. He with the other villagers went to the government to complain about the land issue.

In response to the villagers' complaint, the local government called the company on the phone, pleading with the latter to allow the villagers to continue farming on the land. A series of dialogues between the company and the villagers moderated by the provincial government was conducted. In the dialogues, it was agreed the company would give two hectares each to the families, especially the families of former soldiers living in Kon Chkaer mountain area under the government's social land concession program. To date, no action has been taken on the remaining 2,000 hectares to be returned to the villagers and on the 2-hectare land to be distributed to each family in Kon Chkaer.

It is noted that the villagers are not against developing the area. Although unsure how development can benefit them, they welcome development. They believe developing the land will mean additional source of income for them. They are willing to work for the company. Their only request is for the company to return the remaining 2,000 hectares of land to them. For them, getting back these 2,000 hectares will resolve the whole issue.

4. Socioeconomic Impacts

The main impact or effect of the large scale land acquisition on the villagers of Trapang Phlang and Taken communes, Koh Sla region is the latter's loss of source of income and food. With no land to farm, villagers do not know where else to get food to feed their families. They fear they will all die of hunger.

5. Existing Laws of the Land in Relation to the Case

The 2001 Land Law provides for the granting of economic land concession (with a maximum size of 10,000 hectares) to companies towards the promotion of investment and business² in the country. The law, however, is not properly enforced.

6. Recommendations

The villagers have the following recommendations or requests:

To the government (of Samdech Prime Minister Hun Sen) at the national, provincial, and district levels:

- a. Take immediate action to resolve the issue in favor of the villagers.
- b. Stop the company in taking any more of the villagers' land.

To the company:

- a. Return the remaining 2,000 hectares to the villagers as soon as possible in order to resolve the issue.
- b. Revise its land boundaries to exclude the area the villagers occupy.
- c. Take the land along the western part of the mountain instead.

To other stakeholders:

- a. Support and take the cause of the villagers--former soldiers who sacrificed their lives to protect the people and nation; whose only compensation for the services rendered is the plot of land the company is now taking away from them.

To fellow villagers:

- a. Continue the struggle to get back the remaining 2,000 hectares of their land through legitimate means.
- b. Continue to appeal for help from stakeholders concerned, especially Samdech Prime Minister Hun Sen.

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² Sahmakum Teang Tnaut: FACTS & FIGURES, August 2007 #04

Sahmakum Teang Tnaut: FACTS & FIGURES, August 2007, No. 4, Page 6.

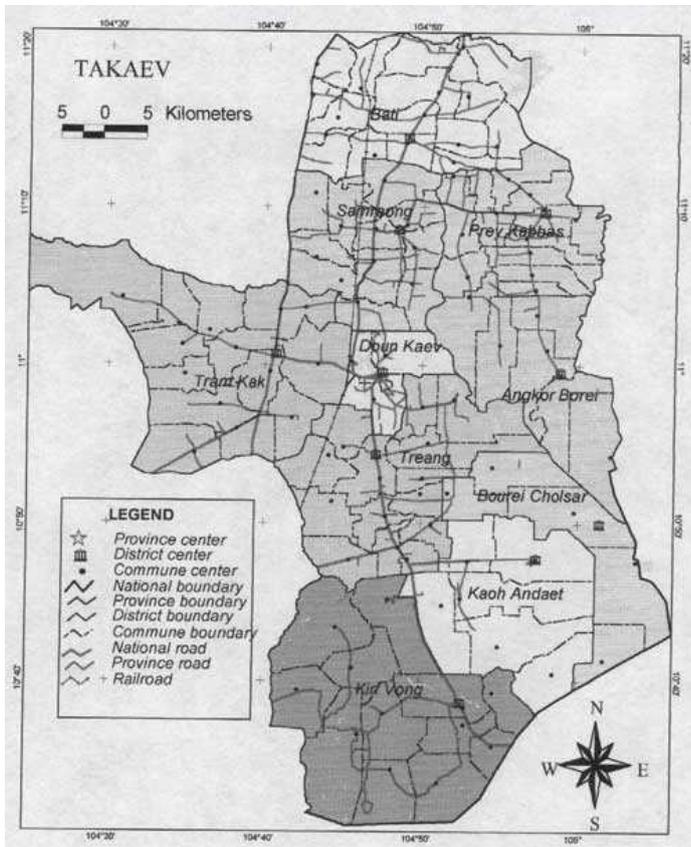
Source: OHCHR report June 2007.

Sahmakum Teang Tnaut: FACTS & FIGURES, August 2007, no. 4, p. 8



Cambodian Case 3:

Large Scale Agricultural Land Investment in Cambodia: The Case of Bati District, Takeo Province



Map of Takeo Province highlighting Bati District.

Source: CanBy Publications Co., Ltd., 2011.



Map of Cambodia highlighting Takeo Province

Source: Wikipedia, 2011

1. Socioeconomic and Political Situation of the Area

1.1. Geography

The case is located in Bati district, one of the ten districts of Takeo province. Takéo, meaning “grandparent’s crystal” in Khmer, is located in southeastern Cambodia, on the southern coast of the Gulf of Thailand. The province touches Kampot to the west, Kampong Speu and Kandal to the north, and Vietnam to the south. It is often referred to as the “cradle of Khmer civilization.”³

Takeo province covers a total land area of 3,563 sq km. It is composed of 10 districts, 100 communes, and 1,116 villages.⁴ Its other districts, apart from Bati, are Daun Keo, Tram Kak, Kirivong, Angkor Borei District, Prey Kabas, Sam Rong, Triang, Koh Andet, and Borei Chulsar. Bati district, on the other hand, consists of 15 communes and 168 villages. The climate is basically dry and humid as the land suffers from drought almost every year.

1.2. The People

Majority of the villagers are farmers. Majority of the people are illiterate. Most parents cannot afford to send their children to school.⁵

1.3. Health and Sanitation

Main problems in the community are poor sanitation and lack of potable water causing poor health, especially among the children. Many of the villages do not have latrines. People get their drinking water from dirty drains. Therefore, water-borne diseases are prevalent in the community. Drinking is a favorite pastime among the men. Such drinking has contributed to the increase of social problems in the community. Men often end up beating their wives in their drunkenness.⁶

2. History of the Case

The case has affected a total of 50 hectares of land, covering four villages. It involves a development company, residents of Maha Russey and Ang Sokunthea communes, and residents of nearby villages and communes, including Prey Kes, Ta Phork, Toul Tbaeng, Chek Sratun, Krang Leav, and Ang Metrei Mei.

The case centers on the major adverse effect of the large scale land acquisition - the damaging of a public canal which used to serve as source of water of villagers for their rice fields and as drainage system. The canal is a 3,000 meter stretch traversing Ang Sokunthea up to Prey Kes villages, including three communes, namely Krang Leav, Koma Reachea, and Trapang Krasang.

The problem started when a development company bought a total of 27 hectares of land from the residents of Maha Russey and Ang Sokunthea in October 2010. Villagers of affected areas alleged that Maha Russey and Ang Sokunthea residents included the public ditch or canal in the sale of their lands.

³ Wikipedia.Takeo Province. http://en.wikipedia.org/wiki/Tak%C3%A9o_Province#People. Nov. 18, 2011.

⁴ <http://www.takeoprovince.com/> Nov. 18, 2011.

⁵ World Vision International. Working towards a world that no longer tolerates poverty. http://www.worldvision.org.sg/images/Cambodia_Bati.pdf. Nov. 18, 2011.

⁶ Ibid. p.1

The canal was damaged and rendered totally useless when the company started developing the land. The company filled up and covered the canal. As a result, the villagers lost their only source of water for their rice fields. Also, without the drainage system, rice fields, farms, houses, national and community roads, bridges, pagodas and villages, specifically Ta Phork and Toul Tbaeng, got inundated. Floodwaters had remained because of the blocking of the waterway. In one village, about 18 hectares had been damaged because of floodwaters; in Prey Kes, six hectares; in Ta Phork , 20 hectares; and in Chek Sratun, six hectares.

A village chief said that flooding damaged six hectares of rice fields in his village. Buddhist monks taking charge of the Pagoda of Ang Metrei Mei complained about the flooded roads of Daun Tep and Mentrei Mei that lead to the Pagoda. Meanwhile, the commune chief of Krang Leav shared that since the blocking of the waterway, their commune had experienced water shortage. Water used to flow from Ang Sokunthea through the canal and across his commune in two directions.

Villagers shared that water never flowed from the north; it flowed directly to the east to Takeo province. At the time of writing, there were six water ways emptying into the flooded areas. Also, the floods were threatening to damage a 300-meter dike.

The villagers believed the company developing the land planned to build a shoe factory. They were not against developing the land per se because they believed it would help create jobs for the villagers, especially the youth. Having a factory in their area means no more traveling to the city for work, thus saving on transportation and accommodation costs, as well as minimizing risks attendant to working in the city. Nevertheless, they also believed, the income they would get from working in such factory could never pay for the cost of damages to their rice fields caused by the flooding.

3. Current Status of the Case

The issue has yet to be resolved. The affected villagers expressed their intention to dialogue with the company and the Maha Russey and Ang Sokunthea residents in order to settle the issue. They wanted to request the company to rehabilitate the canal or build a sewerage system in order to drain the floodwaters. Unfortunately, the villagers did not know who to approach. They did not even know the name of the company. They invited residents of Maha Russey and Ang Sokunthea for a dialogue but the latter did not come.

The commune chief of Krang Leav suggested contacting the provincial department of water resources and meteorology, district governor, and the respective commune authority. He reiterated that officials of water resources and meteorology should be the ones to contact and tell the company to build a sewage system in place of the canal. Construction of the sewage system should be done before the construction of the factory.

Meanwhile, an official from Prey Vihear promised to take the issue to the officials at the district bureau of water resources to find a proper solution to the issue.

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Cambodia Situationer on Large-scale Agricultural Land Investments

1. Introduction

1.1. Background/Rationale

Majority of Cambodians are rice subsistence farmers. An old Khmer saying goes, “Doing agriculture relies on water while doing war relies on rice.” At present, however, doing agriculture does not only rely on water but also on land. As we know, agricultural land is extremely important to farmers, as their lives and the lives of their families depend on it. Losing their land is tantamount to losing their lives.

Large scale economic land concessions have become a critical and controversial issue in Cambodia. While the Cambodian government passed a law on land acquisitions and large scale land concessions, such law has yet to be fully enforced and implemented. Also, such law tends to be biased towards the rich and the powerful. Large scale land concessions in the country more often than not impact negatively on small farmers. The government and other stakeholders have yet to find appropriate and effective solutions to the problem.

This study was conducted in order to know and understand the phenomenon of large scale economic land acquisitions in Cambodia, its effects on small farmers, and the roles of various stakeholders in the matter. Also, this study was done in order to offer recommendations or possible solutions to address the problem of large scale economic land acquisitions in the country.

FNN selected three local cases involving their members and then conducted, in these areas, three separate focus group discussions (FGDs) in three provinces, namely, Kampong Chhnang, Kampot, and Kampong Speu, and one-day national consultation in Phnom Penh. Affected villagers participated in the FGDs while various stakeholders, including the affected villagers, local authorities, and representatives from FNN and AFA, participated in the national consultation.

This paper has four main sections. Section 1 presents the introduction, to include research questions, objectives, and methodology. Section 2 discusses the study findings, including overall situation of economic land concessions in Cambodia, situation of the villagers affected by the concessions, impacts of land concessions, and legal instruments safeguarding the rights to land of the people. Also in section 2 are three cases of large scale economic land concessions from three provinces. Section 3 presents the conclusion, and section 4, the recommendations.

1.2. Research Questions

The study generated the following research questions:

1. What is happening in terms of land acquisition and land governance practices?
2. What are the consequences on the life and the livelihoods of the villagers affected?
3. How do land governance regulation and its implementation in practice affect the rural people in the three selected study areas?

1.3. Objectives

This study mainly aims to present an overview of existing information related to land issues and governance of local communities, and to explore the impacts of economic land concessions on the life and livelihoods of rural communities in the three target areas.

is located in Southeast Asia. As a relatively underdeveloped and yet resource-rich country in the rapidly growing Asia Pacific region, Cambodia has become a resource frontier, in which extensive tracts of forests and lands used by local communities are being converted into commercial cropping systems. The transfers of land to external investors and users, both foreign and domestic, are greatly affecting local communities' existing livelihoods and opportunities for development in both positive and negative ways.

Agriculture is one of the most important drivers of the Cambodian national economy. Total agricultural land area in the country is about 3.91 million hectares (Sopha, Saravy and Acharya, 2001).¹ About 75% of the people earn their income mainly from agricultural production. Therefore, access to land is a major issue in attempts to reduce poverty and social inequity. Only a small portion of land is titled. The formal land market remains limited to higher value urban properties and large agricultural holdings that have been registered.

In this sector, large-scale agro-industry is an emerging trend, with the RGC² granting large tracts of lands to international and local investors to promote agricultural production called economic land concessions in the Land Law of 2001.

Since Cambodia has adopted a free market economy after the UN-sponsored elections in 1993, privatization, large-scale infrastructural development, tourism, foreign investment and agro-industry have placed a lot of pressure on the availability of land for the poor. Land has become one of the most prominent issues in the formerly communist country. Rapid change and integration in the global free market economy have turned it into an increasingly valuable commodity. Free market opportunities have led the government to promote many large-scale economic land concessions.

The informal land market developed with the privatization of land and emergence of a market economy in the 1990s. Cambodians and foreign investors acquired land for commercial farming, logging, non-agricultural activities, and speculation. Demand exceeded supply in areas like Phnom Penh and fertile agricultural areas and prices have risen dramatically. At its peak in 2007, land prices were eight times higher than in the previous three years. The price for one square meter in a prime location in Phnom Penh rose from US \$250 per square meter in 2004 to US \$2,000 per square meter in 2007. The price of a hectare of agricultural land also increased from US \$250 in 2004 to US\$2,000 in 2007 (Boreak 2,000; Sopha and Acharya 2002; RDE-Cambodia 2004; GTZ 2009).

Large-scale economic land concessions have resulted in a number of socioeconomic and political problems, including disputes between land concession companies and the villagers or farmers. Unfortunately, the country lacks the experience and effective regulatory frameworks in handling conflicting claims.

However, due to the recent global economic downturn, prices of both rural and agricultural lands have declined nearly 35–40%. On the other hand, prices for leasing land in prime urban locations have declined 10–15%. No data are available for rural leasing markets. In spite of this decline, land markets have continued to develop in commercialized and urban areas, and in regions with high populations (GTZ 2009).

¹ Chan Sopha, Tep Saravy and Sarthi Acharya (Land Tenure in Cambodia: Working Paper 19 – Cambodia Development Resource Institute, October 2001), Page 18

Constraints on the development of the land market in Cambodia include: (1) lack of land market regulations; (2) lack of standardized data and information about land prices; (3) undeveloped land valuation system; (4) poor access to information by rural residents on how to undertake land transactions and obtain proper land documentation; and (5) unharmonized cadastral procedures throughout the country. Formal registration of land transactions requires seven procedures, takes 56 days, and costs 4.4% of the property value (Grimsditch and Henderson 2009; GTZ 2009; World Bank 2011).

Younger families are often in a weak position in the land market. There is little unused land for sale or lease, land prices are high, and land held by parents is often too small to provide for all their children. Poor households also lack the cash and access to credit necessary to purchase or lease land. Informal brokers and lenders may be used to facilitate land transactions, but interest rates can be extremely high. Banks may refuse to use land as collateral, and loans are often based on the physical condition of the structure, which places the poor at a disadvantage. Even those with formalized rights and adequate resources to transact land often resort to the informal market because of the perception that formal transactions require excessive time and resources (Engvall and Kokko 2007; RDE-Cambodia 2004).

To date, economic land and mineral concessions are the main forms of land acquisition by foreign investors and other non-local residents. For example, about 0.94 million hectares of the total 18.1 million hectares of land in the country were approved for economic land concessions to foreign and national companies in 2007, with the majority said to have been granted to local communities' land (UNHCHR, 2007).

2.2. Legal Instruments and Land Law Safeguarding and Protecting Interest of Local Population

Cambodia has several legal instruments that safeguard and protect the interest of local population in terms of land acquisition and ownership. These instruments include provisions in the 1993 RGC Constitution, Land Law of 2001, sub-decree on economic land concession and sub-decree on land management.

The Constitution provides for the right of all citizens of Khmer nationality and Khmer legal entities to own land. The 2001 Land Law provides for the granting of land concessions to investors for a maximum of 10,000 hectares; at the same time it recognizes the right of indigenous communities to collective ownership of their land and the right to assert and enforce their interests against third parties.

The sub-decree on economic land concessions set the criteria for the granting of concessions to parties. Among the criteria include environment impact assessment, public consultations with territorial authorities and local residents, and resettlement of affected villagers. The sub-decree on state land management guarantees the granting of definitive land titles to individuals who have occupied or possessed a non-state public land uncontested for at least five years prior to the promulgation of the land law.

The succeeding pages discuss in more detail the specific provisions in the different legal instruments mentioned above safeguarding and protecting the rights of the local communities, specifically small scale women and men farmers, to own land.

2.2.1. 1993 Constitution of the Royal Government of Cambodia (RGC)

The Cambodian Constitution stipulates that all persons, individually or collectively, have the right to land ownership, so long as it is not in conflict with public interests. All Khmer legal entities and citizens of Khmer nationality have the right to own land. Foreigners are not allowed to own land in Cambodia but

may own a limited number of units in a co-owned building provided that the units are above the ground floor and the building is not within 30 kilometers of a border. Foreigners can hold up to 49% interest in Cambodian corporations (RGC Constitution 1993; RGC Foreign Ownership Law 2010a; RGC Land Law 2001).

2.2.2. Land Law of 2001

The 2001 Land Law authorizes the granting of land concessions for social or economic purposes. It envisages “other kinds of concessions,” including mining, fishing, industrial development and port concessions, which do not fall within its scope. Land concessions must be based on a specific legal document issued by the competent authority prior to the occupation of the land, and must be registered with the Ministry of Land Management, Urban Planning and Construction.

Economic land concessions can only be granted over state private land, for a maximum duration of 99 years. These concessions cannot establish ownership rights over land. However, apart from the right to alienate land, concessionaires are vested with all other rights associated with ownership during the term of the contract. Economic land concessions shall not exceed 10,000 hectares, and concessions granted prior to the passage of the Land Law are to be reduced to comply with this limit, although an exemption may be granted if the reduction will compromise exploitation in progress. Article 59 further prohibits the grant of concessions in several locations, jointly exceeding the 10,000 hectare size limit, in favor of the same person(s) or different legal entities controlled by the same person(s).

The law extends private ownership rights to residential and agricultural land, establishes a system for the systematic titling of land and creates a comprehensive dispute-resolution system. The law also governs lease rights (RGC Land Law 2001a). It recognizes the right of indigenous communities to collective ownership of their land and the right to assert and enforce their interests against third parties. Indigenous community land includes residential and agricultural land and encompasses land reserved for shifting cultivation. Under the law, indigenous communities may continue to manage their community land according to their traditional customs. The Sub-decree on Procedures for Registration of Land of Indigenous Communities (2009) requires communities to register as legal entities before registering their land rights (RGC Land Law 2001a; GTZ 2009; Adler et al. 2006; Grimsditch and Henderson 2009).

Article 62 states that economic land concessions must be exploited within 12 months of being granted, or they will be considered cancelled. Concessions granted prior to the Land Law must be exploited within 12 months of the law’s entry into force, or they shall be cancelled. Concessions may also be cancelled if not exploited for a period exceeding 12 months during the term of the contract, without proper justification. Any failure to fulfil the conditions of a concession shall be grounds for its withdrawal, and concessionaires are not entitled to seek compensation for any damage resulting from the withdrawal of a concession.

Article 18 of the Land Law states that land concessions that fail to comply with the above provisions are null and void, and cannot be made legal in any form. Article 55 provides that concessions may be revoked by the Government for non-compliance with legal requirements, and the concessionaire may appeal this decision. Further, a court may cancel the concession if a concessionaire does not comply with clauses specified in the contract.

2.2.3. SubDecree on Economic Land Concession

The Sub-Decree on Economic Land Concessions, signed by the Prime Minister on 27 December 2005, determines the criteria, procedures, mechanisms and institutional arrangements for granting economic land concessions; monitoring the performance of economic land concession contracts; and reviewing the compliance with the Land Law of concessions granted prior to the effective date of the sub-decree.

Economic land concessions are defined as a mechanism to grant state private land for agricultural and industrial-agricultural exploitation. The purposes for which they may be granted include investment in agriculture, rural employment and diversification of livelihood opportunities, and the generation of state revenues. An economic land concession may only be granted when all the following criteria have been met:

1. The land has been registered and classified as state private land, in accordance with the Sub- Decree on State Land Management and Sub-Decree on Procedures for Establishing Cadastral Maps and Land Register, or Sub-Decree on Sporadic Registration;
2. A land use plan for the land has been adopted by the provincial or municipal state land management committee, and the land use is consistent with the plan;
3. Environmental and social impact assessments have been completed with respect to the land use and development plan;
4. There are solutions for resettlement issues, in accordance with the existing legal framework and procedures. There shall be no involuntary resettlement by lawful land holders and access to private land shall be respected; and
5. Public consultations have been conducted with territorial authorities and local residents, relating to economic land concessions projects or proposals.

Proposals for economic land concessions are to be evaluated against criteria that include the promotion of people's living standards, perpetual environmental protection and natural resource management, avoidance or minimization of adverse social impacts, creation of increased employment, and linkages and mutual support between social land concessions and economic land concessions.

2.2.4. Sub-Decree on State Land Management

The Sub-Decree on State Land Management sets out the framework for state land identification, mapping, registration and classification, and notes where additional administrative guidelines are required. Under the Land Law, any person who enjoyed peaceful, uncontested possession of land – but not state public land – for at least five years prior to the law's promulgation has the right to request a definitive title of ownership. Those who have enjoyed such possession for less than five years may obtain a definitive title of ownership after five years. However, majority of rural Cambodians do not have title documents recognizing their ownership of land, either because they have not seen the need to obtain titles, or cannot afford to do so.

2.3. Intra-household Rights to Land and Gender Difference

The legal framework for gender equality in land includes the 1993 Constitution, the Law on Marriage and Family (1989), the Land Law of 2001, and Sub-decrees. While the Constitution guarantees equal rights for women and men, including inheritance rights, and the existing legal framework supports this principle of equality, the ability of Cambodian women to claim these rights is constrained by prevailing social attitudes about gender roles and gender relations (USAID 2002; OECD 2009).

The Law on Marriage and Family distinguishes between joint property and separate property. Decisions regarding the disposition of joint property require agreement by both husband and wife, while either spouse may manage his or her separate property independently. In practice, however, many women cede control over their property to their husbands (OECD 2009).

Women and men in Cambodia have equal legal rights to land, and women often own land. Women-headed households often received less land and land of inferior quality, handicapping their ability to provide for their families and generate income from the land. An Oxfam land study reveals that



landlessness is significantly higher for women-headed households (ADB 2004; OECD 2009).

Women in male-headed households face a different set of constraints with respect to land. While the law provides for joint titling, customary practices and enforcement regimes frequently undermine joint titling rights. In many cases the land rights vest in the name of the male head of household only. One study found that women often needed their husbands' permission to include their names on land titles. Even where women have joint rights to land, gender-biased cultural and social factors often combine to limit their ability to exercise their rights. In principle, when land is jointly registered, both parties must sign to transfer land titles; in practice, however, this is not enforced. In cases of divorce, death or family breakup, women may lose their land rights, which generally lead to the impoverishment of women and children (ADB 2004). Many women in Cambodia are unaware of their land rights and have no access to legal aid or any other form of support for their rights. The lack of knowledge and support often renders women more vulnerable to those pursuing claims against their land (OECD 2009).

2.4. International Covenant on Social, Economic and Cultural Rights

The Royal Government of Cambodia is party to key international human rights treaties, including the International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and International Convention on the Elimination of All Forms of Racial Discrimination. These treaties, together with the Universal Declaration on Human Rights, guarantee the rights to own property and not be arbitrarily deprived of property; to an adequate standard of living, including food and housing; to self-determination and not to be deprived of one's means of subsistence; to freedoms of expression and assembly; to equality before the law and equal protection of the law; and to an effective remedy. The Constitution of the Kingdom of Cambodia incorporates into domestic law the human rights guarantees contained in the Universal Declaration of Human Rights and key human rights treaties, and specifically protects Cambodian citizens' right to own land, and freedoms of expression and assembly.

2.5. Interaction with Other Laws

There are other legal provisions and instruments that are relevant to the granting and management of economic land concessions. Chapter 3 of the Land Law recognizes the right of indigenous communities to collective ownership of their lands, which gives rise to all the rights and protections of ownership enjoyed by private landowners. The lands of indigenous communities include residential and agricultural land, and encompass land actually cultivated and land reserved for shifting cultivation. Article 23 states that indigenous communities shall continue to manage their communities and land according to traditional customs, pending the determination of their legal status. Once they are registered as legal entities, communities can apply for registration of collective title. The Forestry Law authorizes the grant of forest concessions, however since January 2002, a moratorium on logging in forest concessions has been in place.

The Sub-Decree on the Management of Forest Concessions states that cancelled or revoked forest concessions shall revert to natural forest protected areas, and cannot be converted into economic land concessions or awarded to other companies. Article 29 of the Forestry Law prohibits the harvest of trees that yield high-value resin or that local communities tap to extract resin for customary use. Chapter 9 of the law recognizes and ensures the traditional user rights of local communities to collect and use forest products and by-products. Traditional user rights include grazing for livestock and the sale of forest by-products, and do not require a permit. Chapter 9 also enables the allocation of any part of a permanent forest reserve as a community forest, granting a community living inside or near the forest rights to manage and utilize the forest resources in a sustainable manner.

Additionally, a sub-decree on Social Land Concessions (SLC) was established in 2003 to accompany the implementation of the World Bank-led Land Allocation for Social and Economic Development Project (LASED). Social Land Concessions are a mechanism to grant state private land to poor landless families for residential and farming purposes (Thiel 2009; UNHCR 2007; GTZ 2009).

2.6. Granting of Land Concessions: Public Consultations and Environmental and Social Impact Assessments

As mentioned earlier, essential pre-conditions for the granting of an economic land concession as provided for in the sub-decree on economic land concessions are public consultations and an environmental and social impact assessment. In most cases, public consultations have not been conducted in communities prior to the grant of concessions. Likewise, thorough and genuine environmental and social impact assessments have generally not been undertaken beforehand.

Cases in point are the land concessions in Trapang Phlang commune, Chhouk district Kampot province and Prey Vihear commune, Korng Pisei district, Kampong Speu province. No proper public consultations and economic and environmental needs assessments were undertaken prior to the granting of land concessions in these areas. Meanwhile, consultations supposedly conducted between the company representatives and the villagers in the case of La Peang village, Kampong Chhnang province had been faked.

Overall, weak enforcement of tenure rights has made it possible for influential individuals (often operating through legal entities) and groups to acquire large landholdings for speculative or unproductive purposes. The large number of illegal land-grabs weakens tenure security. In particular, customary rights of indigenous people have been one of the easiest targets for land grabbers. One common form of land-grabbing has been the acquisition of lands that are within the known domain of subsistence farming communities but lying fallow (and thus apparently unused). Because of their political marginalization and limited understanding of the law or their rights, indigenous groups are often unable to effectively defend against land-grabs, particularly in cases where they do not have local government support (Calavan et al. 2004; Engvall and Kokko 2007; LICADHO 2006; LHWG 2009).

2.7. Impacts of Land Concessions

Large scale land concessions in the country adversely affect the lives and properties of the people and their environment. These adverse effects include encroachment on land, loss of livelihoods, displacement of villagers, degradation of the environment, loss of access to forests and non-timber forest products, poor employment and labor conditions, and violence against and intimidation of villagers. These adverse effects are worsened by the lack of effective solutions to the problem.

2.7.1. Encroachment on Agricultural and Grazing Land

Encroachment on agricultural and grazing land, resulting in loss of livelihoods, continues to be the most commonly voiced concern among communities affected by the over 23 concessions in 11 provinces. For instance, the Koh Kong Sugar Industry Company and Koh Kong Plantation Company concessions were granted without public consultation in August 2006. They covered land in Sre Ambel and Botum Sakor districts, which villagers had farmed since 1979. The clearing of rice fields and orchards belonging to villagers in Sre Ambel district affected over 400 families; some had little or no land remaining for farming, and were surviving on the previous year's rice harvest. Both companies had expanded their activities despite efforts to resolve the dispute, including the establishment of a provincial working group and an agreement that further bulldozing activity would be suspended until the dispute was resolved. In January 2007, it was estimated that 507 hectares of farm land and rice fields belonging to villagers had been cleared.



In Kratie province, the six concessions granted to Global Agricultural Development, Asia World Agricultural Development, Green Island Agricultural Development, Plantation Agricultural Development, Great Asset Agricultural Development and Great Wonder Agricultural Development in Sambo district encroached upon the land of Phnong, Mil and Kuy indigenous communities in O’Krieng, Kbal Damrei and Rolous Meanchey communes. These communities depended on the cultivation of rice and seasonal crops, and the collection and sale of non-timber forest products. In mid-2006, three concessionaires began clearing land and forested areas to create roads and teak plantations, and digging trenches to prevent villagers and their cattle from accessing areas within the concessions. This destroyed rice fields and farm land belonging to villagers, as well as forested areas. Given the initial impacts of these concessions, the villagers feared land and forest resources would no longer be sufficient for the future survival of their communities.

In Kompong Thom province, the activities of the An Mady Group concession affected 29 villages in Toul Krouel and Sala Visai communes in Prasat Balaing district, where 65 per cent of the population are Kuy indigenous people. The company commenced clearing land in December 2004, before the contract was signed in May 2005, and without any prior consultation with communities. It destroyed rice fields and orchards belonging to over 300 families and blocked roads used by villagers to access forests. Families reported food shortages due to the loss of their livelihoods.

2.7.2. Loss of Access to Forests and Non-Timber Forest Products

Related to the encroachment of concessions upon forested areas is the loss of access to non-timber forest products of affected communities. For instance, in Stung Treng province, five concessions had been granted over forested areas in Sesan district, including areas of dense evergreen forest. The area had long been under the traditional use of Phnong, Prov and Kuy indigenous people who depended on rice cultivation, the collection of non-timber forest products, and hunting for their livelihood.

In Kbal Romeas commune, some families used to own over 100 resin trees. The operations of the companies limited the villagers’ access to forests to tap their resin trees and collect non-timber forest products. Resin trees belonging to villagers were felled; villagers received minimal compensation for their felled trees. Villagers reported that armed guards employed at the Sopheak Nika concession restricted their access to forest paths previously used to access their resin trees. The affected communities feared that all the forests they had traditionally used and depended on would be gone once the concessions were fully exploited.

In 2005 and 2006, villages in Kbal Romeas commune requested for community forest areas; such requests were still pending at the time of the study. Various concessions overlapped with the requested areas, which also covered community spirit forests. For communities, the loss of access to non-timber forest products, particularly the tapping of resin trees, had had a heavy impact on family incomes and traditional lifestyles. Depending on areas and provinces, communities reported that they could earn up to 10,000 riel (\$2.50) per day by tapping resin trees and selling non-timber forest products. In contrast, day labourers at concessions were paid from 5,000 to 10,000 riel (\$1.25 to \$2.50) per day, with no guarantee of continued work.

2.7.3. Displacement

The Constitution of the Kingdom of Cambodia states that all Cambodians have the right to own land, which may only be confiscated in the public interest, as provided for under law, and with the payment of fair and just compensation. Yet, rural communities throughout Cambodia have been deprived of the right to own land through the grant of economic land concessions. They have received no or insufficient payment of compensation, and there has been no demonstrated public interest. Concerns about the displacement of families have been raised in reaction to the An Mady Group concession in Kompong

Thom, the Mittapheap Men Sarun concession in Ratanakiri and the Vanna Import Export concession in Kompong Cham. For example, it is reported that the An Mady Group concession in Kompong Thom province displaced 30 Kuy indigenous families. The company offered compensation of 70,000-80,000 riel (\$20) per hectare: some villagers were forced or obliged to accept this offer, because their land had already been cleared. The families were relocated to small plots of land, too small for cultivation, along the road. Villagers resorted to day labor, and some left the village to seek jobs in other provinces. Others moved further into the forest to clear land for cultivation. As concessions had not yet been fully exploited, further displacement was likely. Even if families were not forced out, they were likely to find themselves obliged to leave because there was no more land left to cultivate. Residents along Beongkak's lake in Phnom Penh were displaced when the government gave a 99-year concession to a company to develop the area.

2.7.4. Impact on Areas of Cultural and Spiritual Significance

Some concessions cause the desecration of spiritual and traditional lands of indigenous communities. A case in point is the desecration of the spirit forests and ancestral burial grounds of Phnong indigenous communities of O'Reang district, Mondulakiri province by the Wuzhishan concession in 2004. These communities' beliefs center around spirits that control life at home, in the forest, and in their fields. Also affected were reserved land, grazing land and farm land. Despite protests from the communities, the Government proceeded with the signing of the contract with the company in December 2005.

Another case in point is the eco-tourism concession granted to New Cosmos Development (Cambodia) in May 2004 to develop a resort and golf course. The concession affected the traditional lands of Suy indigenous people in Oral district, Kompong Speu province. The land surrounds natural hot springs, and is an area of cultural and spiritual importance for the Suy. On several occasions, the company and local authorities tried to remove the statue of the Suy goddess, Yeay Te, from its location near the hot springs. Suy elders responded by maintaining a permanent presence by the statue to prevent its removal. Community members were allowed access to the statue, but armed security guards had barred their access to other areas which are also important for the spiritual life and community livelihoods of the Suy.

Every year in Krakor district, Pursat province, communities conduct a traditional ceremony to thank spirits and forests for protecting and providing for them in the previous year, and to bless them for the coming year. In early 2005, when Pheapimex was active in the commune, local authorities required villagers to seek permission to organize the thanksgiving ceremony. The chief monk and religious department of the district warned monks not to participate in the ceremony, which they deemed political. Villagers and monks proceeded with the ceremony, which was monitored by police and local authorities. The police later collected the names of monks who had participated in the ceremony.

2.7.5. Environmental Destruction

Logging activities and the use of pesticides and chemicals by land concession companies take their toll on densely forested areas and water sources. Forests areas become denuded and water sources contaminated posing serious threat to the health of the affected communities and their livestock. For instance, logging activities by the Green Rich concession in Koh Kong province, the Flour Manufacturing Company (Cassava Starch Production) in Stung Treng province, and HMH Co Ltd in Kompong Thom province continued unabated. Logging was also reported within economic land concessions in Kratie and Stung Treng provinces, particularly in Sambo and Sesan districts, where concessions have been granted over densely forested areas, including over the former Kingwood forest concession. Pesticides and chemicals used by Wuzhishan and Flour Manufacturing Company concessions contaminated water sources and affected the health of community members and their livestock in the area.

2.8. Donor Interventions

USAID funded the Cambodian Program on Rights and Justice (PRAJ) from 2003 to 2008. The project included training of lawyers and judges, support of local NGOs, legal aid and education, and high-impact advocacy on land rights. USAID's follow-on program, the Cambodian Program on Rights and Justice II, is scheduled to run until 2013 (USAID 2008; East-West Management Institute 2009–2010).

The World Bank and other donors funded the Land Management and Administration Project (LMAP) from 2002 through 2008 for a total amount of US \$24.3 million. The World Bank is funding the Land Administration Sub Sector Program (LASSP) (2009–2012). The purpose of LASSP is to further the development and improvement of land-related policies, legal frameworks, and institutions, as well as further development of the land titling program and land registration system. LASSP also includes: the development of an official land-valuation system (One-Window Cadastral Service); a widened scope of public awareness and information dissemination on land registration; and further steps towards a modern digital multipurpose cadastral system and Land Information System (LIS) (World Bank 2008a; World Bank 2010a).

The World Bank's 2008–2013 Land Allocation for Social and Economic Development (LASED) Program complements efforts under the LMAP/LASSP programs. Through LASED, the World Bank aims to work with the Cambodian government to improve the process for identification and allocation of state lands transferred to the poor and landless. To this end, LASED will strengthen pilot-scale implementation of Social Land Concessions and will work to support complementary rural services and investments for land recipients. The project has a focus on transparency and will also provide institutional support for local level land management institutions in the context of decentralization and devolution. The project is expected to transfer land and support livelihood investments and services to 3,000 land recipient families through 20 commune-based social land concession sub-projects in three provinces (Kratie, Kampong Cham and Kampong Thom) (World Bank 2010b; World Bank 2008a; World Bank 2008b; Halabi 2005).

2.9. The Three Case Studies



Evictions in Sihanouk-Ville, 2008

A combined total of 584 families (or 24% of 2,462 families) from the three provinces the study covered have been affected by large scale economic land concessions. The breakdown is as follows: Kampong Chhnang province, 64 out of 119 families; Kampot province, 400 out of 2,000; and Kampong Speu, 120 out of 343 families.

On the other hand, total land area affected is 4,364 hectares (or 8 % of the total 49,413 hectares). The breakdown is as follows: La Peang village, Ta Ches commune, Kampong Chhnang province, 114 hectares out of 176; Trapang Phlaing and Ta Ken communes, Chhouk district, Kampot province, 4,200 hectares out of 49,000 hectares (To date, 3,000 hectares have already been returned to the villagers. Only 1,200 ha

have yet to be returned); and Prey Vihear commune, Korng Pisei district, Kampong Speu province, 50 hectares out of 237.

Villagers of La Peang of Kampong Chhnang, Prey Vihear commune of Kampong Speu, and Koh Sla area of Kampot have extremely relied on rice farming for their livelihood. They are poor and weak peasants and veterans (former soldiers of the resistance army during the Pol Pot regime) who are generally uneducated. They do not possess legal land titles. They are just recognized by the local authorities as “owners” of the land. It is the high ranking government officials who decide on the awarding of large scale land concessions to investors.

3. Conclusion

In general, farmers and villagers:

- are losing their farmland and are not able to farm on their land;
- are suffering and living in hardship and most of the young villagers have been forced to desert their home to hunt for jobs in cities and neighboring country (Thailand);
- are not aware of the company's purpose of the land;
- are going to continue their own struggles with legal acts and particularly continue to appeal for help from Samdech Prime Minister Hun Sen;
- are going to die when their land are taken, because their livelihood depends on the land; and,
- have requested the company and the government to resolve the problem and give back the land to the farmers.

Cambodia has enjoyed rapid economic growth and a reduction in overall levels of poverty in the past decade, but the benefits of this growth have not been shared equitably among the Cambodian citizens. Disparities in income and access to opportunities have increased, particularly in rural areas. Rural communities are heavily dependent on land and forest resources, and landlessness has been cited as a main cause of widespread poverty in rural Cambodia. Yet increasing numbers of economic land concessions continue to be granted, further limiting rural communities' access to land and natural resources. Economic land concessions have not led to increased agricultural productivity or economic growth in Cambodia, and large areas of conceded land have been left idle or under-utilized.

As recommended by the World Bank Poverty Assessment 2006, secure land title and family-based or smallholder agriculture would improve development outcomes for rural communities. Community-based initiatives for land and natural resource management should also be prioritized. This report has concluded that economic land concessions have not proven to be an effective way of promoting development that benefits the majority of Cambodia's population. Instead, they are compromising the livelihoods of rural communities in favor of the enrichment of the few as well as foreign business interests. Effective recourse for affected communities has remained elusive, and their concerns have gone largely unheeded by the government.

Relevant authorities and the judicial system have not fulfilled their duty to uphold and protect the rights of rural communities to own land and use forest resources. They have also failed to comply with and enforce the Land Law, Forestry Law and related sub-decrees. This does not reflect positively on the accountability of state institutions and access to an effective remedy.

Land and natural resources in Cambodia must be managed for the benefit of all Cambodians in accordance with the law and Cambodia's commitments under international human rights treaties. Special protection is required for the land and traditional ways of life of indigenous communities. The protection and fulfilment of human rights, including those enshrined in the International Covenant on Economic, Social and Cultural Rights, are central to development and poverty reduction. Development is a people-centred process that encompasses economic, social and cultural well-being. It must benefit the population



as a whole, and people must be involved in decision-making about their land and livelihoods.

The participation of affected communities would assist in sharing the benefits of Cambodia's land and natural resources, and reducing the negative impact of economic land concessions. The challenge that lies ahead for Cambodia, working with its development partners, is to develop and implement policies and practices that promote equitable and shared growth in Cambodia, and the management of common resources for the benefit of all Cambodians. The international community, for its part, must do all that it can to ensure that development is people-oriented, and respects and protects the rights of Cambodian citizens.

This study clearly shows that farmers, who are living in the development project areas, where companies received the economic land concession from the government, are still scared and worried of losing their land. They live in poor conditions and face many problems. There is no action or solution from companies and other related NGOs yet towards the payment of just compensation and finding jobs for farmers.

4. Recommendations

The following recommendations are proposed to address the negative impacts of economic land concessions, respect and uphold the rights of Cambodian citizens, and promote the equitable and sustainable use of Cambodia's land and natural resources. The concession system should be reviewed, and that alternative agricultural models should be considered.

4.1. Implementation of the Legal Framework

- Ensure that all new economic land concessions, including those that do not exceed 1,000 hectares, comply fully with the provisions of the Land Law and Sub-Decree on Economic Land Concessions. In particular, ensure that public consultations and genuine environmental and social impact assessments are conducted prior to granting concessions, with the effective participation of local populations.
- Review all existing economic land concessions for compliance with the Land Law, Sub-Decree on Economic Land Concessions and concession contracts, and ensure they do not encroach upon land possessed and used by communities, including forested areas.
- Cancel economic land concessions that do not comply with the provisions of the Land Law and Sub-Decree on Economic Land Concessions, and reduce concessions that exceed 10,000 hectares.
- Ensure compliance with the Forestry Law and forestry regulations. In particular, ensure that economic land concessions are not granted over forested areas or former forest concessions, and protect the traditional user rights of communities.

4.2. Indigenous Rights to Land

- Declare and enforce a moratorium on the sale and registration of land, and the grant of economic and other land concessions, in areas occupied by indigenous peoples.
- Assist indigenous communities to demarcate their traditional lands for registration, and provide preliminary recognition of this land pending the registration of indigenous communities as legal entities, and of collective title.
- Support indigenous communities to take other steps required to register collective title, including the registration of indigenous communities as legal entities.

4.3. Access to Information

- Publish information on all economic land concessions granted and proposals under consideration,

including concessions not exceeding 1,000 hectares. Information should include location, size, use and status of concessions, and compliance with the requirements of the Sub-Decree on Economic Land Concessions. This information should be made available at local levels.

- Disclose information on concessionaires, including directors, shareholders and beneficiaries, and uphold the right to an effective remedy.
- Enforce the Land Law and Sub-Decree on Economic Land Concessions, in particular Article 59 of the Land Law, in relation to the ownership of multiple concessions jointly exceeding 10,000 hectares.
- Establish a mechanism enabling communities or their representatives to initiate action to challenge the validity of economic land concessions, and call for their review or cancellation.
- Assist families in rural communities to register their interests in the land, in accordance with the Land Law.

4.4. Additional recommendations are as follows:

- Strengthen processes related to concessions;
- Improve national data on landholdings and landlessness;
- Improve land tenure security for indigenous communities;
- Increase access to land titling projects by vulnerable groups;
- Improve land tenure security for women; and,
- Support pro-poor development of water resources and institutions of water governance.

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Philippines

Philippine Case 1:

Large-Scale Land Acquisition: The Case of Seaweed Farmers of Barangay Imba, Caluya Municipality, Antique Province



1. Socioeconomic Situation

1.1. Caluya Island

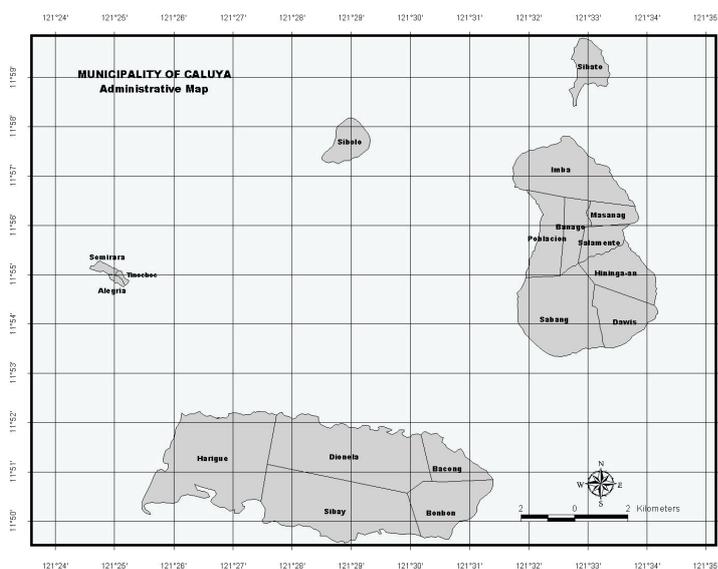
Caluya is an island municipality that lies between the islands of Mindoro and Panay, about 4-5 hours by boat from both of them. It is a fifth-class municipality in the province of Antique, Philippines. “The furthest and last town of the province (Municipal Development Plan),” Caluya is not well known outside the area and often gets left out of statistics and even maps of the province despite having a sizable population of more than 20,000 individuals in 3,942 households (NSO 2000). The most likely reason people know of Caluya is because one island of the group of six islands is the island of Semirara, home to the largest coal mining company in South East Asia, Semirara Mining Company. While coal mining dominates the economics of Semirara islands, on the other islands the main livelihood is seaweed farming. The Philippines is the world’s number one producer of seaweed for carrageenan production – currently accounting for 70% of global production. The vast majority of this production is done by small holder entrepreneurs, such as those of the Caluya Islands.

Caluya produces a sizeable amount of seaweed relative to its population. It is the main producing area for the Western Visayas region, which, in turn, is the fifth largest producing area in the country. Most people who live in coastal neighborhoods (*barangays*) of the municipality are involved in the seaweed industry, growing it either full- or part-time, buying and trading it, or working as laborers. The 2,500 full-time seaweed planters account for 27 percent of the adult population of the municipality. This official percentage is most likely an underestimation and does not include the many families who farm seaweed part-time or who otherwise gain income from the seaweed industry (boat transport, labor, collecting and drying seaweed that breaks free, buying and trading). It seems as though almost everyone you meet is somehow involved with seaweed and it plays a central role in the islands’ economy and natural resource

relations. Even children are involved with helping in their family’s seaweed plots and collecting their own bags of seaweeds that have been washed up on the shore and selling it for ‘pocket money’.

Other sources of livelihood in Caluya’s coastal barangays include: subsistence farming and fishing; cash cropping of copra, nipa, and some vegetables; commercial fishing; wage labor for seaweed buyers, fishing boats, and construction; municipal jobs; mat weaving; entrepreneurial businesses such as sari-sari shops, tricycle driving (only on Caluya Island); teaching at the high school, newly opened college, or one of the islands’ elementary schools.

The current mayor of Caluya is Genevieve Gumban Lim. For decades, the mayoral position has been contested between two powerful families - the Frangues and the Lims. Caluya is subdivided into 18 barangays:



Map 2 - Caluya Municipality Barangays by island. Sibolo Island – Sibolo; Sibato Island – Sibato; Semirara Island – Semirara, Alegria, Tinogboc; Caluya Island – Imba, Poblacion, Banago, Masanag, Salamento, Sabang, Hininga-an, Dawis; Sibay Island – Harigue, Dionela, Bacong, Bonbon, Sibay. Not pictured in this map is Panagatan Cays, another island group that is considered a barrio under Barangay Haringue. Panagatan has a population of 1,500 people, all of whom moved there to farm seaweed.

1.2. Barangay Imba

Imba is a coastal barangay on the island of Caluya. The population of the barangay is 1,097 individuals in 250 households. For the majority of households the main income source is seaweed farming complemented by subsistence fishing and crop farming. The average family size is four with a median annual income of PhP120,000. The barangay has a birth rate of 5% per year and a death rate of 2% per year.

Seaweed farming was brought by a local fisherman to Caluya in the late 1980s and was rapidly taken up by people as an opportunity. In less than ten years, by the mid-1990s, it became the focus of the economy in Caluya. Seaweed farming has both transformed people’s lives here and helped rejuvenate traditional agrarian and fishing livelihoods of the people. While seaweed cultivation is clearly a cash crop, in-depth local research reveals that it does not follow the trend of other documented cases in which export crops have led to marginalization of small communities.

In contrast, the expansion of this export crop in Caluya has increased the residents’ food security, access to new commodities and entrepreneurial opportunities, as well as opportunities for children to attend school at every level. It has also resulted in the rejuvenation of rural livelihood options and once-damaged marine ecosystems. While seaweed farming has certainly not solved all the problems in this area and comes with its own set of vulnerabilities, an overwhelming number of community members feel that it has been beneficial and reduced the precarious nature of life there.

Unfortunately, this sustainable livelihood, so rare now in coastal Philippines, is being threatened by plans to develop large-scale tourism and expanded coal mining on the islands. These plans are being pursued by local elites with the support of the current mayor. The people directly affected are not being consulted and their lack of education and knowledge of their legal rights are being exploited as plans to displace the seaweed farmers are moving forward.

In Barangay Imba, the pressure to increase investment in tourism has already resulted in the forcible demolition of 104 houses and the removal of people from an area they had lived in since the 1940s. Now forced to relocate to a communal 'bunk house,' some 300 people have been affected and have been fighting for their tenure rights and access to the area where they plant seaweed.

2. History of the Case: Housing Demolition

2.1. Unfolding of the Case

On December 3-8, 2009, the people of Barangay Imba watched as their houses, totaling 104, were demolished by a work crew from the mainland supported by more than 50 armed police officers. The demolition was fulfilling a court order in favor of Mr. Leto Javier who had come forward in 2004 to claim the land as his own. The 2.7 hectares of land claimed by the Leto family encompassed the most populated area of the barangay. An area claimed by the residents has been bequeathed to the municipality by Magno Tameta Sr. to establish the new barangay of Imba in 1943 where local people had settled. In the 1970s the barangay was formally established and lots were subdivided among settlers who began to pay property tax. The Leto family later came forward to dispute ownership of the land and won their claim through the provincial court.

The demolition of houses was the culmination of five years of court proceedings to clear from the land settler families, many of whom had lived there for three generations, and sell the said land to a resort investment company. The case of 'illegal detainer' filed against the people of Imba by Leto Javier in 2004 was decided in the latter's favor in 2008 and a demolition order was issued.

The community filed an appeal of the decision. On December 3, 2009, the same day the demolition started, they won the appeal -- the Court of Appeals issued a temporary restraining order (TRO) against any forcible removal. Although it should have halted the demolition, the TRO did not reach the municipal government until after the forced removal of 300 people some six days later.

Three months later, the people were relocated to a temporary communal 'bunk house.' To date, the people are still residing in the bunk house under cramped conditions. They are fearful that access to their seaweed planting and drying areas would be cut off soon. The municipal authorities wanted to relocate the affected residents to a piece of land away from the beachfront. The size of the land is much smaller than the area previously occupied by the displaced families and is quite a distance from the seaweed planting areas and foreshore area used for drying seaweed and landing fishing boats.

2.2. Reasons for Land Speculation in Caluya

There are two main reasons for land speculation in Caluya: tourism development and coal mining expansion. These future plans for land in Caluya are being pursued without consultation with the broader community or a long-term planning process. The lack of transparency is causing widespread misinformation, tension within communities, a feeling of disempowerment and fear for the future of

people's livelihoods and the local environment. The demolition in Imba and the continued pressure on the residents to vacate their ancestral land is certainly tied up with these plans by powerful local elites to sell land for tourism or mining infrastructure.

2.2.1. Tourism

Ironically, the very qualities that make Caluya ideal for seaweed cultivation – shallow, sandy beaches; clear, unpolluted waters; and a coral reef to break the waves – are also considered perfect for sun, sand, and sea tourism. In fact, the characteristics overlap so neatly that the two markets are literally competing for the same stretches of beachfront. Thus far, development plans have proceeded under the watchful eye of the now former mayor, with very few people beyond his family and the development company aware of the magnitude of the proposal. The remoteness of Caluya has enabled what is proving to be a contentious community issue to proceed out of sight of the broader Philippine public.

The Caluya Island is only a four-hour boat trip from Boracay, the so-called “jewel of the Philippines” and pride of the tourism development sector (Trousdale 1999). Now that Boracay has become over-developed (Carter 2004), it seems that Fil Estate, one of the largest investors in Boracay, has set out to find a new ‘unspoiled’ destination for development. The company has proposed a five-year development plan for Caluya municipality, that includes hotels and resorts on Sibolo, Sibato and Caluya Islands, an international airport on Caluya Island, an airstrip on Sibolo Island, and a golf course also on Caluya Island.

In 2006, Fil Estate began working closely with the then mayor to secure land and change the municipal zoning laws. They managed to buy large chunks of land on Sibolo Island and had been trying to secure the same strip of land in barangay Imba on which the house demolition happened. The plans call for the removal of seaweed farms from their current areas in order to clear the beach and shallows for tourists. This would displace at least 500 households from their livelihood source. One seaweed planter expressed his concern about the company plans:

[The local manager] said that they would give money to those who would be affected. I'm worried that it is for a year only. Seaweed is our yearly source of income.... What if we do not know how to handle another business?

The idea the company put forward to relocate the seaweed farms to areas not fronting the beach reflects the company's lack of knowledge about the island's geography, suitable seaweed areas, or the social context of the island. Areas not being used for planting do not have the correct environmental conditions. Other areas are already parceled out to farmers or are common areas used for boat traffic and collecting other marine resources. Any attempt to relocate hundreds of farmers into new areas would result in chaos in the carefully balanced ownership and use rights that are already recognized. Other proposed infrastructure, for example, landing strips, a golf course, and beach huts, would affect people's croplands and coconut areas, thus reduce food security and income.

Residents' concerns center on the potential loss of their seaweed livelihood, but they go beyond that to include concerns about changes in the values and safety of their children. A few examples of concerns the residents expressed during interviews, informal conversations, and focus groups are gathered below:

- *Where will we be able to park our motor boat?*
- *We are business owners now. With the resort, we will only be able to do jobs such as massage, cleaning, and labor.*
- *Foreigners will bring in bad habits to the islands which our children and husbands might imitate such as doing drugs, gambling and videoke, and engaging the services of commercial sex workers.*

- *The children will imitate the habits they see. So many people will come here...drugs will come in as well...*
- *We cannot access any local loan or credit system anymore once the seaweed is gone.*
- *We shall revert back to fishing; but the fishing area would be restricted because of tourism development. The rocky area of the sea is not good fishing ground. Also, fishing is not a reliable source of income unlike seaweed planting because we cannot go fishing during bad weather.*
- *People might engage in dynamite fishing again.*
- *When seaweed is gone, poverty will return.*
- *We won't have money to send our children to school anymore.*
- *People will have to go back to looking for work in Palawan and Mindoro.*
- *The company will spray chemicals in the waters to clear away algae, like they do in Boracay*
- *The company will bulldoze the area off the shore they own and kill any seaweed or corals there.*
- *Small businesses may not be able to compete with big businesses that will be put up on the island.*
- *I worry whenever my son drinks alcohol at night... I fear the situation will worsen once the resort project pushes through and becomes operational. I will suffer from hypertension because of constant worrying.*

The municipality has apparently re-zoned some lands for tourist development, again, without any consultations with the affected communities.

2.2.2. Coal Mining

In 1940, Caluya municipality was declared by the national government as a coal mining reserve. Semirara Mining Company started an open-pit mining operation on Semirara Island, Caluya in the 1970s with a major increase of activity in the mid -1990s. Widespread environmental damage of Semirara island has been well-documented and labor disputes concerning the working conditions in the mines are ongoing. With the expansion of the operation, much of Semirara's seaweed farming was ruined due to pollution in the waters. Many seaweed farmers from Semirara were forced to move to other communities in order to find planting areas, thus causing more pressure and tension on the other islands. The pollution from the coal mine is also felt on other islands. When the currents flow from Semirara, coal dust coats the seaweeds throughout Caluya causing diseases and crop loss.

On May 13, 2008, the Department of Environment and Natural Resources (DENR) granted the company's request for a 15-year term extension of its coal operation contract until July 14, 2027. On November 12, 2009, the contract was amended further, expanding its potential exploration area to include Caluya and Sibay islands covering an additional area of 3,095 and 4,096 hectares, respectively. Neither of these decisions included consultation with the affected communities.

The mining company has currently been contracted to expand the road system on Caluya and Sibay islands as well as to look for more water sources. At the same time, they have been taking samples to analyze for mineral content. The municipal government has not held public meetings to discuss the company's activities and has denied any ongoing activity expansion on Caluya.

Aware of damages to the land, mangroves, and sea the mining operation has caused, residents have been justifiably wary about the possibility of the company moving on to a new island with blessings from the municipal government. Based on documents the company released upon going public, the remaining amount of coal left in its current location would last for only seven years more. Therefore, the pressure on the municipal government to allow expansion would continue to increase. It is noted that the municipality receives a large amount of revenue from the mining operation and has a vested stake in the latter's continued operation.

3. Effects of the Demolition on the Community

The demolition has had adverse physical, psychological/emotional, and economic effects on the community. Residents have lost their houses and their livelihoods, which were products of their long years of toil. They, especially the children, have experienced psychological and emotional trauma and are in constant fear of being harassed by police authorities. Neighboring communities have felt helpless, as they could not do anything to help the affected community.

The following are direct quotes from the affected residents themselves regarding the effects of the demolition:

- *We are so happy when seaweed was introduced in 1987 and we became seaweed farmers. From then until the demolition, most of us had enjoyed a much better quality of life. We were able to build fine houses. With the demolition, a part of us got destroyed as well. (Barangay Captain, male, age 50+).*
- *We suffer from psychological stress. Some of our children no longer want to go to school. Whenever they see a man in uniform, they think there will be another demolition. We do not feel safe and secure. Even our belongings are not secure. We can't think straight anymore. (Seaweed farmer, housewife, age 30).*
- *It has taken as a year to be able to adapt to this way of life, living in this cramped bunkhouse. We have been longing to live in a house we can call our own. Despite news that this bunkhouse would also be demolished, we continue to remain here, because we want to protect our source of livelihood. There is a plan to convert this land into a beach resort. Only the investors are bound to benefit from this resort. There is nothing in it for us. What happens to us then? (Seaweed farmer and fisherwoman, age 37).*
- *We were not able to fish or plant after the demolition because we had to focus on re-building our houses. It has been stressful. They prevented us from re-building on where we used to stay. We have done the best we could to build even a small hut. We will not allow ourselves to be driven away from the shore where we earn our living. We shall protect the sea for our children's future. We shall not allow it to be destroyed or privatized. (Seaweed farmer and fisherman, age 35, IFSA paralegal).*
- *Our children are experiencing some kind of phobia. Life has been so difficult since our houses got demolished. We do not have access to our gardens where we used to plant vegetables. We used to get steady income from our seaweed farms (Barangay Official, male, age 40+).*
- *The LGU now refuses to issue permits to farm seaweeds to those who still stay in the bunkhouse. That is how life has been for us. We need assurance that sustainable seaweed farming will stay for the benefit of future generations (Seaweed planter, age 65+).*
- *A most unfortunate thing for me is that the LGU refuses to help us. We asked the mayor for help, but he refused, because he said we did not support him in the last elections (Seaweed farmer, Barangay Official, age 40, female).*
- *We didn't know that the demolition was illegal, as we did not know the law. That's why we didn't stop them (Seaweed farmer, age 40+).*

- *Our barangay used to be clean and beautiful before the demolition. People merely watched tearfully and helplessly, as the houses they took years to build were being demolished before their very eyes (College graduate, IFSA paralegal, age 23).*
- *I was in school when the demolition happened. It has been so hard for us to study and focus because they cut off our electricity. I can't concentrate. I get scared whenever I think of another demolition. I fear that they will also destroy our water well (age 23, IFSA paralegal).*
- *We have been affected as well even if our house has not been demolished. They are our family and neighbors. We feel for them (Brgy Official, age 30).*

4. Actions Taken to Address the Issue

The demolition prompted the residents to organize themselves into an association called *Imba Fishers and Seaweed Planters Association* (IFSA) which then sought immediate assistance from PAKISAMA. As an immediate response, PAKISAMA leaders and staff came to Caluya to conduct a paralegal training with the demolition victims on December 26-28, 2009. PAKISAMA has been assisting IFSA to get properly organized since the association's establishment. Table 1 below presents the timeline of the case and PAKISAMA's involvement to date:

Table 1. Timeline of the case and PAKISAMA's involvement

2009 – December 3-8	
2009 – December 26-28	Paralegal Training Workshop
2010 – June	PAKISAMA Community Organizers Jonjon Sarmiento and Randy Cerio go on field to continue work with IFSA.
2010 – October	Municipal government continues to pressure the residents to leave the bunkhouse for the relocation site; electricity to the bunkhouse is cut off.
2010 – December 21-22	PAKISAMA and Process Foundation facilitate case analysis and planning workshop.
2011	PAKISAMA meets with DILG, BFAR, and members of congress on the case.
2011 – June - September	Pura Rebite of PAKISAMA is deployed to the area as witness because residents fear another demolition will be staged. No demolition happens.
2011 – July 20-21	Raul Socrates Banzuela, Anna Banzuela and Jonjon Sarmiento of PAKISAMA conduct FGD with community and document the situation on video. Video clip is produced and published on YouTube to shed light on the situation.
2011 - September 26-30	Three leaders from IFSA attend land rights conference and active non-violence seminar in Manila. They also meet with DILG Secretary Jesse Robredo, CHR Chair Etta Rosales, HMFC Head Anna Oliveros, and an official from the National Electrification Administration.
2011 – October 3	Leaders of IFSA are informed by a municipal councilor about the re-classification of their area as an industrial zone.
2011 – December	Electricity is reconnected to Imba bunkhouse.

PAKISAMA has continued to work with the community to facilitate paralegal training, collect information about municipal development plans, increase the organizational capacity of IFSA, reach out to neighboring barangay association to strengthen the voice of seaweed farmers and fishers in municipal decision-making, and advocate for support at the national level.

5. Conclusion

The lack of comprehensive municipal planning is increasingly a source of concern for residents. Rumors of land speculation, previous land grabbing, and now the appalling demolition of 104 houses in Imba, have made it clear that some municipal officials have not been making future plans for all the residents, including seaweed farmers. Currently, there is no sustainable development plan, community-based management plan or zoning process to grapple with the overlapping pressures and resource use in the area. The LGU has changed the zoning of Barangay Imba several times for residential, tourism, and industrial uses. The purpose of the re-zoning is unclear.

A huge percentage of the municipality's annual revenues come from coal mining, while it gets only a fraction of its revenues from seaweed farming despite the fact that majority of its residents rely on it for their livelihood. This is an important consideration when approaching the municipal government and creating a strong argument for the protection of seaweeds as source of livelihood.

The lack of legal knowledge of the residents has impeded their ability to intervene in decision making. Even though there is legal representation for the residents in the ongoing court proceedings, the status of the proceedings is not being communicated to all stakeholders. IFSA has been highly appreciative of the legal training that PAKISAMA has undertaken with them.

Overlapping national land declarations further complicate matters. The municipality of Caluya was declared a mining reserve by a presidential decree in 1940. In 1982, the national government also declared the area a marine turtle sanctuary. How these two declarations affect zoning and coastal access is therefore unclear.

Also, there are contradictory national priorities at play in this case. The Bureau of Fisheries and Aquatic Resources (BFAR) has been heavily promoting seaweed farming as a rural livelihood strategy and there has been a robust processing industry in the Philippines – the country currently produces 70% of the seaweed used for carrageenan production globally.

Meanwhile, the Department of Tourism and the province of Antique have been promoting tourism as the way forward, while the Department of Energy has been encouraging more coal production to fulfill domestic energy demand.

Despite the complexity of the situation in Barangay Imba, there is cause for hope. The community has come together to organize and reach out for support. The new association, IFSA, has been working with PAKISAMA in building a strong network of seaweed farming associations in Caluya in order to learn their rights and advocate for democratic processes. While the incumbent mayor is seemingly behind land speculation, there are allies within the LGU that are very concerned about the current direction of the municipality and are ready to help. Some powerful elite in the community have also started to show support for the people of Imba. The area produces high quality seaweeds; therefore, processing companies relying on the area's production, especially whenever there is undersupply in the market, could be tapped to become strong supporters of seaweed farming in Caluya.

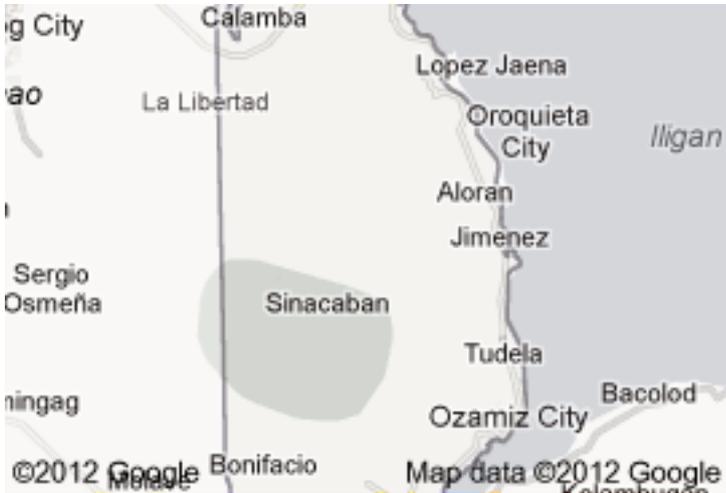
6. Recommendations

Below are recommendations to move the case forward:

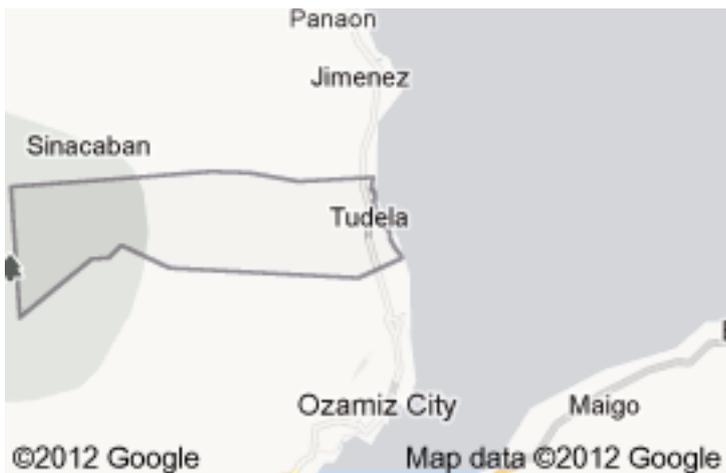
- Build a strong, inclusive seaweed farmer organization in Caluya with representation from each barangay association.
- Ensure that all seaweed farmers in Barangay Imba continue to obtain their annual seaweed farming permits from the municipality without any preconditions, including their housing situation.
- Develop a 'business case' for seaweed that ensures that the municipality makes revenue from the industry that can rival the potential tourist or mining revenue.
- Draw a municipal integrated sustainable development plan through an inclusive process.
- Clarify applicable laws of land use applied to Barangay Imba.
- Continue legal training with the residents.
- Ensure democratic and inclusive processes at IFSA.
- Empower people to fight for their rights.
- Increase transparency; it is important that truthful information is disseminated to all concerned in order to avoid rumor and fear mongering.

Philippine Case 2:

Large-Scale Agricultural Land Investments in the Philippines: The Case of the Subanens of Tudela, Misamis Occidental



Map of Tudela



Map of Misamis Occidental

1. Socioeconomic Situation

1.1. Misamis Occidental Province

The word *Misamis* was said to have been derived from the Subano word “Kuyamis,” a variety of sweet coconut, a staple food of the early settlers. Misamis Occidental used to be a part of Misamis province. On November 2, 1929, Legislative Act No. 3537 divided the province and created Misamis Occidental and Misamis Oriental. From what used to be nine municipalities, the province grew into the three cities of Ozamiz, Oroquieta and Tangub and the 14 municipalities of Aloran, Baliangao, Bonifacio, Calamba, Clarin, Concepcion, Don Victoriano, Jimenez, Lopez Jaena, Panaon, Plaridel, Sapang Dalaga, Sinacaban and Tudela with a total of 490 barangays².

²http://en.wikipedia.org/wiki/Tudela,_Misamis_Occidental, accessed on 11 February 2012.

Misamis Occidental covers 191,930 hectares and links northwestern Mindanao to the north central part of the island. To its northeast lies the Mindanao Sea, to the east, Iligan Bay, Panguil Bay on the southeast, and Zamboanga del Norte and del Sur to its west³

1.1.1. Topography and Land Use

Twelve municipalities and three cities are situated on vast tracts of rice land along the coastal areas while the other two can be found on the hilly and rolling lands westward to Mt. Malindang and Mt. Ampiro.

The total agricultural area of the province extends to 118,933 hectares which are mostly planted to rice (6,209 hectares or 5 percent of the total agricultural lands) in the flat land coastal areas and coconut (101,787 hectares or 86 percent of the total agricultural lands) in the upland areas. Aside from coconut and rice, corn, bananas, root crops and other fruit trees are also grown in the province.

Wetlands including mangrove swamp forest, fishpond and lake are estimated at around 4,579 hectares or 2.36% of the province. Forestlands are estimated at 32,277 hectares or 16.55 percent of the total land area and located at the Northeastern part of the province, particularly at Mt. Malindang, Mt. Ampiro and other mountain ranges.

Mt. Malindang covers 53,262 hectares when it was proclaimed as Forest Reserves for Wildlife Sanctuary by virtue of R.A. 6266 on June 19, 1971. The area, which is reduced to 31,896 hectares, has several river tributaries and a watershed. Several endangered wildlife species can also be found in the forest area of the province such as the Philippine Deer, Rafona Horn Bill, Giant Scope Owl, Philippine Eagle and several rare species of flora and fauna.

1.1.2. Climate

The climate of the province belongs to the fourth type characterized by a more or less fairly distributed amount of rainfall throughout the year. The province is outside the typhoon belt but sometimes affected by unusual storms. The average rainfall in two decades was recorded at 182.5 mm. The rainiest months are November and December and the driest are February -April.

1.1.3. The People

The province has a total population of 486,723 individuals. Subanon (pronounced as Subanen) is the dialect of the province, used mostly by the Subanon tribe; however, most residents can speak Cebuano, Tagalog and English as well⁴.

1.2. Tudela Municipality, Misamis Occidental

Tudela is one of the four municipalities of Misamis Occidental in Mindanao, south of the Philippines. It is where a company, Isabela Alcogas Corporation (IAC), has located its feedstock plantations. The company has targeted 4,000 hectares of agricultural land in eight barangays (see Table 1 below) of Tudela for sugarcane plantation. The very same barangays, however, are being claimed by an indigenous group, the Subanens, as their ancestral lands.

Tudela is considered a 4th class municipality but is considered the biggest among the municipalities in the province. It covers a total land area equivalent to 13.8 percent of the province's total area of 2,024.18 sq km. It is situated at the foot of Mt. Malindang.

³http://www.dukabayreef.com/misamis_occidental.html, accessed on 11 February 2012.

⁴ <http://www.misocc.gov.ph/index.php/about-mis-occ>, accessed on 11 February 2012.

The municipality is bounded on the north by the municipality of Sinacaban, to the south by the municipality of Clarin, to the east by Panguil Bay, and to the west by the municipality of Don Victoriano Chiongbian in Mount Malindang. It is a 20-minute drive from Ozamiz City to the south, and 45-minute drive from Oroquieta City to the north. It is known for its colorful Binalbal festival or a local Halloween, party normally celebrated on New Year's Day.

The People

Tudela has a total population of 25,113 individuals scattered in 33 barangays. The people living along the coasts consist mostly of migrants from Cebu and Bohol, thus the major dialects are Cebuano and Boholano. The indigenous communities of the Subanens live in interior upland areas⁵.

Most of the Tudelanhons, as the natives are called, rely on agriculture and fishing for their livelihood. Fresh prouce are traded in the local market or in Ozamiz City. The major crops cultivated include palay, corn, banana, cassava, sweet potato, coconut and other fruits and vegetables. Fish products, shells and aquaculture products such as shrimps, prawns, crabs and tilapia are produced in Tudela. Also produced are poultry products, bread, pastries and local furniture⁶.

Meanwhile, the Subanen communities and ancestral territories, including Tudela municipality, in Misamis Occidental, have long been in existence, long before the advent of a government structure that defines management and control of land and resources. The members of these Subanen communities are still in effective possession and occupation of these ancestral territories and continue to protect and preserve these territories for future generation.

2. History of the Case

2.1. Isabela AlcoGas Corporation (IAC)

Isabela AlcoGas Corporation (IAC), a company registered with the Philippine Securities and Exchange Commission (SEC), was targeting 16,000 hectares of land in Misamis Occidental for biofuel feedstock production. The company is said to have laid the groundwork for this project in 22 barangays of four municipalities, namely, Clarin (3,000 hectares), Ozamiz City (3,000 hectares), Sinacaban (3,000 hectares), and Tudela (4,000 hectares)⁷. Sixteen of these barangays identified for biofuels production are also the subject of ancestral domain claims by the Subanen indigenous people.

Table 1. Barangays targeted by Isabela AlcoGas Corp and barangays with ancestral domain claims

Municipalities	Barangays targeted by IAC	Barangays with AD claims
Clarin	Bernad	Bernad
	Bito-on	Bito-on
	Dalingap	Dalingap
	Penacio	Penacio
Ozamiz City	Capucac C.	Capucac C.
	Capucac P.	Capucac P.
	Guimad	Guimad
	Guingona	Guingona

⁵http://en.wikipedia.org/wiki/Tudela,_Misamis_Occidental, accessed on 11 February 2012.

⁶Ibid.

⁷<http://pagkagobernador.blogspot.com/2010/01/ozamiz-misoc-potential-investments-sa.html>, accessed on 11 February 2012.

	Kinuman Norte	Kinuman Norte
	Kinuman Sur	Kinuman Sur
	Stimson Abordo (Montol)	Stimson Abordo (Montol)
	Pulot	Pulot
	Trigos	Trigos
Sinacaban		Dinas
		Estrella
		Katipunan
		San Isidro Alto
		San Isidro Bajo
	San Lorenzo Ruiz (Sungan)	San Lorenzo Ruiz (Sungan)
		Tipan
Tudela	Buenavista	Buenavista
	Camating	Camating
	Colambutan Bajo	Colambutan Bajo
	Colambutan Settlement	Colambutan Settlement
	Gala	Gala
	Mitugas	Mitugas
	Namut	Namut
	Sinuza	Sinuza

The company planned to build the bioethanol processing plant on a 30-hectare land in Barangay Capucao Proper, Ozamiz City. It is alleged that the company had already submitted its application for conversion with the DAR for the plant site. Headed by Mr. George Uy, IAC was set to be purchased by Green Energy Holdings Inc., a company apparently chaired by the same Mr. George Uy.

To date, about 36,000-45,000 hectares of land had been placed under the biofuel project; the land had been converted to monocrop (sugar cane initially, then jatropha) farming for the project. Around 4,000 households had been affected. The people had expressed apprehension about getting into jatropha farming, because it requires the use of chemical pesticides which might eventually pollute the waters.

2.2. Series of Events

Residents of Brgy. Namut, San Lorenzo Ruiz, Collambutan Settlement, Mitugas and Gala said that IAC representatives, with the provincial officer of the National Commission on the Indigenous Peoples (NCIP), came to their respective communities on separate occasions in September 2008. At the onset, NCIP attended barangay assemblies and presented a project purported to bring development to the Subanens. The project would involve the planting of sugarcane to be used as feedstock for biofuels production in Ozamiz City. Additional perks under the project for the community included scholarships for the children, livelihood such as animal dispersal for the adults, and infrastructure development, including construction of concrete roads.

Later, IAC Operations Officer Rodulfo "Popoy" Lingua, with NCIP representatives, presented the company's proposed project to the barangay councils. He tried to convince the people about the development and prosperity the project would bring to the community. According to the Subanens, they were told IAC would lend them an initial seed capital of PhP 16,000 per hectare and provide other supports in cultivating sugarcane. They could avail of a second loan of PhP16,000 if the first harvest proved unsuccessful. The business scheme to be applied, however, was unclear.

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

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

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

Like other development projects purportedly aimed to improve the plight of indigenous communities, the IAC's project merely sowed disunity among community members. Divided between those in favor and those against the project, the community became more polarized when NCIP changed their leaders. The once peaceful communities of the Subanens were now confronted with conflict.

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

Undeterred, the tribal leaders with the help of some Church groups and NGOs, initiated a signature campaign against the project. NCIP Provincial Officer Dodge Cabahug allegedly lashed back at them and threatened to take to court the signatories to the petition. He told them: *“Pwede lang kayong magtanong pero hindi kayo pwedeng magreklamo. Malaki na ang gastos sa proyektong ito kaya hindi pwedeng hindi ito matuloy.”* (You can only ask questions; you cannot complain. So much has been spent for the project already. It therefore cannot be stopped). Fearful of being imprisoned, some of those who signed the petition retracted.

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

The people, including barangay leaders, alleged that the municipal mayor of Tudela Felix Sarigumba, Misamis Occidental Gov. Herminia Ramiro and Rep. Loreto Leo Ocampos are all supportive of the project. NCIP personnel were the ones pushing for the entry of IAC's biofuels' project in their ancestral lands.

3. Actions Taken to Address the Issue

3.1. By the Subanens

The following are the actions taken by the affected communities to address the issue:

3.1.1. Awareness raising activities and signature campaign

With the support of the Environmental Awareness Team, the Subanens opposing the project conducted awareness-raising activities on the impact of the biofuels and about the FPIC process mandated by the Indigenous People's Rights Act (IPRA). Related to the awareness raising activity was the signature campaign against the illegal encroachment and NCIP endorsement.

3.1.2. Dialogue with IAC

The IPs held two separate dialogues with the IAC in 2009. But the dialogues proved futile, as the IPs were not able to secure a copy of the MOA and find out the terms of agreement between the IAC and the IP communities signed by the NCIP-appointed tribal chieftain.

3.1.3. Meeting with sectoral representatives in Congress

IP leaders met with Congresswoman Kaka Bag-ao of Akbayan and the Committee on Human Rights Chairperson Etta Rosales to present their grievance and gather support for their struggle.

3.1.4. Participation in seminar

Two leaders attended a land rights conference and active non-violence seminar PAKISAMA conducted on September 27-30, 2011.

3.2. By other Stakeholders

The following are the actions taken by other stakeholders in the case, including the church groups, academe, and NGOs:

3.2.1. Environmental Awareness Team

Civil society groups, including the church, environmental groups, schools and IP organizations formed a network called the Environmental Awareness Team to protest the illegal encroachment of Isabel Alcocgas into the Subanen ancestral lands.

The network is composed of the Social Action Center of the Catholic Church, Pieksalabukan Mieggulipit nga'k Suban'n Gataw'g Ginsalogan (PIEMSUGG), Justice and Peace and Integrity of Creation (JPIC), Columban Mission Mindanao, Indigenous Peoples Apostolate (IPA), Gitib, Inc. Ozamiz City, RSM-Environmentalist, Institutional Social Concerns Office (ISCO), LSU Ozamiz City, PIPULI Foundation Inc., STEER (Stewards of the Earth's Ecological Resources), ECOMIS (Ecology Concern of Misamis Occidental) and DCMI (DIOPIM Committee on Mining Issue).

3.2.2. People's Campaign for Agrarian Reform Now (AR Now)

AR! Now is a broad network of NGO's and POs focused on agrarian reform and rural development issues. It discovered this case in 2010 while doing a policy research on the Joint Administrative Order-1 2008 or JAO-1 2008.⁷ The case became the subject of a case documentation the network undertook to look into the implementation of JAO-1 2008. Since then, AR! Now has been closely following the case.

3.2.3. PAKISAMA

Pambansang Kilusan ng Samahan ng mga Magsasaka (PAKISAMA) is a national confederation and movement of peasants in the Philippines dedicated to the empowerment of the Filipino small farmers, fishers, rural women, youth and indigenous peoples. The national federation has been involved in the case since 2011 after a series of meetings on the matter conducted by AR Now, of which the former is a member.

4. Related Laws and Policies

The country has laws and policies that provide for the recognition and protection of the rights of the indigenous peoples. These laws include the Republic Act (RA) 8371 or the Indigenous Peoples Rights Act (IPRA), RA 9367 or the Biofuels Act of 2006, and Joint Administrative Order (JAO) 2008-1. The existence, however, of such laws and regulatory policies governing such investments on ancestral domains does not automatically translate into protection of the rights of the marginalized communities who are party to the agreement. The following discusses briefly the above-mentioned laws and policies.

4.1. RA 8371 or the Indigenous Peoples Rights Act (IPRA)

Republic Act 8371 or IPRA was enacted to recognize and respect the rights of the indigenous peoples. It is the embodiment of their rights and aspirations to ancestral domains, self-governance and empowerment, social justice and human rights, and cultural integrity. The IPRA also mandated the NCIP to “promote and protect the rights and well-being of the Indigenous Cultural Communities/Indigenous Peoples and the recognition of their ancestral domains/lands based on customs, traditions and institutions (Sec. 3, b, Rule VII).”

Under the IPRA, a free and prior informed consent (FPIC) should first be obtained before any development project could be undertaken within ancestral lands. According to the IPRA, in securing an FPIC, it is the role of the NCIP to “Ensure that the basic elements of free and prior informed consent (number of days, language, consensus) are present and complied with in all instances when such must be secured” (Sec. 6, d, Part VI, Rule II).

4.2. Republic Act (RA) 9367 or the Biofuels Act of 2006

Republic Act 9367 or the Biofuels Act of 2006 was signed into law on January 12, 2007 by Gloria Macapagal-Arroyo. The law seeks to reduce dependence on imported fuels with due regard to the protection of public health, the environment and natural ecosystems consistent with the country’s sustainable economic growth that would expand opportunities for livelihood.

4.3. JAO 2008-1

Joint Administrative Order 2008-1 or JAO-1 200 , a mega administrative order⁸, contains the omnibus guidelines for the investors and stakeholders of the biofuels industry designed to help facilitate and promote investments and avoid overlapping of regulatory requirements among implementing agencies and departments of the government. It involves various government departments. These include the Department of Agriculture (DA), the Department of Agrarian Reform (DAR), Department of Environment and Natural Resources (DENR), Department of Energy (DOE), Department of Finance (DOF), Department of Labor and Employment (DOLE), Department of Science and Technology (DOST), Department of Trade and Industry (DTI), Department of Transportation and Communication (DOTC), National Biofuels Board (NBB), National Commission on Indigenous People (NCIP), the Philippine Coconut Authority (PCA) and the Sugar Regulatory Board (SRA).

JAO-1 2008 mentioned briefly that investments on ancestral domains shall be guided by the rules provided for by the IPRA.

5. Current Status of the Case

The IP community filed a petition for the transfer of the NCIP provincial officer to Basilan on November 22, 2010, and made a request to replace him with a Subanen leader/elder that would uphold the interest of the community. Also, the community issued a call to advance the development of IPs towards self-governance. Another issue posing a threat to the IP community was the plan of the congressman of the district to title the land to protect and promote his tourism project.

6. Calls of the Subanen Community

The following are the calls the Subanen people wish to reiterate to all those concerned:

1. Scrap the MOA signed by the NCIP -installed tribal leaders; Invalidate the fraudulently obtained FPIC;
2. Conduct an immediate investigation of the NCIP Misamis Occidental provincial office, specifically the provincial officer;
3. Cease intimidation of and threats to the Subanen communities;
4. Conduct a genuine FPIC that respects the decision of the Subanen communities;
5. Practice transparency in the transactions between the company and community stakeholders;
6. Review the Biofuels Act of 2006 to address concerns in the conversion process of ancestral and agricultural lands into biofuels or feedstock production sites; And,
7. Make food security and protection of the welfare and rights of the citizens as priority and essential principles of the national government's development paradigm⁸.

7. Conclusions

Given the series of events related above, it can be said that the rights of the Subanen communities to their ancestral and agricultural lands and to due process as regards the conversion of their lands into feedstock production sites as stipulated in the IPRA had been violated by the biofuels project proponents.

The provincial NCIP, a government agency supposedly tasked to strictly implement IPRA and safeguard the rights of the IPs, had been remiss in its duties, if not a party to the violation itself. For one, the NCIP failed "to promote and protect the rights and well-being of the ICCs/IP and the recognition of their ancestral domains or lands based on customs, traditions and institutions" as stated in Sec. 3, b, Rule VII of the IPRA Implementing Rules and Regulations (IRR) when it acted on behalf of the IAC. For another, the NCIP violated its role stated in Sec. 6, d, Part VI, Rule II, IPRA, IRR, that is, "to ensure that the basic elements of free and prior informed consent (number of days, language, consensus) are present and are complied with in all instances when such must be secured." It conducted the gathering of the FPIC in only one day and without the knowledge and participation of the majority of the affected community members.

The commission changed the tribal leader representing the IPs without following the IP process of selecting leaders. It failed to practice transparency enshrined in the IPRA as well as refused the Subanens' request for a copy of the MOA. As primary stakeholder, the IP groups are without question a party in interest to the case, which the NCIP had set aside.

⁸ Ibid.



Apart from the above violations, the NCIP had sown the seeds of disunity and conflict among the community members when it installed a new tribal leader without considering the IP process for selecting leaders. It seemingly derided, verbally insulted and mocked the community and their way of life -- an unbecoming and unacceptable behavior of an agency tasked to protect the IPs' rights.

In sum, the NCIP had not been faithful to its mandate. It had rendered inutile and useless the law which it is supposed to implement. It had taken advantage of the vulnerability of a few members of the IP community who saw the biofuels project as a way out of poverty even if it meant giving up their ancestral lands, even if it meant betraying the trust of their fellow community members.

Proponent of the biofuels project, the IAC, and their supporters from the local government-- the mayor, the governor and the district congressman-- had shown little or no genuine concern for the plight of the IPs. Taking away from the IPs their ancestral and agricultural lands is tantamount to committing the heinous crime of cultural genocide.

8. Recommendations

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

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

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Letter of Resistance sent by 10 civil society organizations to Mt. Malindang Natural Park's Protected Area Management Board (PAMB) July 30, 2009 en banc meeting.

Philippine Case 3:

Large-Scale Agricultural Land Investments in the Philippines: The Case of the Aurora Pacific Economic Zone and Freeport (APECO) Project in Casiguran, Aurora

1. Socioeconomic Situation

1.1. Casiguran

The Casiguran case revolves around the Aurora Pacific Economic Zone and Freeport (APECO) project located in the municipality of Casiguran. Casiguran is part of Aurora province which is located in the northeastern part of Luzon. Casiguran is one of the two original towns of Aurora, which is now comprised of eight municipalities including Dilasag and Dinalungan which were previously part of Casiguran before being declared as separate municipalities in 1959 and 1966, respectively.

Prior to the arrival of Spanish missionaries and the formal declaration of Casiguran as a municipality in June 13, 1609, Casiguran was mainly populated by indigenous peoples, the Dumagats/Agtas referred to in later anthropological studies as the Casiguran Agta or Casiguran Dumagat (Headland, 1985). Migrants from different areas would come and settle later in Casiguran with the Dumagats/Aetas. The local dialect “Kasiguranin” in fact evolved out of the different dialects like Ilocano, Visayan, Bicol, Pampango, Gadang, Itawis, Tagalog, etc. spoken by these different migrants.

The word “Casiguran” is accordingly derived from the word “KASIGURUHAN” which means “assurance” or the Spanish “ceguro” which means “safety”. With the San Ildefonso cove, Casiguran has accordingly provided “safety” or sanctuary against strong typhoons to the galleons plying the Manila-Mexico trade route. However, according to local folk legend, “Kasiguruhan” also means “assurance” that if an unmarried stranger comes to Casiguran, the stranger will fall in love, get married with a local lass or man and eventually settle there.

Casiguran is around 353 kilometers from Manila, and 120 kilometers from Baler, which is the capital town of Aurora Province. It can be reached by bus (about 5 hours from Baler and 10 to 12 hours from Manila) or by boat from the port of Baler. Travelers are warned, though, to exercise precaution during the rainy season as the road leading to Casiguran is prone to flashfloods, landslides and road washouts. The municipality itself is prone to floods and during extreme weather can be isolated for weeks or even months, though it is shielded from Pacific storms by the San Ildefonso Peninsula and by the Sierra Madre Mountain range (PAFID 2011). Records show that at least 17 percent or 3-4 of all cyclones in the country affect Aurora directly every year.

Casiguran has a type IV climate where there is pronounced rainfall derived from the northeast monsoon (November to February) and the southwest monsoon (July to September) resulting in an even distribution of rainfall throughout the year in the municipality, except during a short stint of summer from March to May (CLUP, 2008).

Casiguran is composed of twenty-four (24) barangays covering a total land area of 71,543 hectares, the greater area of which is lush forests. Eight of the 24 barangays constitute the Poblacion covering 17,336 hectares and all are coastal barangays except for two, namely, Tabas and Biancoan.



Farming and fishing are the two primary sources of employment of the people of Casiguran though only 10.5 percent or 7,517.05 hectares of the total land area is generally used for agriculture and settlements. Majority of the land area of Casiguran is classified to be above 18 degrees in slope. Agricultural produce include rice, corn and root crops, and to a lesser degree, cash crops, spices and vegetables. Fishing is mainly done on the waters of the Pacific Ocean and the Casiguran Bay and Sound. There are also other livelihood activities like livestock and poultry raising, hat weaving, native vinegar and wine making, hollow block making, charcoal making, wood carving, basketry, etc. These tend to be small-scale and involve only a few households.

Casiguran is also rich in forest resources as about 61,620 hectares or 86.14 percent are classified as forest. Of this, 49,507 hectares or 80 percent are old growth dipterocarp forest. There are also other forest cover categories including residual or logged-over areas, sub-marginal forest, mossy forest and mangroves, brushland, grassland and others. The Casiguran Municipal and Planning Development Office (MPDO) estimates that the forest cover inventory might not be the same anymore due to the continuous logging operations of two logging operators holding timber license agreements (TLAS) in the area. The last forest cover inventory was held in 1991 while the operations of the TLAs only stopped in the late 1990s (Socio-Economic Profile, 2007).

1.2. The People

As of 2007, total population of Casiguran was estimated at 25,822 persons. There are 13,146 males, of which 535 or 67.63 percent were employed, 636 or 13.82 percent were unemployed and 3,939 or 86.59 were not in the labor force. There are 12,676 females, of which 256 or 32.36 percent were employed, 4,602 or 17.82 percent were unemployed, and 4,549 or 17.61 percent were not in the labor force (Socio-Economic Profile, 2007). It is not clear from the MPDO report, whether population count include the Dumagats/Agta families, but there is an estimated 250 Dumagat/Agta families who will be directly affected by the APECO project (PAFID, 2011).

Population is overwhelmingly rural based with 21,781 or 84.35 percent of the population living in the rural areas of Casiguran. Urban population is 4,041 or 15.65 percent of the population.

The present mayor of Casiguran is Mayor Reynaldo Bitong. The Governor of Aurora is Hon. Bellaflor Angara. The lone Congressional seat for Aurora is held by Hon. Juan Edgardo Angara. Though records for the mayoral seat do not show one or two families predominating, the families of Angara, Esteves, Liwanag, Morales, Moreno and Moral had several turns on the mayoral seat since the Spanish period.

2. History of the Case

2.1. How APECO came to be

Initially called the Aurora Special Economic Zone or ASEZA, the Aurora Pacific Economic Zone and Freeport (APECO) project traces its roots to the Special Economic Zone Act of 1995 or RA 7916. In a bid to attract foreign and domestic investments and financial and industrial cooperation between the Philippines and developed countries, so as to generate jobs and improve productivity, the government actively promoted the establishment of special economic zones (SEZs) and identified Aurora province as one of the 37 initial areas as SEZs.

On December 10, 1997, capitalizing on the identification of Aurora as a possible SEZ site, then Aurora Representative Bellaflor Angara-Castillo (now Aurora provincial governor) and Senator Edgardo Angara

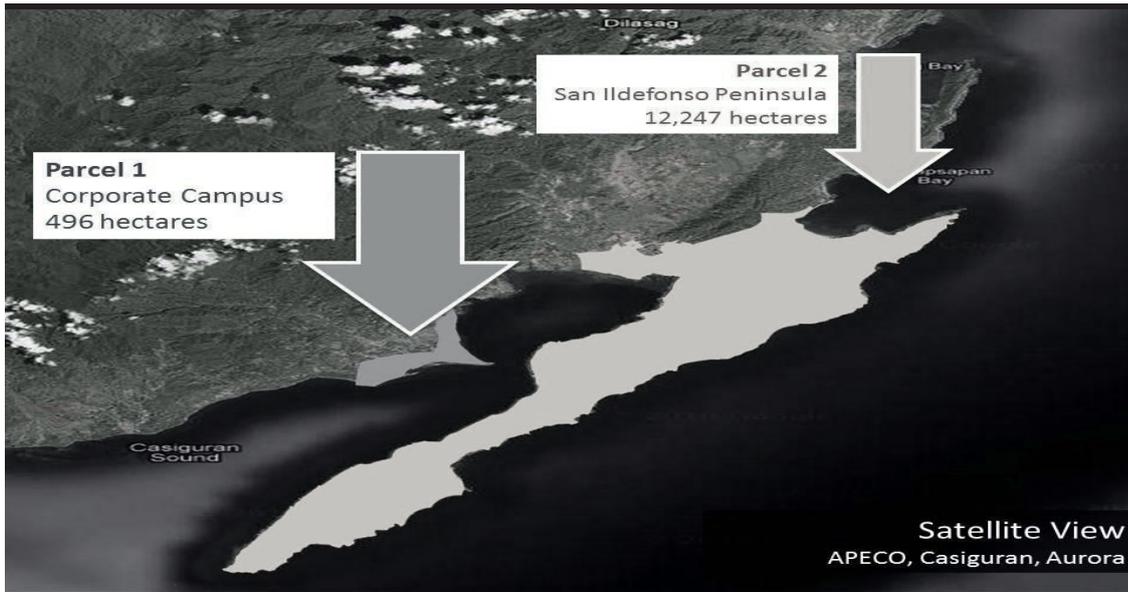
filed separate bills at the House of Representatives (HOR) and the Senate for the establishment of ASEZA. The bill was approved in record time by both chambers, passing second reading on December 11 and third reading on December 18 -- a span of only a week in a legislature notorious for its slow pace. It was ratified on February 4, 1998 despite the opposition and protests raised by the Multi Sectoral Action Group (MSAG), a multi-sectoral alliance of people's organizations, non-government groups and church associations in the province concerned with the implications of the ASEZA provisions in Casiguran and the concerns of possible rampant smuggling and tax collection anomalies in SEZs of this scope and size, as raised by the Department of Trade and Industry (DTI) and Department of Finance (DOF). Former President Fidel Ramos, however, did not sign the bill into law, thwarting the establishment of ASEZA in 1998.

In 2006, Representative Juan Eduardo "Sonny" Angara re-filed former House Bill No. 5309 or the ASEZA bill as House Bill No. 10293 in the House of Representatives. Senator Angara also filed a similar proposal in the Senate through Senate Bill No. 2603. Though both the DOF and the Bureau of Customs (BOC) officials again expressed reservations due to the proliferation of smuggling in free ports and its perceived threat to the domestic economy, the proposed bills were consolidated into a joint report and approved in a special session on February 19 and 20, 2007. Despite the lack of discussion among its constituents and ignoring the protests of those who were aware of the proposed SEZ, the Sangguniang Panlalawigan, upon the request of current Governor Bellaflor Angara Castillo passed a resolution approving and in the process incorporating the inclusion of "more or less 500 hectares covering Barangays Esteves, Dibet, and Dibacong in Casiguran" under HB 10293 (RA 9490, Chan Robles E-library). In June 2007, former President Gloria Macapagal Arroyo signed Republic Act No. 9490 or the ASEZA law.

On August 2008, APECO started its operation with Ambassador Joseph D. Bernardo as its first chairman. An office was opened in Makati on November 2008.

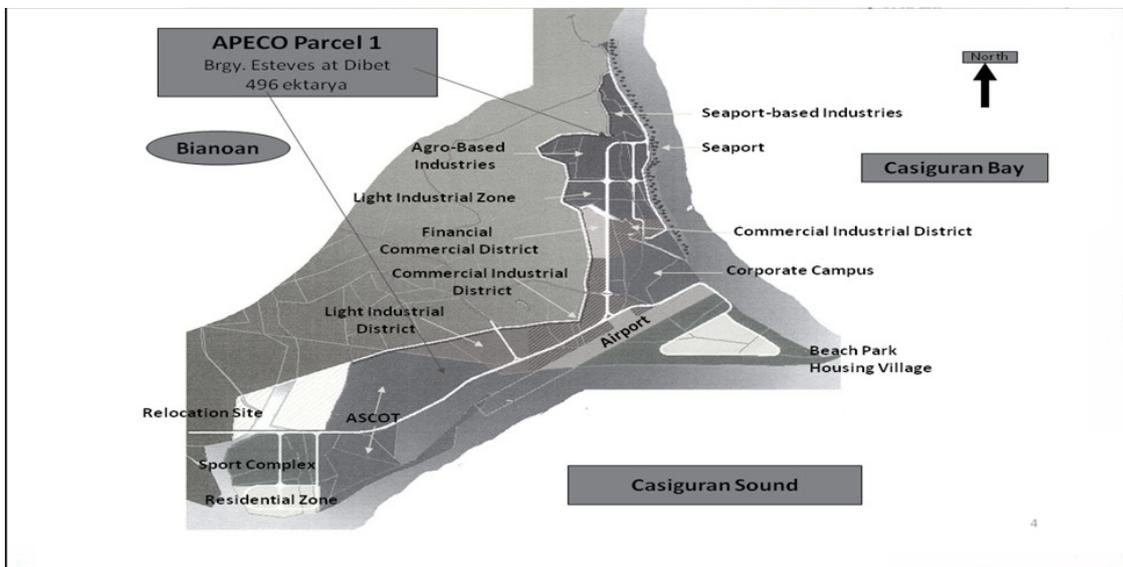
In 2009, Representative Angara again filed HB 6213 and Senators Angara and Miriam Defensor-Santiago SB 3408 and 3430 to amend RA 9490. The proposed bills in both Houses called for the further expansion of the area under ASEZA from 496 hectares (parcel 1) to another 12,427 hectares (parcel 2) to cover three additional Barangays: Culat, Cozo, and San Ildefonso. The consolidated bills were approved on 6 October 2009 and lapsed into law on April 22, 2010 as RA 10083, as provided for in the Constitution after former President Arroyo failed to act on the submitted measure within the mandated thirty (30) day period (RA 10083, Supreme Court E-library).

All in all, APECO now covers 12,923 hectares in six (6) barangays in Casiguran: Esteves, Dibet, Dibacong, Cozo, Culat and San Ildefonso.

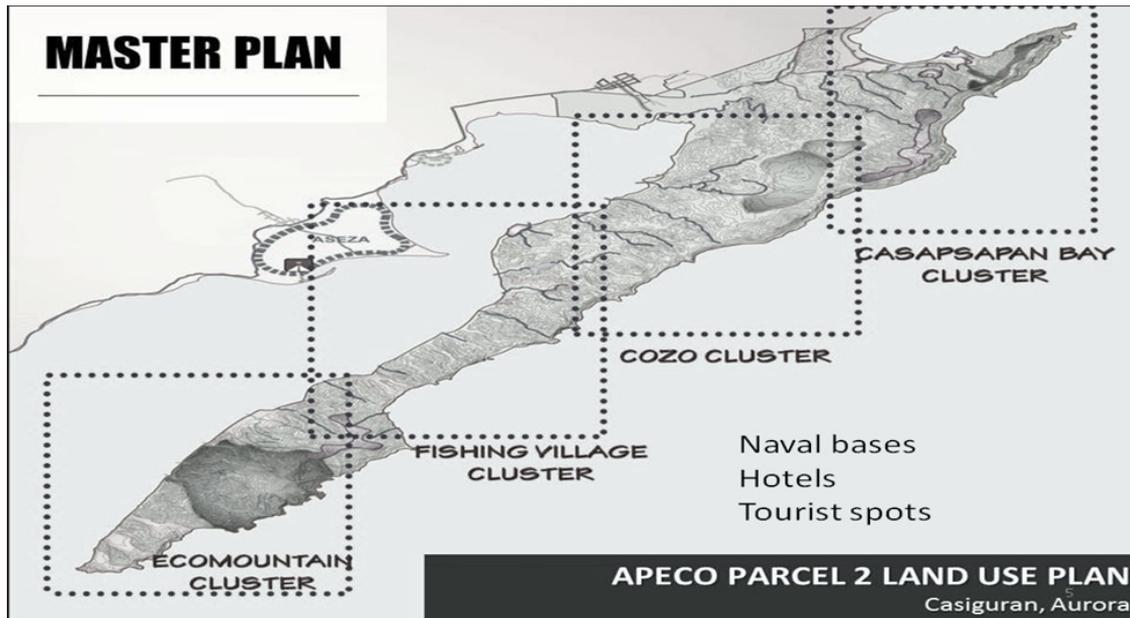


Source: Task Force Anti-APECO PowerPoint presentation on Balitaan Forum held May 2, 2012

To date, APECO have started Phase 1 of the Ecozone development including the launch of the Nayong Kalikasan Housing Project, a joint project with the National Housing Authority (NHA) allegedly to house those that will be displaced by the project; the APECO airport; the construction of a three-star hotel and the administration building. Phase 2 will involve the construction of infirmary building and other infrastructure facilities like Telco and BPO facilities. (Magkilat, 2011)



Source: Task Force Anti-APECO PowerPoint presentation on Balitaan Forum held May 2, 2012



Source: Task Force Anti-APECO PowerPoint presentation on Balitaan Forum held May 2, 2012

Recently, President Aquino appointed former labor Secretary Bienvenido Laguesma and businessman Roberto Mathay as members of the APECO Board of Directors. Vitaliano Sabalo Jr. and Ramon Fernando were appointed APECO administrator and deputy administrator, respectively (APECO website, 2011).

Since, like Subic and Clark, APECO is a government Freeport, government has allocated budget for its development, starting with P1 billion intended for the first and second phases of development, of which PhP800 million have been released.

At the forefront of the APECO development are the Angaras, who not only initiated the establishment and expansion of the APECO through legislation, but who are also in the helm of the APECO development with both Governor Angara-Castillo and Hon. Representative Angara in the APECO Board as ex-officio members.

2.2. Hype versus Reality

Much hype has been created to promote APECO not only as the ideal Ecozone to invest in but also to promote its supposed potential social and economic benefits to the people of Casiguran. To borrow some quotes from the APECO website and media releases about APECO,

“... only Economic Zone facing the Pacific Ocean, thus an ideal starting point for the inflow of commerce in the Northeastern quadrangle of Luzon” (APECO website).

“The EcoZone is operated as a center for optimized development in industrial, commercial trading, agro-industrial, tourist, banking, outsourcing, financial and investment industries. With suitable residential areas and business centers that boast the best amenities, the EcoZone can work hand-in-hand with the investors to achieve economic stability” (APECO website).

“It aims to boost social, economic and industrial development in Aurora and nearby provinces by generating jobs for the people, improving the quality of their living conditions, advocating an eco-friendly approach to industrialization and enhancing the potential of the community in productivity” (APECO website).

For investors, APECO offers a long list of incentives and benefits to entice them to sign up with APECO. These include:

- No local and national taxes imposed to registered enterprises
- Only 5 percent of the gross income will be levied by the Aurora Pacific Economic Zone and Freeport Authority (APECO) and distributed as follows: 3 percent National government; 1 percent to Municipality and Province; 1 percent to the APECO
- Importation of raw materials and capital equipment are tax- and duty-free
- Reduced tax rates
- Exemption from wharfage dues

(Source: Task Force Anti-APECO, 2009)

Aside from the above, APECO also offers lower costs of land and property acquisition and allows foreigners **full ownership** of enterprises inside the Aurora Ecozone.

The APECO project is located in six barangays (villages) in Casiguran: barangays Culat, Dibet, Dibacong, Cozo, Esteves and San Ildefonso. Barangays Coso and San Ildefonso are in the San Ildefonso Peninsula and are connected to the mainland by Barangay Culat. Barangays Esteves and Dibet are located at the coastal outskirts of the mainland facing the peninsula.

To give way to the industrial complex, industrial parks, airport, hotels, ship anchorage, and recreational facilities that will be developed for APECO, rice farms, coconut plantations, forests, mangroves and coastal areas, and human settlements in these barangays, including the whole ancestral domain of the Dumagat/Agta people in the San Ildefonso Peninsula, have been targeted for conversion. In fact, conversion has already started in 25 hectares as admitted by APECO Deputy Administrator Tolentino. He even boasts of the jobs being created because of APECO (Magkilat, 2011).

“APECO has already employed 350 people for the construction projects and once the construction goes into full blast they can easily double the employment, including the native “Dumagats” as forest rangers. By the first quarter, we can easily employ 1,000 people and ramp it up to 2,000 by the end of this year” (APECO Deputy Administrator Ramon Tolentino as cited in Magkilat, 2011).

What has often been swept under the rug, however, is how these conversions are trampling over the vested rights of the small farmers, indigenous peoples, and fisherfolk in the affected areas and the resulting displacement the establishment of APECO is now causing at the local level. Equally alarming, it is fast becoming clear that APECO will bring about major environmental changes due to all land use conversions happening in the affected areas. With the conversion of rice lands and coconut lands, the threat to food security is also an imminent reality facing Casiguranins. APECO officials continue to ignore the mounting opposition of various concerned farmers, indigenous peoples, other stakeholders, groups both in and out of Casiguran against the freeport project due to its adverse impacts, some of which are already being felt by the local communities.

3. Effects on the Community

3.1. Trampling over Farmers Rights

In the early 1960s, local officials in Casiguran encouraged small farmers to occupy and till part of two

reservations in Brgy. Esteves (a 152-hectare Lot A for “Non-Christians” and 110-hectare Lot B for the Agricultural School) created under Proclamation No. 723 issued in 1934 by Governor-General Frank Murphy. The local authorities encouraged the development of the 90-hectare land in Lot B to serve as the rice granary and food source of Northern Aurora.

As early as 1963, small farmers who have migrated and settled in Casiguran have already sent a petition to the Bureau of Lands for the distribution of titles for the land they have been tilling in Lot B. In 1973, the Secretary of Education and Sports endorsed the petition of the farmers and asked the Department of Natural Resources for the exclusion of Lot B in favor of the farmer tillers.

In 1992, the farmers again sent a petition to the DAR for the distribution of the lands as stipulated in the Memorandum of Agreement (MOA) between the Department of Agrarian Reform (DAR) and the Department of Education, Culture and Sports (DECS). This was to be repeated again in 1998 and in 2002. But in 2002, while awaiting the result of their petition to the DAR, the farmers who by then had collectively organized themselves as the Bicolano Casiguran Farmers Association (BICFA), would be informed that the land they have been tilling had been included in the then proposed ASEZA. The inclusion of the land under ASEZA would shed light on the earlier rejection of Board of Regents (which included Senator Angara) of the Aurora State College of Technology (ASCOT), formerly the Aurora National Agricultural School in Maria Aurora and the Aurora National Fishery School in Casiguran, of the DAR and ASCOT MOA to distribute 50 hectares (on a 1 hectare per beneficiary allocation) to all qualified agrarian reform beneficiaries.

As lamented by Nanay Darlin, a farmer-resident in the contested reservation land:

“Masama ang aking loob dahil sa tagal naming paninirahan sa lupang reserbasyon, sa kabila ng aming pagsusumikap na mapaunlad ang aming kabuhayan sa pamamagitan ng pagsasaka ay may biglang balita na papaalisin kami dito sa aming lugar. Anong klaseng pag-unlad ang ibibigay nila sa amin? Ang alam namin ay pagsasaka at kung walang lupa ay walang kabuhayan. Ang nakakalungkot pa gobyerno ang nagpapa-alis sa amin dito. Pinuntahan kami dito ni PENRO Benjamin Mina noon para sabihin na umalis na kami dito dahil di naman daw sa amin ang lupa. Ang sabi ko naman di kami aalis dahil narito ang aming kabuhayan. Nilinis namin ang lupa, tinaniman tapos ibibigay nyo sa ibang tao. Anong klaseng sistema yan. Nagsama pa sya ng mga pulis baka siguro akala nya ay matatakot ako.” (I really feel bad. We have been residing and farming these lands for a long time and suddenly we are being driven away. What kind of development are they offering us? All we know is farming and without land, there can be no livelihood. The saddest part is, it is government that is forcing us to leave the land. PENRO Mina came to us to tell us to leave the land because this is not ours. I told him that we are not leaving since our livelihood is here. We developed this land and then they will just give it to someone else? What kind of system is this, I asked him. He even brought some policemen with him perhaps thinking that it would intimidate me.)

Another farmer, Elmer Gonzales, also said that:

“Bago pa dumating ang proyekto ng APECO sa Casiguran inaplayan na namin sa DAR ang lupang reserbasyon. Napakarami nang aplikasyon at petisyon ang aming ginawa hangang sa kasalukuyan ay nakikipag-usap pa rin kami sa DAR para mapabilis na ang paglalabas ng CLOA sa amin. Ngayon biglang dumating ang APECO parang isang kalamidad ito na dumaan sa amin dahil mangangahulugan ito ng pagkawala sa amin ng lupa na aming sinasaka. Sa mahabang panahon naming pagsusumikap na mapasaamin ang mga lupang sinasaka namin, ngayon



sinasakop ito ng APECO. Napakabilis ng pagsasabatas ng pang-aagaw ng lupa sa amin. Ilang henerasyon na ang naglilinang ng lupa kaya pala walang ginagawa ang gobyerno para sa aming kahilingan may mga nakatago pala silang plano para dito.” (Even before APECO was enacted, we had already petitioned DAR for the [distribution] of the reservation lands. We have submitted many application and petitions. Until now, we are negotiating with DAR to facilitate the release of our CLOAs. APECO came like a sudden calamity because it will mean the loss of the lands we till. We have been farming these lands for a long time and now APECO is claiming them. The passage of the law dispossessing us of our lands happened very fast. Several generations have been tilling these lands and apparently the reason why the government was not acting on our petitions was that they had hidden plans for the area.”)

Aside from the farmers in the reservation, however, the rights of other farmers in the area who have received their Certificates of Land Ownership Award (CLOAs) in 1993 and those potential agrarian reform beneficiaries of the remaining 19 hectares of land whose distribution under Phase 3B of the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER) will only commence in June 2013 are also now under threat because of APECO. Since APECO covers six (6) barangays, the fate of the agrarian reform beneficiaries (ARBs) in these areas has also become uncertain.

To date, DAR-Aurora has distributed through CARP a total of 498.3837 hectares to 425 agrarian reform beneficiaries in the areas covered by the APECO:

Barangay	Area (hectares)	Number of beneficiaries
Cozo	47.8896	25
Culat	55.5340	37
Dibacong	67.2284	39
Dibet	127.8077	87
Esteves	116.0185	84
San Ildefonso	110.67	172
Total	525.1528	444

Of the 525.1528 hectares covered by CARP and CARPER, 243.0185 are rice lands while 282.1343 are planted to coconut.

3.2. Destroying Fisherfolk Livelihood

Since the coastal areas are also up for development, the livelihood of the small fisherfolks and even the Dumagat/Agtas in the area who rely on fish and other seafood for their protein needs are also in danger. A lot of studies show that when mariculture parks are established, fishing activities in the 15-kilometer municipal fishing grounds normally reserved for small-scale fisherfolks are grossly reduced since these parks occupy these traditional fishing areas. Since mariculture parks normally require big capital for its operation and maintenance, its establishment in the APECO areas will only benefit corporations interested in engaging in massive fish production normally for export. Lastly, while mariculture parks do employ some fishers as mariculture park employees, this is no guarantee that all small fishers who will be displaced by the operation of the mariculture park will be able to secure jobs or will be absorbed by the mariculture park.

Marlon Angara, a fisherman from Casiguran Sound, succinctly puts his fear about APECO:

“Sa akin po bilang mangingisda, ako po ay nangangamba na di na kami makakapangisda sa katubigan ng Casiguran Sound kung matutuloy ang APECO sa kadahilanang ang aming mga

gamit pangisda ay doon po namin inilalatag sa dagat. Kung maipatayo na ang mga port, magiging daanan ng mga barko ang dati naming pinaglalatagan ng gamit pangisda at tiyak masasagasaan yun ng mga barko. Siguro po kaya pinipilit nila na makapagtayo ng mga fish cages sa amin para masabi nila na may alternatibo naman para sa aming mga hanap buhay. Yun pong mga fish cages na yan ay tinutulan na po namin yan bago pa maitayo bilang Barangay FARMC. Kinausap ko ang kasama kong mga mangingisda at tinutulan po naming yan. Kaya lang dahil nga sa aming pagtutol hindi na kami sinasama sa mga meeting tungkol sa fish cage. Kaya naipatayo iyan kahit ayaw ng mga tao. Kung maipatayo po ang mga port natural na kukuha yan ng malalaking espasyo para sa mga terminal ng container sa amin pong pagkakaalam hindi lang isa kundi apat na sea port ang gusto nila ipagawa dyan sa Casiguran Sound. Paano pa kami makakapangisda kung ganun. Baka kahit para sa daungan lang ng mga bangka namin wala nang matira.” (As a fisherman, I fear that we will not be able to fish in the Casiguran Sound anymore once APECO is implemented. We normally cast our fishing gear in the ocean but once the port is constructed, this area will become a fishing lane and passing ships might run over our fishing gears. Maybe this is the reason why they are insisting on building fish cages in our area, so that they can claim that they have an alternative source of livelihood. But we have been opposed to the fish cages from the start as Barangay FARMC. I talked to my fellow fishermen and we opposed it. But because of our opposition we were excluded in the meetings about the fish cages. The fish cages were built therefore though the people do not like it. Once the port is constructed it will naturally occupy a bigger space for the container terminal and so far we know that they want to build not just one but four (4) ports in Casiguran Sound . How will we fish if this will happen? We will probably lose even the space to dock our boats.)

As of February 18, 2011, Department of Agriculture (DA) Secretary Proceso Alcala led the ceremonial stocking of bangus (milkfish) fingerlings to start a P10-million fish cage project purportedly to benefit the small fisherfolks and the Dumagat/Agta in the Casiguran Cove. This is part of the proposed mariculture park where the DA-Bureau of Fisheries and Aquatic Resources (BFAR) already has plans to install a total of thirty-two (32) fish cages. To further support the mariculture project, BFAR Director Malcolm Sarmiento said that they will build a 3-ton capacity mini-ice plant and DA Secretary Alcala also promised to provide a refrigerated truck to transport the harvested fish (PAFID, 2011).

3.3. Paving the Way for the Casiguran Dumagat/Agta's Extinction?

In one of the researches conducted by Thomas Headland, an American anthropologist who studied the Casiguran Agtas extensively from the 1960's to the 1980's, the influx of settlers in the Casiguran area is the indirect but primary factor that greatly contributed to the decline of the Dumagat/Agta population (Headland, 1984).

“The Agtas live in an environment undergoing traumatic change...The variable probably introducing the most change is the Philippine population explosion, which has pushed thousand of landless Filipino homesteaders into the remote Casiguran valley. The Agtas who before WWII had roughly 90 percent of the area to themselves...now find themselves viewed as landless squatters in their own ancestral lands, crowded in a population density... and increasing daily.”

With no legal tenure over their ancestral domains, these Dumagat/Agta families face the higher risk of getting displaced as they are expected to simply move and resettle into the remaining portion of the ancestral domain once settlers and even corporations engaged in logging came into the Casiguran area.



According to the last count done by the National Commission on Indigenous Peoples (NCIP), there are 726 Dumagats/Agtas in Casiguran at present (Socio-Economic Profile, 2007). This is merely half of the earliest Dumagat/Agta population estimate of 1,600 by Headland based on the count conducted by Vanoverbergh in 1936 of 787 individuals (excluding small children) and excluding several barangays where there were also Dumagat/Agtas (Headland, 1975).

In the study conducted by PAFID in 2011 assessing the possible impact of Ecozones like the APECO project on indigenous peoples, it estimated that around 250 Dumagat/Agta families in Casiguran, Aurora Province are affected by the APECO project. These Dumagat/Agta families are found in five (5) settlements in the APECO affected villages. These include the Dalugan (25 families) and Disigisaw (47 families) settlements in the San Ildefonso Peninsula; the Dimagipo (13 families) and Dipontian settlements (15 families) in Cozo; and Casapsapan (14 families) in Culat. In addition to those staying in these settlements, around seventy (70) Agta/Dumagat families live in small settlements dispersed within and adjacent to these areas.

In 1984, Headland warned of the ecological stress besetting the Dumagat/Agta people that threatens both their cultural (as semi-nomadic hunters) and biological (high mortality rate caused by malnutrition due to the loss of traditional hunting and fishing ground) survival. Since APECO covers the whole ancestral domain of the Dumagat/Agta in the San Ildefonso Peninsula, PAFID warned that the development that will be carried out by APECO will uproot and cause systematic dislocation of the Dumagat/Agta for good.

A good example of this systematic dislocation is related by Levy Estevez, the principal Dumagat/Agta claimant of Delepsong ancestral domain. Delepsong is an area occupied by the Dumagat/Agtas by virtue of an exchange agreement forged between the Dumagat/Agtas and Don Juan Angara, then governor of Aurora and the father of Senator Angara, in exchange for the Dumagat/Agtas ancestral lands. The Dumagat/Agtas ancestral lands eventually became the site of Dinalungan. Delepsong however has been taken over by a certain Guererro whose title has only been issued in 2006. There are also rumors that influential people have titled to their names most of the 62-hectare Agta reservation in Barangay Culat as well as lands adjacent to the beach of Casapsapan. The sudden arrival of people bearing “titles” covering the ancestral domain of the Dumagat/Agtas is certainly an off-shoot of all the development rush being created by APECO (PAFID, 2011).

APECO is likewise sowing disorganization and division among the ranks of Dumagat/Agta people. To counter the mounting opposition of those Dumagat/Agtas who filed to have their ancestral domain titled way back in 1995 to the NCIP, the APECO management has reportedly hired as consultant one of the most influential Dumagat/Agta leaders. The leader who has been interviewed by PAFID admitted to being paid PHP25,000 per month to convince her fellow Dumagat/Agta to consent to the relocation and to abandon their ancestral domain claim.

As Regina, an IP leader-member of PIGLASCA or the *Pinag-isang Lakas ng mga Magsasaka, Mangingisda, at Katutubo sa Casiguran* (United Force of Famers, Fishers, and Indigenous Peoples of Casiguran)¹ laments:

¹ Pinag-isang Lakas ng mga Magsasaka, Mangingisda, at Katutubo sa Casiguran/United Force of Famers, Fishers, and Indigenous Peoples of Casiguran (municipality) is a federation of different organizations opposing APECO. Set up in 2009 and registered in 2012, the federation has five member organizations (SACBIBI-100 dumagats, BICFA, ISF and CLOA Farmers Association, Irrigators Association, MSK (200), Fishers Organization) and a combined 450 individual members.

“Sa amin pong mga katutubo hindi namin gusto na magpatuloy ang APECO dahil aakingnin nito ang aming mga lupa na matagal na naming sinasabi na dapat ay isyuhan na kami ng CADT. Sa ngayon pa nga lang po ay nalilimitahan na ang aming pagagala sa kagubatan dahil sa ngayon po ay may mga military na doon. Hindi po namin alam kung ano ang kanilang binabantayan pero hindi na po kami pinapayagan na pumunta doon. Mas lalo na po kung matuloy ang APECO. Baka bakuran na nila ang kabuuan ng kanilang nasasakupan at lalagyan pa nila ng mga bantay. Kamakailan nga lang po ay hinukay na nila ang libingan ng aming mga ninuno doon sa Kasapsapan. Masama po ang aking loob sa mga nangyayari dahil kami ay nawawalan na po ng karapatan sa aming lupang ninuno. Ngayon po nahahati na ang aming mga komunidad dahil sa mga ginagawa nilang pagbibili sa aming mga kapatid na katutubo sa pamamagitan ng mga ibinibigay nilang trabaho. Hindi po namin ito gusto. Ang gusto lang naman namin ay igalang at ibigay ang aming karapatan sa pagmamay-ari ng aming lupang ninuno pati na sa aming karagatang ninuno na mawawala na sa amin kapag naipagpatuloy ang proyekto ng APECO.”
 (For us, indigenous people, we do not want APECO to continue because it will claim lands which we have long asked [government] to give us a CADT for. At present, our movements inside the forest have already been limited because of the presence of the military there. We do not know what exactly they are supposed to be guarding but we have been warned not to go there anymore. Moreso when APECO is implemented. They might fence off the whole area they are covering and post guards. Just recently, they dug out our ancestral burial grounds in Kasapsapan. I feel angry with what’s happening since we are losing our right to our ancestral domain. At present, our community has been divided because of their efforts to buy the consent of our fellow Dumagat/Agtas by providing jobs. We don’t want this. We only want respect and recognition of our rights over our ancestral domain including our ancestral waters that we stand to lose if projects of APECO will be implemented.)

With APECO now in full swing, the approval of the certificate of ancestral domain title (CADT) application by the Dumagat/Agtas has become more uncertain. The proponents of the APECO will surely counter any stumbling block, the CADT application included, to the continued development happening at APECO.

3.4. Fostering Environmental Damage?

As of 2001, the existing general land use in Casiguran is as follows:

Land Use	Area (in hectares)	% to total
Forest	61,620	86.14
Agriculture	7,184	10.04
Settlements	158	0.22
Other Uses	2,570	3.59
Total	71,542	100

Source: MPDO Provincial Physical Framework Plan, Strategic Agriculture and Fisheries Development Zones, as cited in Casiguran CLUP 2008

In sum, forestlands dominate Casiguran. There are lands in the municipality under Integrated Forest Management Agreement (IFMA); Community Based Forest Management (CBFM); Integrated Social Forestry (ISF); Timber Licensing Agreements (TLAs); tree plantation; reservation area; proclaimed watersheds; mangroves; timberland; lowland forest; and beach forests and wetlands. Of course, though not officially recognized in the Comprehensive Land Use Plan of the municipality, there is the ancestral domain of the Dumagat/Agta covered by the CADT application they have filed with the NCIP.



These lands are located in the Sierra Madre range and the San Ildefonso Peninsula, the latter is now covered wholly under the APECO. According to the CLUP of Casiguran (2008), the general condition of the forest cover is admirable and the tree species are primary growth or old dipterocarp. About seventy per cent of the San Ildefonso Peninsula is covered by forest dominated by broad-leaf species.

Mangrove areas are also found along the low lying areas of Culat, Coso, Dibet, Cataloging, Casiguran, Mining and Callaghan. Though some areas have been logged over by the Industrial Development Corporation (IDC), a logging company which operated in Casiguran until the establishment of APECO, the existing vegetation makes the peninsula environmentally significant (PAFID, 2011).

Based on the APECO master plan, San Ildefonso Peninsula will be used to host naval bases, hotels and tourists spots probably because of its pristine character and its scenic coasts along the Pacific Ocean. APECO developers will also develop the Peninsula as a wildlife sanctuary and an ecotourism area. The white beach of Kasapsapan and Barangay Diniog in Dilasag are also eyed for tourism. This early, APECO had allegedly already purchased the logging rights of IDC for PHP 120 million and paid PHP 50 million in advance to have the logging concession converted into an Industrial Forest Management Agreement (IFMA). According to PIGLASCA-PAKISAMA and other Anti-APECO advocates, PENRO Benjamin Mina of the DENR sold lands and was paid PHP 650,000 per hectare by APECO while the farmers who were “convinced” to sell their lands were paid a measly sum of PHP 45,000 per hectare (Open letter to Pres. Aquino which appeared as paid ad in the PDI dated November, 2010).

Given all the plans for Casiguran, there is no guarantee that the current environment, which has nourished the Dumagat/Agtas and the settlers of Casiguran, will be maintained. In Parcel 1 of APECO, conversions are now being done that have adversely affected the residents in the area. What is unclear is APECO’s impact environmentally. It is alleged that to date, APECO hasn’t done any feasibility studies that list and assess all the possible impacts of the developments that the APECO management intends to carry out in the APECO covered areas.

3.5. Endangering Food Security

Currently, Casiguran is recognized as Aurora’s rice bowl and granary. It has 5,370 hectares of land planted to rice, tilled by 6,169 farmers, and is producing rice almost equal to the combined production of two municipalities, Dinalungan and Dilasag (PAFID, 2011 as cited in Balitaan, 2012).’

Municipality	No. of Farmers	Area Planted (in hectares)
Dilasag	1,414	1,204
Dinalungan	1,681	1,114
Casiguran	3,074	3,052
TOTAL	6,169	5,370

Source: PAFID, 2011 as cited in Task Force Anti-APECO Power Point presentation on Balitaan Forum held May 2, 2012

On a per barangay basis, Esteves and Dibet (both covered under APECO) are among the top rice producers for Casiguran.

Baranggay	Average Prod. per Hectare (MT)	Total Production (MT)
Ditinagyan	3.5	192.5
Calabagan	3.75	281.25
Esteves	4.5	1530
Dibet	4.5	625.50
Dibacong	3.75	300
Tinib	3.75	551.25
Calanguasan	3.75	487.50
Marikit	3.75	288.75
Tabas	3.75	450
Calantas	4.25	1551.25
Lual	3.75	520
Esperanza	3.75	1012.50
Culat	3.75	405
Cozo	3.5	210
San Idelfonso	3.5	35
TOTAL		8440.50 (x 2 per year)

Source: Municipal Agriculturist Office, 2010 as cited in Task Force Anti-APECO Power Point presentation on Balitaan Forum held May 2, 2012

These rice lands have irrigation facilities and are located in plain and level ground, making them susceptible to population encroachment. As observed by the MPDO (2008), there are indications that residential structures are already encroaching into productive rice lands. In the CLUP prepared by the MPDO therefore, they reiterated the need to protect the identified SAFDZs in the area and to make it the center of agricultural development in the area as it embodies the agricultural potentials and opportunities available for the municipality (CLUP, 2008).

Therefore, the planned conversion of these lands under APECO would immediately damage the agricultural production of these covered lands jeopardizing the food security in the area. Moreover, the spill-over effects and change in the municipality's local economy would further erode the town's agricultural activities over time (Task Force Anti-APECO, 2012).

4. Actions Taken to Address the Issue

4.1. APECO: Development for Whom?

The APECO proponents seemingly view the establishment of APECO as the answer to the underdevelopment and lack of progress in Aurora province. This has been clearly stated and posted on their website and is part of the message they put across to potential investors clearly being targeted

by the website. In the early part of 2011, APECO Deputy Administrator Tolentino boasted of at least 10 investors ready to sign up with APECO, with a job requirement of over 2,000 that could possibly benefit the people of Casiguran and its neighboring municipalities. The projects include the construction of an airport terminal, a coco mill, a biomass plant, a mariculture venture with Gaudi International of Taiwan, and a \$6 million dollars power solar plant (Magkilat, 2011).

Good intentions aside, however, APECO's development so far has benefitted only APECO and a few residents of Casiguran. The displacement, harassment, division among the community people and Dumagat/Agtas, and worries it is fostering within the Casiguran community, including the Dumagat/Agta populace, however are more alarming and extensive. In fact, the resistance against APECO not only consolidated local groups,² but has attracted a lot of supporters who have banded together and formed Task Force Anti-APECO. The struggle against APECO has therefore not been confined at the local level but has been elevated at the national and even international levels.

Task Force Anti-APECO is quick to point out that APECO violated and continues to violate at least four (4) existing national laws with its on-going development.

These are Republic Act 7160 (Local Government Code of 1991), Republic Act 8371 (Indigenous Peoples Rights Act of 1997), Republic Act 8435 (Agriculture and Fisheries Modernization Act of 1997) and Republic Act 9700 (Comprehensive Agrarian Reform Program Extension and Reforms Act of 2010).

Since APECO was created without proper consultation, it violated the provisions of RA 7160 mandating consultations on projects such as this. APECO has yet to relocate those displaced by the initial conversions it has spawned. This is another violation of the provisions of RA 7160. A more serious violation is the fact that the APECO law effectively diminishes or abolishes the power and jurisdiction of the LGUS in the areas covered by the Aurora SEZ. APECO is not mandated to be under the LGUs in the area, rather it will merely coordinate its development plan with the LGU like a co-equal LGU unit. Also, APECO has been given eminent domain powers within the areas covered by the SEZ, another power normally vested to LGUs. It even has separate customs and taxation powers (Fact Sheet 1, Task Force Anti-APECO).

There was also no attempt to secure the free, prior and informed consent (FPIC), a requirement under R.A. 8371 or the IPRA, of the Dumagat/Agtas before the inclusion of the San Ildefonso Peninsula in APECO, considering that there is a pending CADT application since 1995. The land conversions being undertaken likewise violate RA 8435, which provides identified SAFDZs or prime agricultural lands protection against land conversion.

That APECO as a law has been railroaded is a fact. Stakeholders were not invited to the public hearings and even the opposition of other government agencies has gone unheeded. At the local level, Casiguran residents complain of lack of consultation prior to the passage of the resolution supporting APECO by the local government council. In the absence of broad and genuine public consultations and public hearings, the advantages and disadvantages of APECO have obviously not been discussed thoroughly with all the stakeholders. Ultimately, APECO's "developments" will benefit only a few rich and powerful persons in exchange for the systematic dislocation of the poor, especially the Dumagats/Agtas.

² BICFA or the Bicolano Casiguran Farmers Association which banded together to petition for the distribution of the reservation lands is now stronger. PIGLAS-CA is also a federation borne out of the APECO struggle after the PAKISAMA paralegal training conducted in Casiguran on September 2009. PAKISAMA is the national federation assisting BICFA and now PIGLASCA.

Senator Angara has remarked that APECO will not cause evictions nor would it displace the Dumagats/Agtas from their ancestral domain. He vowed that relocation or sale of lands would be voluntary. But this is not entirely true since forced evictions are already happening as attested to by those who have been affected by the land conversions so far. The Commission on Human Rights (CHR), which accompanied an International Solidarity Mission from Swiss and Dutch Catholic Dioceses to a visit to the affected Casiguran families in February 2012, released its findings about APECO which show: the displacement in the community, the black propaganda against project critics, the lack of transparency and the abuses perpetrated against the IP community in Aurora. On these grounds, the CHR Chair Loretta Rosales has expressed her intention to seek the support of all the CHR commissioners for the repeal of the APECO law (Orejas, 2012).

Likewise, though some farmers and even the Dumagats/Agtas may not be evicted as Senator Angara vowed, this is no guarantee that they will be not be forced to sell or give up their lands because APECO developments will surely crowd them out. There are already rumors that the Angaras now own and are buying various landholdings, the value of which will definitely rise once APECO's planned development pushes through (PAFID, 2011).

4.2. Mounting Resistance

As mentioned above, resistance against APECO has escalated. Aside from the initial local organizations (BICFA, PIGLAS-CA, Bataris, Basic Ecclesial Communities and the Prelature of Infanta, etc.) which have opposed APECO and have conducted a series of local mobilizations such as marches and caravans involving hundreds of small farmers, fishers and indigenous peoples, the broader national Task Force Anti-APECO has been established. Composed of Green Convergence, Task Force Sierra Madre and the institutions involved in the celebrated Sumilao Campaign such as the Simbahang Lingkod Bayan, Office of Social Concern and Involvement of Ateneo de Manila University, the Alternative Law Groups, former COMELEC Chair Christian Monsod, Freedom from Debt Coalition FDC, Focus on Global South, and ARNow!, it is currently co-convened by PAKISAMA and CBCP-NASSA. They are spearheading various campaigns to oppose APECO including their active participation in all of the public hearings conducted based on the resolutions sponsored by Akbayan Representatives Kaka Bag-ao and Walden Bello and by Senator Serge Osmena and, more recently, Koko Pimentel III. A long list of prominent personalities and institutions led by the Task Force Anti-APECO members signed up in a full-page paid ad in a prominent Daily released in December 2010 addressed to President PNOY to be true to his "Tuwid na Daan" (literally, Straight Path) rhetoric and seriously consider stopping the project. The group also has filed documents at the Department of Justice and asked the DOJ Secretary for a serious investigation of the case.

A bill has been filed by Anak-Pawis Representative Rafael Mariano, which calls for the repeal of the APECO law and a case to declare the APECO Law unconstitutional has also been filed in the Supreme Court by the Anak-Pawis network. No less than the CHR Chair Loretta Rosales stated that she will ask CHR en banc to support the proposed repeal of the APECO law.

The original designer of the project, Felino "Jun" Palafox, an internationally-reknown architect and now the President of the Management Association of the Philippines, has filed a case in the Ombudsman against the Angaras and has become a prominent opponent of the project, claiming major deviation from the original design and serious graft and corruption accompanying the project.

A multi-awardee independent filmmaker, Ditsi Carolino, has produced a documentary which was shown in Congress and Senate hearings and various fora in schools, parishes, and NGO conferences highlighting

the development conflict and the voices of the affected and resisting small farmers, fishers, and indigenous peoples.

The Catholic Church, through the Catholic Bishops' Conference of the Philippines (CBCP) and the National Secretariat for Social Action (NASSA) has been prominent in opposing APECO. It has denounced the "injustice and human rights violation in the process of pushing through with construction of the projects" highlighting that APECO has resulted to "legalized land grabbing and eviction." It has called for the suspension of its budget and operations due to anomalous transactions (Orejas, 2012). On the other hand, Bishop Rolando Tria Tirona, Bishop Emeritus Julio Xavier Labayen and 30 priests of the Prelature of Infanta also appealed to the Aquino administration and the Commission on Audit to review RA 10083 and alleged anomalous infrastructure projects in their statement on July 12. They also condemned the attack against Casiguran parish priest Joefran Talaban, a known advocate against APECO and of the residents' rights to their lands and fishing grounds (Garcia, 2012).

On February 16 to 21, 2012, an International Solidarity Mission from Swiss and Dutch Catholic Dioceses visited the affected families and together with Task Force Anti-APECO they launched press/media campaigns with the Commission on Human Rights and NCIP. The delegates of the mission were: Bishop Felix Gmür from Switzerland; Bishop Rolando Tirona of the Prelature of Infanta; Fr. Ben Verberne of the Dutch Conference of Religious; Helena Jeppesen of the Swiss Catholic Lenten Fund; Floor Schuiling of Mensen met een Missie-The Netherlands; Fr. Pete Montallana and Bro. Martin Francisco of the Save Sierra Madre Network Alliance Inc.; Mark Cebberos of the Commission on Human Rights; and Commissioner Conchita Calzado of the National Commission on Indigenous Peoples. Other groups joining the mission are the Integrated Pastoral Development Initiative, Freedom from Debt Coalition, Focus on the Global South (Focus), PAKISAMA/Task Force Anti-APECO, Task Force Detainees of the Philippines, Tribal Center for Development, Swiss TV and Radio Veritas (Orejas, 2012). PAKISAMA hosted a Solidarity Dinner, attended by 80 advocates and support institutions and individuals which included the CHR Chair, NCIP Commissioner, Bishop Broderick Pabillo of CBCP-NASSA, Architect Palafox, and the Swiss Ambassador. This is when the slogan "It's more fun in Aurora without APECO," a spoof of the Department of Tourism (DOT) slogan "It's more fun in the Philippines" was also coined.

At present, 15 farmers from Sitio Reserva, Brgy. Estevez, Casiguran, all members of PIGLASCA-PAKISAMA and Task Force Anti-APECO, have initiated an indefinite camp-out in front of the DAR Central Office in Quezon City to push for the distribution of the 105 hectares they have been tilling since 1960s and to show their continuing opposition against APECO. Sitio Reserva is the target resettlement area for thousands of Casiguran residents who would be displaced by the APECO project.

Social networking has also been used to further propagate the opposition against APECO. "Ayoko sa APECO" (I don't like APECO) is on Facebook.

While these campaigns are all being waged by various groups against APECO, news have it that the President has approved the P1.66-billion Baler-Casiguran Road Improvement Project and the P798.56-million Umiray Bridge Construction Project in Aurora and that Sonny Angara will be one of the Senatorial Candidates of the Liberal Party in the coming 2013 elections. Meanwhile, the Defense Team of Renato Corona in the ongoing Impeachment Trial has asked the inhibition of Senator-Judge Edgardo Angara given the foregoing information.

5. Conclusion: Providing Alternatives

Given the adverse effects so far of APECO and the mounting opposition against it, there is a need for the proponents of APECO to step back and rethink the development they want to foster in Casiguran through APECO. That is if they indeed intend APECO to serve first and foremost the needs of the local residents of Casiguran.

Those opposing APECO had pointed to the potentials of agricultural development in Casiguran. In 2010, as part of the struggle against APECO, PAKISAMA with PIGLASCA started organizing commodity clusters in the area under the EU-funded Agriterra-PAKISAMA Philippine Farmers for Food Project. There are now five (5) clusters of organic rice farmers (100 farmers) and two (2) clusters of fishers (40 Fisherfolks). It has embarked on establishing seed banks and learning farms, and as a direct result, 500 sacks of organic rice were harvested in 2011 from the areas that have adopted organic rice farming (Sarmiento, 2012). This is taking advantage of the natural potential of Casiguran as the rice granary and bowl of Aurora.

To contribute to the goals of agricultural development and to safeguard the rights of the small farmers, immediate distribution of lands under CARPER must be undertaken and the needed support services provided.

As one of the most disadvantaged sectors in Philippine society, caution must be exercised in providing support to Casiguran's indigenous population, especially the Dumagats/Agtas. The NCIP should immediately act on the pending CADT application of the Dumagats/Agtas. Since ecological changes, specifically the loss of game in the Casiguran forests, is one of the major reasons for the continuing decline of the Dumagat/Agta population, efforts to secure the forests to avert this must be done. Headland's studies (1975 and 1984) provide us valuable insights to understand the needs of the Dumagats/Agtas and how these needs can be addressed better.

By securing the rights of the small farmers over the lands they have been tilling and the Dumagats'/Agtas' ancestral domain and waters, which are crucial to their survival as a people, land grabbing spurred by the developments of APECO so far can be thwarted.

Given the continuing threat of climate change, the forests of Casiguran must be preserved. As one of the remaining extensive forest covers, it can help preserve not only the Dumagat/Agta peoples and their way of life, but also safeguard the lives of the other residents of Casiguran.

To safeguard the livelihood of small fisherfolks, the municipal waters should be allocated/delineated solely to them. There are reasons why they have opposed mariculture and all of these should be addressed and taken into consideration.

Development when based on imposed goals has never succeeded especially in addressing the needs of the poorer sections of the society. A more prudent and relevant development option should begin by respecting, understanding and recognizing the potentials of the place and the people.

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Large-scale Agricultural Land Investments: The Philippine Experience

Philippine Situationer on Large Scale Agricultural Land Investments

1. Introduction

Global land grabs. Large-scale land investments. International agricultural investments. These are the terms most commonly and interchangeably used to define the renewed interest in agriculture and the surging demand for land worldwide. Lim (2010) defines global land grabbing or international investments in agriculture as a “phenomenon wherein developed countries and foreign agribusiness corporations lease or buy large tracts of arable lands in developing countries for the purpose of meeting their domestic consumption requirements and/or for the production of bio-fuels.” What the definition misses is that global land grabbing is now also motivated by the “increasing attractiveness of farmland as an asset class for investors” (LANDESA, 2011).

Widely traced to the multiple crisis of food, energy, climate and finance that rocked the world in 2008, the interests behind these large-scale agricultural investments vary among multinational companies, governments, commercial farmers, domestic investors and financial institutions having their own stakes in the process. In the main, these agricultural land investments are mostly driven by the demand to secure food (especially after the food crisis that hiked the price of food), the demand for alternative fuel sources (e.g., agro-fuels or bio-fuels in lieu of the energy crisis and climate change), increasing demand for climate mitigation measures (i.e. relocation of high carbon emitting agriculture production in other countries) and, as mentioned above, the current revaluation of land as an attractive “asset portfolio” by these investing entities.

On the other hand, supply drivers providing the impetus for these large-scale investments in agriculture include limited public investments in agriculture, low agricultural incomes, “availability of idle lands,” and government policy (Bernabe, 2010). While data on the extent of these land grabs or agricultural investments remains scanty, the Committee on World Food Security has estimated 50 to 80 million hectares of farmlands worldwide have been affected, with almost two-thirds located in Sub-Saharan Africa and the rest in developing countries (HLPE, 2011). Table 1 below presents estimated inventories involved in large-scale land investments worldwide.

Table 1. Estimated inventories involved in large-scale land investments

Amount of Land (ha)	Coverage	Time Period	Source
2.5 million	Ethiopia, Madagascar, Ghana, Mali and Sudan	2004-2009	Cotula et al. 2009
51-63 million	27 countries in Africa	until April 2010	Friis and Reenberg, 2010
approximately 1.5 million	Mali, Lao, Cambodia	Until 2009	Gorgen et al. 2009
>3.5 million	Kazakhstan, Ukraine, Russia	2006-2011	Vissar and Spoor, 2011
46.4 million	81 countries	2004-2009?	Deiniger et al. 2011
4.3 million	Brazil	until 2008	Wilkinson et al. 2010
545,000	Mali	By end 2010	Baxtor, 2011
3.6 million	Ethiopia	2008-2011	Horne, 2011
15-20 million	“poor countries”	2006-2009	IFPRI, 2009

>80 million	Global	since 2000	International Land Coalition
approximately 15-20 million	Global	since 2000	V. Braun and Meinzen-Dick, 2009
not identified	Global	2007-2008	GRAIN, 2008

Source: HLPE, 2011

2. Philippine Experience

2.1. General Situation

Though not much information on the phenomenon of global land grabbing in the country has been made public, it is clear it has already penetrated Philippine agriculture. This had been driven largely by the aggressive policy of former Pres. Gloria Macapagal-Arroyo's administration to promote "international investments in agriculture." Aside from agricultural investments, the Arroyo administration encouraged other large-scale land investments by actively promoting mining as an investment area in the country. The Minerals Action Plan and National Minerals Plan both served as bases for the flurry of mining investments now adversely affecting indigenous communities.

The 2010 World Bank report identifies the top three (3) destination countries for large-scale land investments per region. In the East Asia and the Pacific (EAP) region, the Philippines ranks second as a preferred destination for investments (Deiniger, 2010).

Table 2. Top 3 Destination Countries by Region for "Large Scale" Land Investments

Africa		Latin America		East Asia & Pacific	
Country	Total (in million has)	Country	Total (in million has)	Country	Total (in million has)
Sudan	6.4	Brazil	3.6	Indonesia	3.6
Ghana	4.1	Argentina	2.6	Philippines	3.1
Madagascar	4.1	Paraguay	0.8	Australia	2.8

Source: Deiniger, Klaus. World Bank. "Large Scale Land Acquisition: What is Happening and What Can We Do?" as cited in Flores-Obanil, and Manahan, 2011

The World Bank, through two of its advisory and technical committees on land investments, the International Financial Corporation (IFC) and Foreign Investment Advisory Services (FIAS), has been helping the Philippines in its land investment program. In 2008-09, the FIAS, with the BOI, identified a pipeline of potential investments on land in the Philippines amounting to US\$1 billion and with 200 new expansion opportunities for investors. As early as 2002, FIAS had already conducted a review of Philippine investment incentives legislation with the objective of removing constraints for foreign direct investments. Similarly, FIAS with the Multilateral Investment and Guarantee Agency, provided the Philippine BOI inputs in 2006 so that a program for foreign investment retention, expansion and diversification could be developed (Manahan, 2011).

In her State of the Nation Address, former Pres. Arroyo announced the government would be developing two million hectares of land for agribusiness. This announcement opened the floodgates to agricultural investments or global land grabs. Prior to this, however, the government had already been actively

encouraging and pursuing developed countries and/or foreign agribusiness corporations to go into contract farming, joint venture or lease large tracts of arable lands for the purpose of meeting the domestic consumption requirements and/or for the production of bio-fuels. These investments, mainly negotiated during Arroyo's foreign trips, are reflected in government reports of commitments and investments secured under bilateral and multilateral trade agreements such as the RP-China agreement, the JPEPA, etc.

To further systematize investments, the Arroyo government created two government corporations under the Department of Agriculture (DA) in order to facilitate such "investment arrangements." These government-owned and controlled corporations (GOCCs) are the Philippine Agricultural Development and Commercial Corporation (PADCC) and the National Agribusiness Corporation (NABCOR).

Between the two GOCCs, PADCC has been more visible and active (i.e., establishing their own showroom, attending civil society consultations on land grabs, etc.); it has been promoting itself on social networking sites such as Facebook. PADCC's mission is "to be a strong promoter and business partner and an effective facilitator to investors engaged in agribusiness, biofuel feedstock production and processing as well as the production of high value commercial plantation crops (PADCC, 2010)."

PADCC serves as the lead agency for the "convergence initiative" in close coordination with the Department of Agrarian Reform (DAR) and the Department of Environment and Natural Resources (DENR). This "initiative" is actually the development of two million hectares of new lands for agri-business "to generate two million new jobs and enhance the productivity and incomes of Filipino farmers who comprise a large portion of the country's poor."

In its accomplishment report, PADCC claims to have identified two million hectares for potential investors. Also, it lists possible investments covering 1,340,500 hectares (some already with MOUs and others already operational), 597,000 hectares of which have already been granted to investors in bio-diesel production.

Unfortunately, up until today, no systematic monitoring of foreign investments in agriculture has been put in place. PADCC admits that it can only monitor "investments" directly negotiated with them, submitted or forwarded to them by investors or the Board of Investments (BOI). Consequently, direct negotiations for agricultural investments at the local level, possibly between foreign investors and individual farmers/farmers organizations and/or local government units (LGUs), have largely remained unmonitored and unreported. Exceptions are investments the media have exposed, such as the leasing of the 94,000 hectares of land by a South Korean company, Jeonnam Feedstock Limited, for corn production in Mindoro Occidental. Since these "investments" have not been formally negotiated through PADCC, they are not part of the reported 1.3 million hectares of lands. This heightens the possibility that more than the PADCC-reported 1.3 million hectares lands have actually been "globally land grabbed" in the Philippines.

This aggressive push to open up land investments in the country is also being done under the present administration of Pres. Benigno "Noynoy" C. Aquino Jr. The administration has been encouraging public-private partnerships and more foreign and domestic investments in the country. PADCC has been retained as the lead body in the "convergence initiative" with DAR and DENR both tailor-fitting their respective programs in line with the initiative.

2.2. Laws of the Land Safeguarding Small Scale Farmers

2.2.1. Presidential Decree (PD) 471

Agricultural investments in the Philippines operate under a regulatory framework set forth in a number of



legal instruments and policies (Lim, 2011). In 1974, Pres. Ferdinand Marcos issued PD 471 to guide the leasing of lands by foreigners, fixing the maximum duration of leases for both private and public lands. PD 471 recognized the constitutional ban on the acquisition of lands by “aliens and alien-owned entities” and set the maximum lease period at twenty five years, renewable for another twenty-five years.

2.2.2. 1987 Philippine Constitutions

Article XII, Section 3 of the 1987 Constitutions further provides that “Private corporations or associations may not hold such alienable lands of the public domain except by lease, for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and not to exceed one thousand hectares in area. Citizens of the Philippines may lease not more than five hundred hectares, or acquire not more than twelve hectares thereof, by purchase, homestead, or grant.”

2.2.3. Republic Act (RA) 7652

Republic Act (RA) 7652 or the Investors Lease Act extended the above mentioned 25-year period, allowing investors to lease land for up to 50 years – a period that may be extended for another 25 years provided that the land does not fall under the Comprehensive Agrarian Reform Law (CARL). Under RA 7652, the lease period may be extended if it can be shown that the investment has made a “social and economic contribution” to the country. It also allows for the sale of the leasehold right, transferred or assigned.

2.2.4. Comprehensive Agrarian Reform Program Extension with Reforms (CARPER)

The Comprehensive Agrarian Reform Program Extension with Reforms (CARPER), passed in August 2009, provided for a landownership ceiling of only five (5) hectares. It also amends Section 27 of RA 6657 on the transferability of awarded lands wherein such lands may “not be sold, transferred or conveyed except through hereditary succession, or to the government, or to the LBP, or to other qualified beneficiaries through the DAR for a period of ten (10) years.” The provision explicitly prohibits the sale for a period of ten (10) years and ownership to only five (5) hectares but since it does not cover leases, the law which allows investors to lease up to 50 years (almost virtual ownership) negates the importance of this policy ensuring that lands are not transferred unduly and/or reconsolidated.

2.2.5. Administrative Orders by the Department of Agrarian Reform (DAR)

The DAR issued a number of administrative orders (AOs) on land leasing and agribusiness venture arrangements or AVAs, including the following:

- AO No. 2, Series of 2008 (Guidelines Governing Lease of Lands in AR Areas & the Determination of Lease Rental Thereof)
- AO No. 9, Series of 2006 (Revised Rules & Regulations Governing AVAs in Agrarian Reform Areas)
- AO No. 2, Series of 1999 (Rules & Regulations Governing Joint Economic Enterprises in Agrarian Reform Areas)
- PARC Policy Order No. 1 – August 18, 1997 (JVAs Between DAR & Other Interested Parties and the Processing for Lease Back Arrangement, JVAs & Other Schemes that may be Recommended by the PARCCOM to the PARC)

2.2.6. Executive Order (EO) 226

Agricultural investments are also covered by Executive Order (EO) 226, otherwise known as the Omnibus Investments Code of 1987. EO 226 created the Board of Investments (BoI) to, among others, “Regulate the making of investments and the doing of business within the Philippines by foreigners or business organizations owned in whole or in part by foreigners...”

As provided for under EO 226, a corporation investing in the Philippines may avail of tax breaks and incentives by registering with the Bol. The company must operate a business which has been recognized as a preferred area of investment in the Philippines' Investment Priority Plan (IPP) the Bol submits annually to the President.

The list of 13 priority sectors under the 2011 IPP includes agriculture and agribusiness, fisheries, mining, and energy. A 100 percent foreign-owned corporation may be entitled to incentives if the business has been categorized as a pioneer project and at least 70 percent of production /service is exported, or if the project is in one of the less-developed areas the IPP mentions.

Among those eligible for fiscal incentives as a "pioneer enterprise" as defined by EO 226 is the "pursuit of agricultural, forestry or mining activities and/or services determined by the Bol as feasible and highly essential in the attainment of the national goal in relation to a declared specific national food and agricultural program for self-sufficiency." Pioneer industries include the production of non-conventional or biofuels, also.

Even if the project is not covered by the IPP, incentives may still be available if at least 50 percent of production /service are exported, if it is a Filipino-owned enterprises; or at least 70 percent of production / service is for exports, if it is a majority foreign-owned enterprise, i.e. more than 40 percent foreign equity.

2.2.7. Special Economic Zone Act of 1995

Under the Special Economic Zone Act of 1995 (Republic Act 7916), fiscal incentives are provided for businesses located inside so-called ecozones including what is provided under PD 66 or the Export Processing Zones Authority (EPZA) and those under EO.

Although these laws and policies are in place and there are existing legal instruments (e.g., CARPER or RA 9700; Indigenous Peoples Rights Act (IPRA) or RA 8371; the Magna Carta for Women or RA 9710; National Integrated Protected Areas or RA 7586) that protect and safeguard the rights of small farmers, agrarian reform beneficiaries, agricultural workers, indigenous peoples and rural women, over land resources, the weak governance system that monitors and implements them remains a major cause for concern. A number of groups have identified possible negative impacts of these global land grabs on the land rights of the above mentioned sectors; food security of the host country; sustainable agricultural development; and climate change.

Consultations with local stakeholders and obtaining free and prior informed consent (FPIC), as in the case of mining on lands within ancestral domains of indigenous peoples, are required before these large-scale investments are allowed in. Unfortunately, in many cases, investors do not comply with these requirements or simply find "creative" ways to circumvent them. The three (3) case studies discussed in detail in the next section will bear this out. In some cases, investors (prevalent in mining investments) submit dubious FPIC in order to comply with the requirement.

On food security, several laws and treaties have already been ratified by the government relating to food availability, food accessibility, and food safety¹ which form cornerstones of the right to food. While the 1987 Constitution does not explicitly recognize the right to food as a human right, the right to food may be inferred from various human rights provisions and from other constitutional provisions that address mass poverty; mandate improvement of quality of life for all Filipinos; mandate social justice and agrarian reform; and recognize the right of subsistence fisherfolk to the preferential use of communal inland and

offshore marine and fishing resources.

2.3. Interaction with International Treaties and Convention

The Philippines ratified four (4) human rights treaties relevant to the right to food which include:

1. The International Covenant on Economic, Social and Cultural Rights (ICESCR) which recognizes the fundamental right of “everyone to be free from hunger and the right to an adequate standard of living, including adequate food;”
2. The Convention on the Rights of the child which recognizes the right of the child to enjoy the highest attainable Standard of health including access to adequate nutritious food and clean drinking-water, and the right of the Child “to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development,” including nutrition;
3. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) which ensures appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation and stipulates that states should take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, among others, adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications; and
4. The additional protocol to the Geneva Conventions relating to the protection of victims of international and non-international armed conflicts, which recognizes the right of persons whose liberty is restricted to food and drinking water, and expressly prohibits “starvation of civilians as a method of combat,” and any attack, destruction, or removal of “objects indispensable to the survival of the civilian population such as food-stuffs, agricultural areas for the production of food-stuffs, crops, livestock, drinking water installations and supplies and irrigation works” (delos Reyes and Diokno, 2008).

Accordingly, these documents are legally binding on the Philippines and considered an obligation of the government. There are attempts by international institutions such as the World Bank (WB), the Food and Agriculture Organization (FAO), the International Fund for Agricultural Development (IFAD), and the United Nations Conference on Trade and Development, to push for a set of principles that would govern these increasing global agricultural investments or the Responsible Agricultural Investments (RAI) initiative. But at present, these guidelines are voluntary and do not obligate state/countries to adopt and implement these guidelines. The set of principles underlined in the RAI includes:

1. Respect land rights
2. Not jeopardizing food security
3. Transparency and good governance
4. Consultation and participation
5. Economic viability
6. Social sustainability
7. Environmental sustainability

RAI has undergone consultations; it has been supported by some groups and rejected by others. Those supporting the adoption of the principles believe the guidelines at least provide for the rationalization for large-scale land investments. On the other hand, those opposing the RAI initiative (one of the lead coalition is the Global Campaign for Agrarian Reform) think the initiative has merely resulted in more opportunities for land grabbing and has been used “to legitimize the long-term corporate takeover rural peoples’ farmlands (GCAR, 2010).”

Aside from RAI, the FAO has crafted voluntary guidelines to improve the governance of tenure of land and other natural resources. The guidelines and the RAI are related initiatives to ostensibly respect rights, livelihoods, and resources.

3. The Local Cases (Please see annexes)

The Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA), the Philippine member of the Asian Farmers' Association (AFA), selected one case on large-scale land acquisition that their members in in each of the major island region are currently experiencing.

The first case is the case of seaweed farmers in Barangay Imba, Caluya municipality, Antique Province in Visayas island region. Land speculation for tourism and coal mining in the area has led to forcible demolition of 104 houses and the removal of people from an area they had lived in since the 1940s. Now forced to relocate to a communal 'bunk house', some 300 people have been affected and have been fighting for their tenure rights and access to the area where they plant seaweed.

The second case is the Bio-fuel Production Project in Tudela municipality, Misamis Occidental province in Mindanao island region. A company named Isabela Alcogas Corporation (IAC), has targeted 4,000 hectares of agricultural land in eight barangays/villages of Tudela for sugarcane plantation. The very same barangays, however, are being claimed by an indigenous group, the Subanens, as their ancestral lands.

The third case is the Aurora Pacific Economic Zone and Freeport (APECO) Project, located in Casiguran, Aurora Province in Luzon island region. The Project covers 12,923 hectares, covering 6 barangays/villages. To give way to the industrial complex, industrial parks, airport, hotels, ship anchorage, and recreational facilities that will be developed for APECO, rice farms, coconut plantations, forests, mangroves and coastal areas, and human settlements in these barangays, including the whole ancestral domain of the Dumagat/Agta people in the San Ildefonso Peninsula, have been targeted for conversion, thus affecting 6,169 farming families and 726 Indigenous Peoples belonging to the Dumagat/Agta tribes. The farming and IP communities are against the Project as it is seen to lead to the loss of their livelihoods, environmental degradation, food insecurity, loss of game in forests, and displacement of communities.

4. Conclusions and Recommendations

The current renewed interest in agricultural land investments, which some refer to as the "global land grab", has elicited much attention as private and public interests, driven by surging global demand for food, raw materials and agro-fuels, seek investment opportunities in developing countries where land and water resources remain available for agricultural production.

At the heart of the issue are basic questions of fairness, equity and social justice, and implications of foreign and corporate control of land, particularly on smallholders and producers, who remain the primary investors in land and agriculture in the developing world.

Undeniably, there is an influx of large scale agricultural investments in the country. The PADCC data of 1.3 million hectares already with investments and the overall 1.99 million hectares that have been identified as investment areas bear this out. Also, more investments might have remained unmonitored given that direct negotiations are allowed under the LGC or RA 7160. Again, PADCC admits it has no listing of investments negotiated at the local level.

It is difficult at this point to assess the risks and opportunities these agricultural investments can provide except in general terms. While PADCC has been open in reporting the number of lands they have matched, the actual terms of these investments as spelled under the MOUs have not been opened to the public. It is difficult to secure a copy of these MOUs even from PADCC. Some NGOs' attempts to secure a copy of the Atlas published by the PADCC identifying all premium sites for bio-fuel production in the country have been rebuffed with the excuse that the said Atlas is for potential investors only (Flores-Obanil, 2010). Lack of information about these "investments" has prompted agrarian reform and rural development advocates to support the immediate passage of the proposed freedom of information (FOI) bill that would mandate government to be open and transparent and to provide crucial information about treaties, contracts, etc. that government enters into.

The influx of large-scale agricultural investments along with their opportunities and risks has raised questions on whether or not these investments should be outrightly rejected or be subject to regulation. Some of the risks identified are the loss of formal or customary rights to smallholder farms, pasture, forestland, and other community property or resources of poor farmers, indigenous peoples, and rural women; the loss of livelihoods; the threat of displacement; increased food insecurity of the host country; environmental hazards; and increased conflicts resulting from land acquisitions, relocations and restricted or reduced livelihood opportunities (International Land Coalition; FAO et al).

The possible loss of formal or customary rights to smallholder farms, pasture, forestland, and other community property or resources of poor farmers, indigenous peoples, and rural women and food insecurity is amply illustrated in the case study of APECO (Aurora Pacific Economic Zone and Freeport Authority) project in Casiguran, Aurora where 13,000 hectares of land are set to be converted. Since the land in question is covered by CARP and has yet to be awarded to farmer-beneficiaries, fears about the stalling of land distribution have been raised given that majority of the lands are to be converted into an economic zone. The farmers have started producing organic rice within APECO (seven cells of a commodity cluster) to strengthen their campaign against the proposed land conversion which they believe would threaten food security in the area.

That these investments may pose environmental hazards, result in food insecurity and conflicts is apparent in the case of the Subanens in Malindang, Misamis Occidental where 36,000-45,000 hectares of land have been converted to monocrop plantations of sugarcane, initially, then jatropha for biofuel project. PAKISAMA leaders in the area report that around 4,000 households have been adversely affected by the project. Also, the crop conversions lacked the free prior informed consent of the indigenous peoples (IPs) who are largely the residents in the area affected by the conversion. The IPs have also accused the National Commission on Indigenous Peoples (NCIP) officials of not conducting the required consultations with the affected people and communities. They have also raised concerns on the use of chemical pesticides in the jathropa plantations that may eventually pollute the communal waters in the area. Aside from the jathropa plantation, there are now issues being raised about the alleged plans of the elected Congressman of the district to secure the title over the contested land in a bid to protect and promote his tourism project.

Some investments have reportedly already negotiated lease agreements prior to the issuance of Certificates of Land ownership award (CLOAs are titles DAR gives to farmer beneficiaries under the government's agrarian reform program) or have been used as a condition for the issuance of the CLOAs. This issue, however, remains anecdotal and needs proper documentation. With the government's failure to provide adequate support services, the possibility of these farmers/ agrarian reform beneficiaries entering into such lease agreements is high. Also, lease for the lands have been negotiated for as low as PhP5,000 per hectare/per year. This only means that farmers /agrarian reform beneficiaries had been

shortchanged in the process. Since DAR is heavily involved in the two million agribusiness program PADCC is coordinating, the scenarios mentioned above are not far-fetched.

These are in fact the subject of various studies and consultations sponsored by different institutions, civil society organizations and peoples' organizations. At the local level, some farmer's organizations have also started information and education sessions so that farmers and agrarian reform beneficiaries can understand the phenomenon of global land grabbing and study the possible implications of these agreements on their property rights, tenure security and livelihoods.

During the PAKISAMA national consultation, farmer leaders provided their own insights, opinions, and recommendations on the RAI principles especially since the organization has been struggling against land investments in the three areas where they operate and which have been discussed in the case studies above (PAKISAMA, 2011). From their experience, large-scale agricultural investment merely further impoverished them instead of improving their quality of life. A case in point is the Malindang bio-fuel project. Investors in the three case studies (APECO in Casiguran, Malindang and Caluya) have obviously violated the RAI principles.

Their insights, opinions, and recommendations on the Voluntary Guidelines and the RAI principles include:

1. Ensure first the farmers' rights to land and security over their land tenure.
2. Add accountability to transparency and good governance.
3. Stop investments upon any violation of the principles.
4. If they remain voluntary, the people need to advocate for their adoption and implementation by the Philippine government. All concerned government agencies (DENR, DA, DAR, and NCIP) need to know about these guidelines and should be pushed to adopt and implement these guidelines.
5. Investment must consider the health of the people, apart from its social and environmental impacts.

Even if the Voluntary Guidelines and RAI incorporate the recommendations of civil society, particularly farmers' organizations, the participants in the national consultation believe the guidelines are bound to be useless if the above principles are not adopted by the United Nations (UN).

End Notes

1 According to delos Reyes and Diokno, food availability laws include measures that relate to access to land, agricultural productivity, trade measures that ensure supply of food, as well as those that may impinge on the availability of food by affecting agricultural Productivity. Food accessibility laws are those that incorporate food physical and economic accessibility and only 3 laws govern food prices: ra 7581 (price act), ra 71 (price tag law), and certain provisions of ra 7394 (consumer act of the philippines). All of these laws do not significantly contribute to hunger mitigation.

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Indonesia

Indonesia Situationer on Large Scale Agricultural Land Investments

By Aliansi Petani Indonesia (Indonesia Peasant Alliance/API)

1. Abstract

Aliansi Petani Indonesia (API), a national farmers' organization, has a vision of building farmer communities, men and women alike, and younger generation who are content, free from the threat of hunger and structural poverty, and live in justice and wealth. Therefore, API engages in land use issues, production structure, and farm initiatives that improve agricultural chain by building support and cooperation with various stakeholders, including government, private sector (buyers), consumer groups, NGOs, and others farmers' organizations.

This research primarily aimed to find out the overall situation of large agricultural land investments in the country, explore cases of such investments, including its impacts on affected small-scale women and men farmers, identify laws of the land protecting the rights of farmers to own land, and provide suggestions or recommendations towards improving the plight of affected farmers in relation to their lands.

With the support of the International Land Coalition (ILC), API, together with the Asian Farmers Association (AFA), conducted three focused group discussions (FGDs), field observations, and a national consultation entitled, "Agricultural Land Investment in Indonesia."

The cases looked into in the study are the (1) conversion of land into hybrid coconut and cocoa plantations in Senyerang, Jambi Province; (2) compensation consignment of land for the Kertosono-Mojokerto highway construction project in Jombang, East Java; and (3) conversion of forest and Adat lands into palm oil plantations in Sarapat Village, Central Kalimantan Province.

The main findings of the study are:

1. About 1,600 Senyerang villagers practically lost their main source of livelihood when a private company, PT WKS, took over their land. The villagers' various protest actions prompted the company to enter into a partnership with them on a number of conditions, foremost of which are the kind of rubber to be planted on the land and the hiring of the villagers as source of labor at standard wages. (case #1)
2. The mechanism of compensation consignment on the use of villagers' land in Jombang regency had not been finalized owing to the absence of agreement between stakeholders involved. Agreement on amount of compensation had yet to be finalized as well, as the farmers believed the price was unfair; price being offered by the government was way below the actual market price for the land. (case #2)
3. The local government had a big role in the land case in Sarapat Village, Central Kalimantan. Its statement that no Adat (land owned by the local community for generations, not to be sold, follow the custom/*adat* law) land existed in Sarapat merely boosted the claim of a private company, PT SGM on the land even as the latter did not have any license to convert the forest and Adat lands into palm oil plantations. Protest actions by the villagers prompted the company to enter into an agreement with the former allowing them to work on their land. As of this writing, the agreement had yet to be enforced. (case #3)

2. Introduction

2.1. Background/Rationale

Private sector investments in agriculture have been increasing in Asia and Africa. This trend has been evident in the growth of Foreign Direct Investments in South, East, and Southeast Asia, and the steady rise of trade within Asia's borders. Asian governments are partly responsible for this trend; they institute policy and fiscal incentives with the view of improving local agriculture economy and reducing poverty. Unfortunately, the assumption that there is abundant unused land for agricultural development is unfounded. In some instances, upland areas, where generally indigenous peoples reside, are being offered for such investments.

Increased land investments are putting great pressure on fertile, cultivable lands. Most of these investments have resulted in the conversion of agriculture, forest and foreshore lands into plantations, and commercial and industrial centers. Moreover, these agricultural investments, when unregulated, tend to undermine land occupants in the way deals are contracted, the type of agricultural production adopted, and the technologies employed. These transactions come in various modalities: government to government, private companies to government, private companies to private companies.

In Indonesia, the policy of forest conversion into large-scale farming was initiated by the *Agrarische Wet* in 1870 (Agricultural Law of 1870) during the colonial period. This law established the practice of exploitation and land rent in plantations of private investment. Under this law, all untended plots were deemed unused and owned by the government. Even though the *Agrarische Wet* 1870 provided a conducive environment for the application of trade monopoly regulations, the colonial government did provide a certain degree of protection towards land and water resources for the locals (Kasryno, 2011).

With the boom in government-run, large-scale modern plantations, an economic dualism, wherein exclusive enclaves of plantations coexist with poor traditional farms, has occurred and has continued up to this day. For example, in Riau Province, large-scale oil palm plantations built partly with foreign investments or developed from existing oil palm plantations through land grabbing have resulted in the a percentage of poor farmers in the region.

The total area of land under palm oil cultivation in Indonesia has increased rapidly, more than 10% annually. In 2008, the total area of palm oil plantations was 7.6 million hectares. Almost three (3) million hectares were in private hands, and of it about two million were owned by foreign companies. One particular foreign company held about 650,000 hectares, while the 14 state-owned plantation controlled 750,000 hectares (Kasryno, 2011).

In the last few years, the number of foreign companies acquiring private plantations and local farms in the country has increased rapidly; such increase poses a threat to the nation's sovereignty and self-sufficiency. Meanwhile, farmer families lacking plots have no opportunity to expand through new land, because the government – with the excuse of strengthening national food resiliency – has granted *hak guna usaha* (right to use, HGU) to food estate developers. One example is the *Merauke Integrated Food and Energy Estate* (MIFEE) in Merauke, Papua, a region with an area covering 1.6 million hectares.

Government Regulation No.18/ 2010 on Cultivation Business was formulated specifically to facilitate the acquisition by food estate businesses a maximum of 20,000 hectares of land in Papua and 10,000 hectares of land in other provinces. Foreign investors can collaborate with domestic business with a

maximum of 49% capital investment. The regulation, however, does not dictate the marketing of food estate products, thus raising concerns that foreign investors will prioritize their respective countries' food safety (Kasryno dkk. 2011: 3).

This study was conducted in order to underscore the importance of understanding how large-scale agricultural land investments impact on the land tenure/land rights of farmers and indigenous peoples/marginalized people; men, women and youth; food security of rural communities; and the environment. It is divided into four parts. The first part presents the introduction, study questions, objectives, and methodology. The second part discusses the main findings, including the two cases of large-scale land acquisition in two provinces. The third part presents the laws of the country pertinent to the case. The fourth part features conclusion and recommendations.

2.2. Objectives of The Study

2.2.1. Overall Objective

This study was conducted in line with the overall objective of the ILC-funded project in cooperation with AFA -- to increase the significant involvement of national and regional farmers' organizations in the ongoing processes of determining global, regional and national responses to large-scale agricultural land investments in Asia.

2.2.2. Specific Objectives

Given the above overall objectives, this study aimed to:

1. find out the overall situation of large-scale agricultural land investments in the country and its potential or realized impact on small-scale women and men farmers;
2. identify the laws of the land protecting and promoting the right to own land of small-scale women and men farmers;
3. examine selected cases of large-scale agricultural land investments in the country;
4. explore the actions taken by affected villagers and other stakeholders in response to these investments; and,
5. identify suggestions and recommendations to address issues arising from these investments.

2.2.3. Methodology



Several researches on agricultural land investments were conducted by some organizations (FAO, IFPRI, Oxfam International, ANGOC, ILC). This study built on and complemented these researches. Research briefs were written to facilitate understanding of farmers of the main findings and conclusions of these researches.

The method of approach used in the composition of the focus group discussions (FGDs) was juridical empirical and the research specification was descriptive-analytical. Data was collected from primary and secondary sources. The method of analysis used was qualitative and data presentation was in the form of a written report.

API facilitated an FGD in Jambi with some officials and members of PPJ involved in the land conflict in the village of Senyerang. It also conducted a series of discussions with the affected farmers. API also facilitated FGDs in Jombang (East Java Province), involving 25 farmers (17 men, 8 women), in Palangka

Raya (Central Kalimantan province), involving 21 participants (15 men, 6 women) and in Senyerang (Jambi Province) with 20 farmers (15 men, 5 women) At the end of 2011, API conducted a national consultation at its national secretariat in Jakarta. It was participated in by some FGDs participants, and three national resource persons.

3. Discussion of Findings

3.1. Land situation in Indonesia

Land is an important natural resource for humans' well-being. The relationship between humans and land is not limited to a place of housing, but also a source of living. Land is the source of human existence. Land strongly supports civilization. For Indonesians, land is God-given and a national treasure. The connection between the nation and its land is eternal, and should be preserved carefully in the present and the future.

Land is not to be viewed from one point of interest, in particular those of the well-off or the capital, because land is where 240 million Indonesians live and work (Sudjatmiko, 2011). Land issues involve a basic human right. Aside from its economic value, land also has social functions. Therefore, private interests should not undermine public interests. The loss of land rights should be compensated not merely financially, but also by compensatory land or other facilities.

Philosophically, land is not granted to personal ownership. Strictly speaking, a person does not 'sell' land, the transfer is of the right to use and preserve the land. However, the government must guarantee and respect the citizens' right to own land through laws.

Private investments in oil palm plantations in Indonesia in 1995-2006 covered the area of 2.4 millions hectares, of which 60-70% was on foreign hands. Such investments can be classified as land grabbing, because they limit small farmers' access to additional farmland. In many cases, investors take over land tended by poor farmers, or traditional common ("*adat*") lands. Some investors manage plantation lands not by paying rent, but merely through HGU (right to use), thus paying the government the smaller amount of fund through tax (Kasryno dkk, 2011: 34).

3.2. Land Laws

Basic Land Regulation (Undang-undang Pokok Agraria or UUPA)

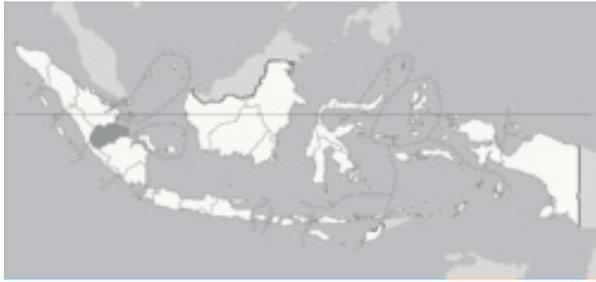
Article 16 of Government Regulation no. 5/1960 on Basic Rules of Land, or commonly called Undang-undang Pokok Agraria (Basic Land Regulation, UUPA), deals with the rights on land transferrable to the citizens, such as: Hak Milik (property right), Hak Guna Usaha (right to manage right, HGU), Hak Guna Bangunan (right to use the building, HGB), Hak Pakai (right to use, HP), Hak Sewa (right to rent), Hak Membuka Tanah (right to land opening), Hak Memungut Hasil Hutan (right to collect forest products), temporary rights, and other types of rights to be formulated in subsequent laws, as stated in Chapter 53 of UUPA.

UUPA 1960 guarantees the legal stance of land ownership through the requirement of registering ownership of land, the area of which is limited according to local circumstances. This regulation also explains the need for land use plans. Only Indonesian citizens can own land.

3.3. The Cases

3.3.1. Case 1: Hybrid Coconut and Cocoa Plantations in Senyerang, Jambi Province





Location of Jambi Province in Indonesia (Source: Wikipedia, 2012).

The Place

The case is located in Senyerang, Senyerang sub-district Tanjung Jabung Barat district, one of the nine regencies (*kabupaten*) in the province of Jambi. Jambi province is located on the east coast of central Sumatra; its capital is Jambi city. Senyerang forms part of the canal area 1-19 HP-HTI PT WKS (“*Industrial Plantation Forest Concession*” of PT Wira Karya Sakti -- Grup Sinar Mas) with a total area of 7,224 hectares.

Background/History of the Case

In the past, the region was covered by the villagers’ communal groves of betelnut and coconut trees. Based on notices of the Penghulu of Senyerang in 1927 and of the Demang of Kuala Tungkal in 1928, these groves have long been owned by the locals.

However, the governor of Jambi issued a decree in 1990, SK Gubernur Jambi No. 461/1990, setting aside these lands for hybrid coconut and cocoa plantations. The decree was supported by the Kantor Wilayah Badan Pertanahan Nasional Jambi (Jambi Regional Office of the National Land Agency). To develop the plantations, in 1995 and 1996, SKT were released and forwarded to the head of the village, with notice to the Pengabuan Sub-district.

With the new arrangement, the area was classified as *Areal Penggunaan Lain* (“Other Use”, APL) on the map of *Rencana Tata Ruang dan Wilayah* (“Land Use and Regional Plan”, RTRW) of the Province of Jambi in 1996. In 1999, the district government proposed this area to be included in the HP-HTI (Industrial Plantation Forest Concession) of PT WKS. Thus, in 2001, in the RTRW of the regency of Tanjung Jabung Barat, this area became the *Hutan Produksi* of PT Wirakarya Sakti (WKS).

PT WKS is a subsidiary of Sinar Mas Group, one of the largest conglomerates in Indonesia founded in 1962 by an Indonesian tycoon of Chinese descent, Eka Tjipta Widjaja. The conglomerate has many subsidiaries including Asia Pulp & Paper (APP) and the palm oil producer PT SMART. Sinar Mas Group operates businesses in pulp and paper, real estate, financial services, agribusiness, telecommunication and mining. Its businesses are listed in the stock exchanges in Jakarta and Singapore.

PT WKS started to take possession of the land in 2001, the year the district government of Tanjung Jabung Barat issued District Regulation no. 52/2001 and the Forestry Minister Regulation No. 64/Kpts-II/2001. These policies changed the status of the land from “Other Use to Forest Production” to “Industrial Plantation Forest” (in Indonesian, *Hutan Tanaman Industri*) business. Under these regulations, Sinar Mas Group acquired the license to access the land. Sinar Mas Forestry got a permit for more than 357,461 hectares of land in the province of Jambi. As of this writing, it was targeting to acquire another 432,677 hectares of land in the same province.

Through Decree No. 64/Kpts-II/2001, PT WKS seized the land in Senyerang covering a total of 7,234 hectares. About 1,600 households have been affected. Prior to the coming of the PT WKS, the villagers had been using the area to grow various agricultural commodities such as coffee, bananas, coconuts, cassava, and other food crops. Coffee is the main source of income of the families and an important product for the local economy. The peaceful and relatively comfortable life of the villagers was disrupted when PT WKS forbade the villagers from using the land which, it claimed, was granted to it as a concession. The company used police, military, and paramilitary forces to harass and forcibly evict the peasants from their lands.

Initiatives Taken by the Villagers

The affected villagers protested against the government land policies and staged mobilization actions against the PT WKS; they joined a farmers' organization called *Persatuan Petani Jambi* (Jambi Farmers Union, PPJ), a member of API.

In June 2010, the villagers tried to cultivate their plots that had been expropriated by PT WKS. However, the effort was fruitless. For four days, the land was patrolled by the police. In November 2010, the villagers of Senyerang tried again to repossess their land, but was confronted by the police. On November 2010, as the land route was still blocked, they demonstrated on the fringe of their village, along the Pengabuan River. Around 2,000 villagers/farmers were involved in the blocking of the water route which provides access to the factory site of PT WKS. The climax was on November 8, 2010, when a farmer named Akhmad Adam bin Syafri, 45 years old, was shot in the forehead by a Brimob officer guarding a boat owned by PT WKS. This incident angered the people. (Note: Brimob or Mobile Brigade is one of the special operations units of the Indonesian National Police.)

On November 15, 2010, the 2nd Assistant to the Governor (Mr. Haviz Huseini), togetherwith the police, visited the people of Senyerang to resolve the conflict and to request that they re-open Pengabuan River to allow access to the boats of PT WKS. He also promised to help resolve the conflict, and invited the people of Senyerang to attend a meeting in the governor's office.

The meeting between the people of Senyerang, who joined the *Persatuan Petani Jambi* (Jambi Farmers Union, PPJ) and Jambi Province government was attended by the governor himself. The meeting was also attended by *Dirjen Bina Usaha Produksi Kementerian Kehutanan* (General Director of Production Business Management of the Ministry of Forestry), *Kapolda Jambi* (the Police Chief of Jambi), *Danrem 042 Garuda Putih Jambi* (military representative), *Kejaksaan Tinggi Jambi* (the regional prosecutor of Jambi), *Kepala Dinas Kehutanan Jambi* (the Head of Forestry Agency of the Province of Jambi), *Kepala Dinas Kehutanan Kabupaten Tanjung Jabung Barat* (the Head of Forestry Agency of the regency of Tanjung Jabung Barat), *perwakilan Komisi I dan II DPRD I Jambi* (representative of Commissions I and II of the regional assembly of Jambi), *Ketua DPRD II Tanjung Jabung Barat* (the head of the assembly for the regency of Tanjung Jabung Barat), *Sekda Tanjung Jabung Barat* (the Regional Secretary of Tanjung Jabung Barat), *Kapolres Tanjung Jabung Barat* (the Police Chief of Tanjung Jabung Barat), *Kesbangpol Jambi* (the Agency for National and Political Unity), PT WKS, and KPA (Konsorsium Pembaruan Agraria).

The meeting resulted in the decision to form Team 9 headed by the 2nd Assistant of the Governor of Jambi to resolve the conflict in Senyerang. In the meeting, Team 9 and Senyerang villagers came up with the following solutions to the conflict: (1) Partnership; (2) HTR (*people plant forestry*); and (3) enclave. According to Team 9, the fastest and easiest solution was the partnership as directed by *Dirjen Bina Usaha Produksi Tanaman Kementerian Kehutanan RI* (Director General of Bussines of Plant Production of the Indonesia Ministry of Forestry). To take part in the partnership are farmers who are members of

Persatuan Petani Jambi (PPJ), and it was headed by the PPJ representatives in Senyerang, Head of Village Senyerang, and Adat leaders of the village.

The people of Senyerang agreed to a partnership with PT WKS on the following conditions:

1. Plant to be cultivated is the improved variety of rubber.
2. Rubber crop is 100% enjoyed by the people.
3. Total area of the partnership is 7,224 hectares from Kanal 1 to Kanal 19.
4. Labor is sourced from the villagers of Senyerang and villagers are paid standard wages.
5. Execution should be no later than January 2011.

Meanwhile, as the people were negotiating with the PT WKS, the police of the regency of Tanjung Jabung Barat was summoning the villagers to testify in the case of the shooting of villagers and the blocking of the Pengabuan River. The summons and cross-examinations by the police were making the villagers apprehensive and could potentially aggravate the conflict.

Since the November 2010 meeting, nothing had been done as regards the resolution. As a result, the peasants tried again to repossess their land on December 21, 2011. They started from Canals 15 and 16 towards the said land. The farmers built an alternative road to Canals 19 and 16 because, two years earlier, the PT WKS had destroyed the old bridge, thus blocking the only access road to the village. The blocked road was the only road Senyerang peasants used to bring their agriculture and other products to the market. The farmers staged a demonstration, demanding the government to return their 7,224 hectares of land taken by PT WKS, stop harassment and intimidation of the villagers, and to prosecute the police for the killing of Akhmad Adam.

As a result of the actions taken by the villagers, the Jambi government formed in February 2012 an integrated committee tasked to solve the conflict in Senyerang even as it verified the claim. As of this writing, the land conflict between the farmers of PPJ and PT WKS remained unsolved.

3.3.2. Case 2: Kertosono-Mojokerto, East Java Highway Project

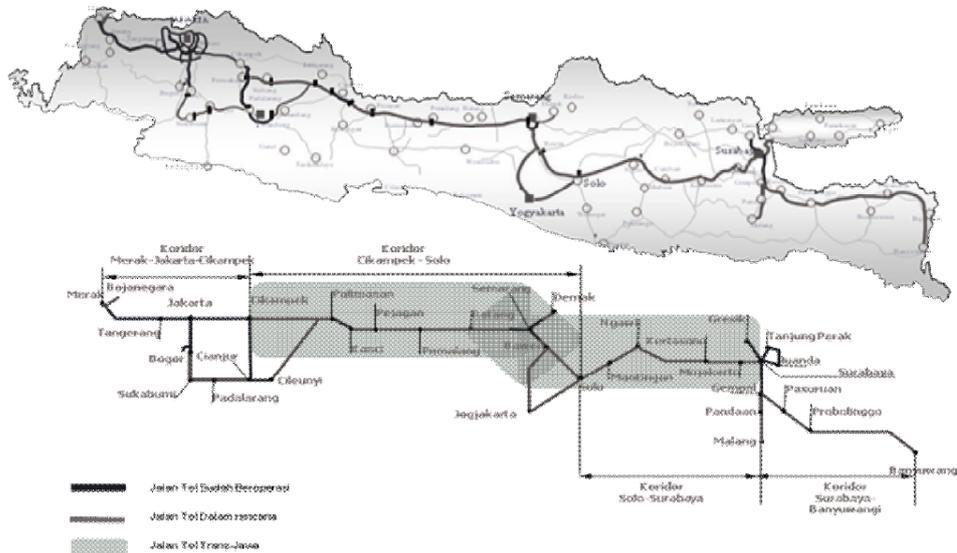
Background of the Case

The toll road is vital to support economic development; it is expected to improve the living standard of the people. The availability of highways satisfying the minimum standard of service (reliable, safe, environmentally-friendly, efficient, and cost-effective) is an important part of the production sector. Therefore, since the 1990's the government has prioritized the development of highways.

Trans-Java Highway development aims to support the economic growth centres, connect regions, and relieve congestions in urban areas. The route of Trans-Java Highway includes the following stretches of road:

1. Cikampek – Palimanan (116.00 km)
2. Kanci – Penjagan (34.00 km)
3. Pejagan – Pemalang (57.50 km)
4. Pemalang – Batang (39.00 km)
5. Semarang – Batang (75.00 km)
6. Semarang – Solo (75.10 km)
7. Solo – Mantingan – Ngawi (90.10 km)
8. Ngawi – Kertosono (87.02 km)
9. Kertosono – Mojokerto (41.00 km)
10. Surabaya – Mojokerto (37.00 km)

However, as in the colonial period, the development of large roads are geared towards facilitating capital influx to large production centers, and transporting products to markets. Meanwhile, smaller roads in rural areas are not touched by infrastructure development, even though it is vital for farmers to have access to markets, and to cut through middlepersons/ retailers (the commodity is bought and paid before harvest) who often capitalize on the farmers' remote locations to reduce buying price.



Gambar 2-1: Peta rencana jalan tol trans Jawa

Figure 2.1 The Plan of Trans-Java Highway

Trans-Java Highway will be built on developed plots, thus changing the land use arrangement and the environment. The road (shown in Figure 2.1) will link three provinces: West Java, Central Java, and East Java, dominated by the northern and middle routes. The land for the ten stretches of road (with the total length of 661,62 km) is owned by people in three senses: legality, functionality, and interest. Legality means the legal ownership as proven by land certificate and land taxes. Functionality means the use of land as paddy field, vegetable patches, groves, schools, and housing.

Along the planned road, there are a host of land objects such as ponds, water, bushes, primary forests, plantations, villages, towns, and paddy fields – all of which will be affected by the highway construction. Table 1 below shows that paddy fields are mainly affected by the plan.

Table 1. Land Use of Plots under Trans-Java Highway Development Plan

Land Use	Area (ha)
Rural housing	122,202.600
Primary forest	195,132.000
Water	3,630.962
Ponds	126,002.216
Urban housing	215,541.935
Bushes	891,661.555
Plantations	1,684,204.315
Paddy fields	5,066,486.402

Coverage of Kertosono-Mojokerto Project

The toll road project in Jombang is part of the mega toll road project of Trans Java; it starts from West Java to East Java. The highway of Kertosono-Mojokerto will pass through 29 villages in eight (8) kecamatans in the regency of Jombang and seven (7) villages in three (3) sub-districts in the regency of Mojokerto. Covering an area of 330.5 hectares and worth 2.3 trillion rupiahs, the highway project has been tendered to PT MHI (Marga Hanurata Intrinsic) as the toll road investor.

The case study on Land Acquisition for Kertosono-Mojokerto Highway Project in Jombang Regency, East Java was conducted in order to obtain a description of the mechanism of compensation consignment in the land procurement for public importance specifically for the construction of the said highway project.

Mechanism of Compensation Consignment

The consignment applied in the Peraturan Presiden (*President Regulation*, Perpres) No. 65/2006 is different from the consignment regulated in the Civil Code. In the Civil Code, a consignment may be applied if there is a previous legal relationship among the parties. The President Regulation, on the other hand, states that consignment is applied when an agreement among parties is not achieved; there is no legal relationship among the parties at all. Between the two types of consignment, the latter, the President Regulation is geared more towards favoring foreign investors more than the local populace who stand to be affected by the infrastructure development project.

Laws or Policies on Compensation

The highway development has possible environmental impacts throughout the pre-construction, construction, and operational stages. During preconstruction, the acquisition of land requires the observance of highway geometric routes, land taxes and ownership, land use, and economic settings. Trans-Java highway will be constructed on developed land, which means a change of land use and environment.

UU No. 20/1961 on Transfer of Land Ownership

During the pre-construction stage, in transferring land ownership from the people to the government, a reliable and meticulous management of land administration to ensure accuracy is needed. The transfer involves financial compensation. After the agreement on the form and value of compensations, payment ensues and the land changes ownership. When agreement could not be reached, if the land would be used for public interest, the land ownership right could be repealed as stated in UU no. 20/1961.

Objects subject for compensation include land, space on and under the land, buildings, plants, land-related objects, and other tangible losses. The compensation value is calculated by a jury without regard to *Nilai Jual Objek Pajak* (Tax Object Sale Value, NJOP). Even though NJOP is often below market price, at least it could provide an acceptable standard of the land's value. The rule means land value is often calculated inadequately low (Sudjatmiko, 2011). This is felt by the people affected by the highway project. On top of that, there is a social loss – the loss of housing and access to education and health. Unfortunately, this essential social aspect is never considered in compensations.

The economic value of land ownership right is different from the overall right to the land. Compensation for the land should also consider the overall right even as the government reserves the right to develop the land based on state laws – either by buying or confiscating the land.

Perpres No. 65/2006 on Land Acquisition for Development for Public Interest

Development for public interest requires fast acquisition of land. The government's policy on Perpres

no.65/2006 (revision on Perpres no.36/2005 on Land Acquisition for Development for Public Interest) is a legal basis to facilitate the provision of land to develop.

With the mechanism of land right appropriation, the government can take over private lands for public development. The mechanism of discussion to formulate compensatory measures often fails to achieve an agreement. Therefore, in protecting the public interest, the government decides single-handedly the value of compensation and enacts the conversion through the regional court. This consignment procedure damages the previous owners' interest because of its obligatory nature.

The problem is that the consignment stated in Perpres no. 65/2006 is different from the consignment stated in the Law of Perdata (Kitab Undang-undang Hukum/KUH Perdata). In KUH Perdata, the consignment can be performed if there has previously been a legal liaison between the stakeholders. Meanwhile, Perpres no. 65/2006 states that the consignment is held if there is no agreement, meaning there is no legal liaison as yet.

This difference in the application of consignment procedures indicate that Perpres no. 65/2006 is more favorable to foreign investors than to the local population owning the land. One example is the construction of Trans-Java Highway project in the route of Kertosono-Mojokerto.

Role of Regency Government of Jombang

Based on the regulation of regional governments, the regency government of Jombang, with regard to highway development for public use, has the following responsibilities:

1. To develop regional policies regarding land conflict resolution.
2. To document any occurring land conflicts.
3. To resolve land conflicts through discussion, mediation, consignment, court, and arbitration.
4. To monitor the follow-up evaluation of land conflict resolution.
5. To coordinate with other agencies regarding the resolution of land conflicts.

At the same time, the component of *Musyawarah Pimpinan Daerah* (Regional Governmental Elements, Muspida) at all levels of government must support the development process. Their roles on the field are specified in the guidelines from the regency government.

The issue of land acquisition for development is also related to the roles, responsibilities, and functions of *Badan Pertanahan Nasional* (National Land Agency, BPN) at the national, regional, and local levels. When all the agencies take part in the process, there might be conflict of information flows and policies regarding the land acquisition for Mojokerto-Kertosono highway construction.

The Kertosono-Mojokerto highway project is still in the land acquisition stage. One element as dictated by Perpres no.65/2006 is *Panitia Pengadaan Tanah* (Land Procurement Committee, P2T) headed by the Regency Secretary of Jombang. One of its specific tasks as stated in Chapter 7e is to conduct discussion with the land right holders and government agencies needing the land to decide on the form and value of compensations.

The task of the concerned government agency is to perform according to well-meaning principles, values, objectives, and mechanism. P2T is not alone in its task. The Committee coordinates with *Tim Pembebasan Tanah* (Land Acquisition Team, TPT) of the East Java province to resolve the issue of land acquisition (submission of the land right) with the local people.

Steps Taken by PT MHI

PT MHI is a limited corporation that won the Mojokerto-Kertosono highway project. It wanted to expedite the smooth transfer of land ownership. The company had been lobbying policy makers and working committees to perform land acquisition. It had dispatched several small groups (teams) to represent its interests in the field. This is evident through the worried voices of several ex-land owners in dealing with consignment at the regional court (the people had to get the consignment at the state regional court) even as the discussion with P2T was yet to take place.

Response of the Affected Villagers

In an FGD with the local farmer victims, participants believed that the government policy in constructing the highway is not for public interest. In reality highway constructions have unmistakable profit interests (Kitay, Soemardjono 2005:78). Therefore, the suitable legal argument for buying land for highway construction is land purchase transaction instead of land acquisition (Oloan Sitorus, 2004:7).

In a meeting in Dusun Pagak Desa Sumberejo Jombang, it was revealed that most victims are farmers whose productive lands are being threatened by the land acquisition. These farmers have been fighting to retain their land. For these farmers/land owners, land is not merely a property. For decades, they have employed the productive value of land to satisfy the needs of their families, while the investment value keeps increasing. They have also taken into account the strategic value of the land for the future needs of their families. Land contributes to the local environment. It provides employment and revenues to neighboring people in the rural areas. Therefore, the land has economic and social functions. The affected farmers consider the compensation being offered to them is unfair and will merely further impoverish them.

Pricing of Land

The process of land acquisition for the Mojokerto-Kertosono highway project is problematic due to the buying price set by the appraisal team. To wit:

1. The settlement of price is performed single-handedly and unjustly, ranging between Rp 50,000, Rp 60,000, Rp 70,000, Rp 80,000, Rp 100,000, Rp 130,000, and Rp 140,000/m², or Rp 240,000/m². This is done through 'conditioning' by forcing price, confusing the land owners, dividing their stances through third parties, intimidations, and terrorism.
2. Details of the compensation's price, classification, and unit prices are unclear; objects entailed with the land are neglected.
3. Processes and substances with regard to buyers and offering prices are confusing; many people are assuming the role of P2T (*Land Procurement Committee*), and price classification is obscure. Both the P2T and BPN (National Land Agency) have separately issued notifications regarding compensation price.
4. Procedures on the land acquisition/procurement process do not involve the land owners; the meeting on land acquisition plan (TPT, land right holders, P2T, BM) has failed to disclose the recommendation on market price by the appraisal team, including the discussion on compensation price, and the decision on price settlement.

Initiatives Taken by Affected Farmers

Request for Hearing at Regional Assembly

In December 2009, the farmers' union sent a letter to the regional assembly (regional House of Representative) of the regency of Jombang for a hearing. The aim was to address complaints of unjust price and intimidations by local government agencies. The union also asked the Commission A of the assembly to perform rigid control, though the assembly had just taken office.

A total of 45 farmers and supporting organizations, including NGOs and the press, attended the first hearing. Representatives of PT MHI, the appraisal team, and P2T were also present. Both sides presented and elaborated on their roles in the land acquisition process. The representatives of PT MHI, the appraisal team, and P2T claimed that they had followed the rules, while the victims complained of the confusing process of negotiation, the unjust price, the efforts to influence the people, unperformed discussion to negotiate price, and the forced sale through intimidation.

In the hearing, all parties agreed that the Commission A of the Regional House of Representative would accept the mandate from the farmers' union to control and investigate the land acquisition process, while P2T should halt the purchase. However, in practice P2T got more aggressive. With village heads and local government leaders, they summoned the people into discussion. P2T, with its task force, also visited the homes of the landowners with a dubious document to sign. P2T also accelerated the consignment process in the regional court of Jombang to give psychological pressure to JKJT – because JKJT concluded that the consignment process was halted without formal notice from P2T.

Farmers' Demands

The farmers from the affected 12 villages of three different sub-districts refused the compensation scheme of P2T. They put the following demands before the responsible agencies:

1. The land buying price should be raised to a fair, reasonable, and prospective level. Fairness is in accordance to the goal of national development, which is to improve the welfare of the population. A fair price should be calculated from the economic value of land as an agricultural production tool and also its existing sociocultural value.
2. As a form of public service and development policy, there should be clarity regarding prices from P2T, TPT, and the appraisal team.
3. Fairness of estimated value, and thus the proposed compensation, from the appraisal team should be reviewed.
4. The land to be acquired should be measured again to avoid future conflicts.
5. The remaining lands should be valued according to the tolerance limit as set by the government.
6. Negative environmental impacts should be prevented from affecting the local population, including any socioeconomic, political, and cultural effects.
7. There should be a grace period to landowners – after land sale – to prepare for moving out after the receipt of payment.
8. There should be clarity on the tasks and functions of the local government regarding land acquisition for the highway construction. This is important because there tends to be manipulation and corruption during the process.
9. Land speculators should be legally punished, because they have aggravated the issue of land acquisition.

At the time of the FGD, the people are still fighting for their demands, while the government still sticks to the Presidential Decree No.65/2006 stating that the people affected by the toll road development project

should get the compensation at the state court office with the rate set by the government. Such decree impacts badly on the situation of the people. So the people, including farmers and farmers' organization with facilitation by several NGOs, have applied for judicial review of the decree. The process is still going on.

3.3.3. Case No. 3: Palm Oil Plantations, Sarapat Village, Central Kalimantan Province

Background of the Case

The case involves the forest lands of the Adat community in Sarapat Village, Central Kalimantan province. A private company, PT Sawit Graha Manunggal, plans to convert portions of the land into palm oil plantations.

The affected villagers have alleged that the said company does not have the license to make use of the forest area as required by the law. The company merely holds an environment impact assessment (EIA) document.

In June 13, 2009 letter of the governor of the province to the head of the districts/mayors of central Kalimantan, it is stated that any company planning to use the forest area for agricultural purposes needs to secure a license from the Ministry of Forestry. Also, only in cases where the land involved is considered a state land or not owned by any person or entity can a license be secured. A condition in the issuance of a license is a written agreement with or permission from the concerned locals or villagers on the use of the land.

Unfortunately, in an April 2010 meeting among the villagers, PT SGM, district head, and other concerned authorities, the head of the National Land Agency (BPN) said that there was no Adat land in Kalimantan; Adat land could only be found in Minangkabau (West Sumatra).

The district head present in the meeting did not make any comment about the statement of the BPN. The villagers reacted to the statement of the BPN. They believed the BPN must have misunderstood the provincial government's local regulation No. 16/2008 about Dayak Adat institution and the government regulation No. 13/2009 about Adat land.

A representative of the villagers, Mr. Ukaiman, went to deliver a letter of appeal to the Governor's Office to look into the matter and consulted the head of the Legal Section in April 2010. Also, he went to the office of the Ombudsman in Palangka Raya to request for help in resolving the conflict with the PT SGM. (Mr. Ukaiman, with another village leader, Mrs. Mardiana, had been subject to death threats by a former leader of Saparat who sold his land to the PT SGM).

Relentless pressure from the people prompted the head of the Barito Timur District to call a meeting in mid-April 2010. The meeting was attended by the head of the district office, concerned authorities, local leaders and Adat community leaders. It was resolved in the meeting that the district head would task the district secretary to establish a field investigation team. As of this writing, however, no follow up had been done on the matter.

In May 2010, the BPN head invited the Sarapat villagers to clarify the issue on the Adat land. Unfortunately, such meeting did not materialize, as the BPN cancelled the meeting. In June 2010, the National Commission on Human Rights sent a letter to the governor requesting for an explanation regarding human rights violations in Central Kalimantan. In July 2010, the head of the Sarapat Village invited to a meeting those villagers who sold their land to the PT SGM, community leaders, Adat leaders and youth leaders.

Meanwhile, PT SGM was able to get the needed permission of the Head of Village and Chief of Adat for the use of the land. The villagers, however, found out later that some falsification of documents was done. A letter, dated November 4, 2010 and supposedly signed by head of Adat community, states that no Adat land exists in Sarapat. By this time, the company had already paid for portions of the land sold by some of the villagers at Rp.150.00 – Rp.300.00 per square meter. Payment was made on August 6, 2007 at the Sarapat Meeting Hall.

Initiatives Taken by Sarapat Villagers

Legal Advice and Assistance from Various NGOs and GOs

The villagers have expressed their opposition to the conversion of their land into palm oil plantations by PT SGM since day one. They have sought legal advice and assistance from various advocacy institutions in order to stop the plan of the company. These institutions include the following:

1. WALHI of Central Kalimantan
2. AMAN (*Aliansi Masyarakat Adat Nusantara/Nusantara Adat Community Alliance*)
3. COP (Centre for Orang Utan Protection)
4. LDP (Pancarung Dayak Institution)
5. *Solidaritas Perjuangan Petani Barito* (Barito Peasant Struggle Solidarity/SPPB)
6. *Lembaga Bantuan Hukum* (Law Support Institution/LBH)
7. *Front Perjuangan Pemuda Indonesia* (Indonesian Youth Struggle Front/FPPI)

Also, the villagers have sought assistance from various government agencies and officials, such as the National Commission of Human Rights, Ministry of Forestry, and Ministry of Environment. General Director of PT SGM in Medan, the Governor of Central Kalimantan in Palangka Raya, the head of Barito Timur District in Tamiang Layang District, and the head of Local Parliament of Barito Timur in Tamiang Layang.

The farmers said that they would continue their struggle to get back their forest and Adat lands even if it would mean going to court.

Issuance of Statement and Letter of Appeal

The villagers issued a statement expressing their stand against the PT SGM. They said the company should limit its operation on the land it was able to procure. It should not extend its area of coverage beyond the land that was bought for its palm oil plantation. Also, the villagers appealed to the governor of central Kalimantan to heed their plea.

Included in their appeal is a review of the Decision of the Head of Barito Timur District of Central Kalimantan Province No.234/2009 on April 15, 2009 on the Extension of Location Permit of PT SGM. The people were opposing such decision.

4. Conclusions and Recommendations

The land conflict in the village of Senyerang remains to be resolved. However, the villagers and the PT WKS had signed a partnership agreement allowing the former to gain access to and work on their land in January 2011 at the latest. It is therefore highly recommended that the Jambi government immediately enforce the said partnership agreement.

Justice has yet to be served in the shooting of a farmer in November 2010. Police should expedite their investigation and let justice be served as soon as possible.

The summons of villagers by the local police to testify as witnesses in the burning incident has deflected the substance from conflict resolution to criminalization of farmers. The farmers demanded the summons to be stopped because they were being intimidated by the procedure.

Infrastructure is important in accelerating access to products and markets. A prerequisite to infrastructure development is a legal structure that manages land acquisition for the construction of infrastructure. This is evident in our study of Trans-Java Highway construction, in the Kertosono-Mojokerto highway in the regency of Jombang, East Java.

In the Kertosono-Mojokerto highway construction issue, the application of consignment in Perpres no. 65/2006 as an alternative way of resolving the land conflict could be used by the government to appropriate land by force. Another alternative should be the application to repeal the land ownership as stated in UU No. 20/1961. The national farmers' organization has to support local farmers' organizations in defending their rights to land. Efforts that have been done with others included consolidation among local farmers' organizations, consultations with government at every level (local and national), pushing government to change the policy such as through judicial review of the Presidential Decree No.65/2006 towards better regulation for the people.

AFA Cases on Large Scale Agricultural Land Investments in Three Selected Countries (A Synthesis Paper)

1. Introduction

1.1. Background/Rationale

The global food crisis of 2007-2008, exacerbated by the crises in energy and finance, has generated renewed interest in agriculture worldwide. At the same time, however, it has engendered a global phenomenon whose negative effects have gotten the attention of the international community especially in terms of safeguarding and protecting the rights to land of small scale women and men farmers and mitigating the effects on the same of such phenomenon. Long-term rights over millions of hectares of agricultural lands, specifically in resource-rich developing countries, are being acquired by foreign and local investors, agribusinesses, mining corporations, governments, and investment houses. This current wave of large-scale agricultural land investments are primarily aimed at securing food (especially after the 2008 food crisis that hiked the price of food), responding to the demand for alternative fuel sources (i.e. agro fuels or biofuels in lieu of energy crisis and climate change), or increasing demand for climate mitigation measures (i.e. relocation of high carbon emitting agricultural production)¹.

“Large-scale land investments” and “land grabbing” are the terms most commonly used to describe this global trend. While the two terms basically refer to the same phenomenon, they vary in their connotation. “Land grabbing” is the more political term often used by activists and more militant groups to describe and oppose these land deals, while “large-scale land investments” is obviously a more neutral term preferred by mainstream international development institutions like the World Bank (WB) and the United Nations Food and Agriculture Organization (FAO).²

While some sectors have welcomed this trend of large-scale agricultural land investments as a bearer of new livelihood opportunities in lower-income countries, others have raised concerns about the negative impacts of these land deals, citing possible loss of the rights of small-scale women and men farmers over their lands, waters and other natural resources; threats to food security; and further marginalization of peasants, indigenous peoples and rural women.³

Against the above backdrop, the Asian Farmers’ Association for Sustainable Development (AFA) with two other regional farmers’ organizations, namely, COPROFAM in Latin America and ROPPA in West Africa, and the International Land Coalition (ILC) initiated a cross-regional project entitled, *Expanding the Dialogue on Large-scale Land Acquisitions and their Alternatives*, in mid-2010. Generally, the initiative aimed “to increase the significant involvement of national and regional farmers’ organizations in the ongoing processes of determining global, regional and national responses to large-scale agricultural land investments in Asia.” It expected to obtain the following outputs: (1) three national papers on farmers’ voices on land investments; (2) consolidated regional paper on the situation and proposals of farmers’ organizations on land investments; and (3) knowledge and learning products on outstanding case studies/ on-ground experiences on land investments.

To be able to achieve the above objectives and expected outputs, AFA, for its part, conducted a study on the experiences in large-scale land acquisitions of its members in three Southeast Asian countries,

¹ Banzuela et al 2012

² Borras and Franco, 2012.

³ Cotula, 2009



namely, Farmer and Nature Net (FNN) in Cambodia, *Aliansi Petani Indonesia (API, or Indonesian Peasant Alliance)* in Indonesia, and *Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA or National Confederation of Farmers' Organizations)* in the Philippines.

This paper is a consolidation of nine local cases and three national papers from the said countries. It is divided into four parts. The first part is the introduction, including background and rationale, research questions, objectives, and methodology. The second part presents the findings, which is further subdivided into two: (1) overall situation of large-scale land investments in the three countries, land laws and policies, interaction of these laws and policies with international covenants and treaties, over-all socio economic impacts and (2) nine local cases. The third presents the conclusions and the fourth, the recommendations.

1.2. Research Questions

Basically, the three national papers attempted to answer the following questions:

1. What is the general situation of large-scale agricultural land investments in the country?
2. What are the existing land laws of the country that safeguard and protect the interest of the local population?
3. What are the impacts of these large-scale land investments on the life and livelihoods of the affected small-scale women and men farmers and their families?
4. What are the initiatives taken by affected farmers and other stakeholders to address issues arising from such investments?
5. What are the suggestions and recommendations of the affected farmers and other stakeholders to push national and international communities to collectively act towards addressing the issues arising from global land grabs?

1.3. Research Objectives

To answer the above questions, the three national papers aimed to:

1. find out the general situation of large-scale agricultural land investments in the country and its potential or realized impacts on small scale women and men farmers;
2. identify land laws protecting and safeguarding the interests of the local population;
3. examine three selected cases of large-scale agricultural land investments in the country;
4. explore the initiatives taken by affected villagers and other stakeholders to address issues arising from these investments; and
5. identify suggestions and recommendations to push governments and other stakeholders at the national and international levels to address the issues arising from large-scale agricultural land investments.

1.4. Methodology

For secondary data, documents review or desk-based research was done. For primary data, key informant interviews, focus group discussions, and national consultations were used as data gathering techniques. An average of five key informant interviews (men and women farmer leaders, government officials, and other stakeholders), three focus group discussions (FGD) with an average of 15 participants each FGD, and one national consultation with an average of 20 participants were held per covered country. In Cambodia participatory rural appraisal (PRA) and community mapping were used.

Data gathering per country ran from June 2011 to December 2011. While each country followed the same time frame, dates for data gathering, to include the interviews, FGDs, and national consultation, differed given the availability of study participants and the situation of the area. Writing of the local cases

and national papers was a big challenge to researchers from non-English speaking countries such as Cambodia and Indonesia. It took these researchers, especially the ones from Indonesia, about two months to complete the write-up of the cases and the national paper.

2. Discussion of Findings

2.1. Overall situation of Large-Scale Land Acquisitions in the Three Countries

In mainly agricultural countries such as Cambodia, Indonesia, and the Philippines, land is an invaluable resource. Life and livelihoods of majority of the population, specifically in the rural areas, depend on land. This same resource, however, is being used by these three countries' respective national governments as leverage to entice foreign corporations to bring in much-needed capital. They have been providing the enabling environment through laws and policies for foreign investments to pour in.

Latest statistics show that in Cambodia, for instance, 75% of the total 14.15 million population engage in agricultural production (Please see table 2 below). Close to four million hectares, or about 2% of the country's total 18.1 million hectares, are agricultural. Of these 18.1 million, 0.94 million hectares, majority of which are on local communities' land, have been approved by the national government for economic land concessions to foreign and national companies. Mainly affected by these land concessions are lands the government granted to former soldiers under the Pol Pot regime following their reintegration into society.

In Indonesia, 60% (144 million) of the total 240 million people are in agriculture. About 50 million hectares (or 25%) of its total land area of 200 million hectares are agricultural. Of these 50 million, 3.6 million have been earmarked for large-scale agricultural land investments. Mainly indigenous peoples are affected by these large-scale investments, as these investments are located on their ancestral lands. Moreover,, large-scale land acquisition can be done for public interest. The Indonesian government has been granted the power under the law (Perpres No, 65/2006) to take over private lands for public development (e.g., infrastructure development).

In the Philippines, 49% (47 million) of the total population of 95 million are in the rural areas, majority of them engaged in agriculture or agriculture-related activities. Forty-seven percent (47% or 14.1 million) of its total 30 million hectares of land are agricultural. Of late, 3.1 million hectares have been identified for large-scale investments. With its national government vigorously pursuing foreign investments and public and private partnerships both in agriculture and mining, the Philippines has been identified in the 2010 World Bank report as one of the top three destinations in the Asia-Pacific region for large-scale land investments. Small-scale farmers, mostly identified as agrarian reform beneficiaries, and indigenous peoples, are largely affected by these investments.

Despite such laws and policies guaranteeing the right of the three countries' citizens to own land and/or regulating lease holdings and acquisition of lands by foreigners, marginalized sectors, including farmers and indigenous peoples, remain on the losing end. Such laws and policies are not properly and strictly implemented and have gaps or loopholes that are being exploited to serve the interests of the economically and politically powerful.

Table 1. Statistics on agricultural lands vis a vis population per country

Country	% Population engaged in agriculture (2010)*	Total agricultural lands (in ha)	Total land earmarked for agricultural investments/land concessions
Cambodia	75% (10.84 million) of 14.45 million	4 million, 2% of total land of 18.1 million ha	0.94 million
Indonesia	60% (144 million) of 240 million	25% (50 million) of 200 million ha	3.6 million hectares
Philippines	33% (31 M million) of 93 million	47% (14.1 million) of 30 million ha	3.1 million hectares

*Source for Cambodia and Indonesia: BBC country profiles 2010. <http://www.fco.gov.uk/en/travel-and-living-abroad/travel-advice-by-country/country-profile/asia-oceania>.

** Source for Philippines : <http://www.ruralpovertyportal.org/web/rural-poverty-portal/country/statistics/tags/philippines>

2.2. Land Laws and Policies

All three countries have land laws and policies that provide for the right of all citizens to own land and for the safeguarding and protection of the rights to land of small-scale women and men farmers, including indigenous peoples. They regulate foreign investments by limiting the size of land to be granted and set requirements, including consultations with and free and prior informed consent (FPIC) of affected communities, before awarding land concessions to investors (Please see table 2 below). Some laws also set the amount of compensation to be given to affected farmers for the loss of their lands and livelihoods.

Of the three countries, the Philippines has the most number of laws guaranteeing the right of its citizens to own land. It even has sectoral laws that guarantee the rights of the basic sectors over land resources, such as CARPER or RA 9700 (farmers), IPRA or RA 8371 (indigenous peoples), and Magna Carta for Women or RA 9710 (rural women).

Table 2. Land laws and policies per country

Country	Legal Instruments	Provisions
Cambodia	1993 RGC Constitution	Right of all citizens of Khmer national and Khmer legal entities to own land
	Land Law of 2001	Grant of land concessions to investors for a max. of 10,000 ha Right of indigenous communities to collective land ownership and assert and enforce their interests
	Sub-decree on economic land concessions	Set criteria for granting concessions: environment impact assessment, consultation with authority and residents, and resettlement of affected villagers.
	Sub-decree on land management	Guarantees grant of definitive land titles to individuals occupying non state public lands.
Indonesia	Basic land regulation (UUPA 1960)	Guarantees right to own land of all citizens (Only citizens can own land); rights on land transferrable to citizens.

Philippines	Presidential Decree 471	Guides the leasing of lands by foreigners, fixing the maximum duration of leases for both private and public lands.
	1987 Philippine Constitution	Allows for private corporations or associations to lease private or public lands of not more than 1,000 ha for not more than 25 years (renewable for another 25 years). Filipino citizens may lease not more than 500 ha, or acquire not more than 12 ha.
	Investors Lease Act (RA 7652)	Provides for lease extension of public and private lands from 25 to 50 years on following conditions: (1) land is not covered by Comprehensive Agrarian Reform Law (CARL), and (2) investment contributes to the country's socioeconomic development.
	Comprehensive Agrarian Reform Program Extension with Reforms (CARPER or RA 9700)	Provides for a landownership ceiling of 5 ha
	Administrative Orders by the Department of Agrarian Reform (DAR)	Regulates land leasing and agribusiness venture arrangements.
	Executive Order (EO) 226	Regulates investments and the doing of business within the Philippines by foreigners or business organizations foreigners wholly or partly own.
	Special Economic Zone Act of 1995	Provides for fiscal incentives to businesses located inside so-called eco-zones.
	Indigenous Peoples Rights Act (IPRA) or RA 8371	Guarantees rights of Indigenous People over the ancestral lands.
	Magna Carta for Women or RA 9710	Guarantees the rights of women.
	National Integrated Protected Areas (RA 7586)	Guarantees protected areas against encroachments and exploitation.
	Republic Act (RA) 9367 or the Biofuels Act of 2006	Reduces dependence on imported fuels.
	Joint Administrative Order (JAO) 2008-1	Omnibus guidelines for the investors and stakeholders of the biofuels industry.

Cambodia's legal instruments protecting and safeguarding the right to land of its farmers include provisions in the 1993 RGC (Royal Government of Cambodia) Constitution, Land Law of 2001, sub-decree on economic land concession, and sub-decree on land management. The Constitution provides for the right of all citizens of Khmer nationality and Khmer legal entities to own land. The 2001 Land Law provides for the granting of land concessions to investors for a maximum of 10,000 hectares; at the same time it recognizes the right of indigenous communities to collective ownership of their land and the right to assert and enforce their interests against third parties.

The sub-decree on economic land concessions set the criteria for the granting of concessions to parties. Among the criteria are environmental impact assessment, public consultations with territorial authorities and local residents, and resettlement of affected villagers. The sub-decree on state land management



guarantees the granting of definitive land titles to individuals who have occupied or possessed a non-state public land uncontested for at least five years prior to the promulgation of the land law.

All the above instruments plus the 1989 Marriage and Family Law provide for gender equality on land. Social attitudes, however, about gender roles and relations constrain women's claim to their rights.

Indonesia's Basic Land Regulation (Undang-Undang Pokok Agraria or UUPA) of 1960 guarantees land ownership through registration. Determining the total area for registration is based on local circumstances. Under this law, only Indonesian citizens can own land.

The Philippines has a number of legal instruments on the matter. These include: (1) Presidential Decree (PD) 471; (2) 1987 Philippine Constitution; (3) Republic Act 7652; (4) Comprehensive Agrarian Reform Program Extension with Reforms (CARPER or RA 6657); (5) Administrative Orders by the Department of Agrarian Reform; (6) Executive Order (EO) 226; (7) Special Economic Zone Act of 1995; (8) Indigenous Peoples Rights Act (IPRA) or RA 8371; (9) Magna Carta for Women or RA 9710; and, (10) National Integrated Protected Areas or RA 7586.

PD 471 guides the leasing of lands by foreigners. Maximum duration of leases for both private and public lands is 25 years, renewable for another 25 years. The 1987 Philippine Constitution provides for the leasing of private and public lands by private corporations or associations only for 25 years, renewable for another 25 years. It also provides for the leasing of lands of not more 500 ha or acquiring not more than 12 ha by Filipino citizens.

RA 7652 or the Investors Lease Act extends the above mentioned 25-year period to 50 years on the following conditions: (1) the land does not fall under the Comprehensive Agrarian Reform Law (CARL), and (2) investment has shown it has contributed to the social and economic development of the country. Also, it allows for the sale of the leasehold right, transferred or assigned.

The 2009 CARPER or RA 9700 provides for a five-hectare landownership ceiling; it amends Sec. 27 of RA 6657 (CARP) on the transferability of awarded lands prohibiting the sale for a period of ten (10) years. However, it does not cover leases.

The administrative orders (AOs) by the Department of Agrarian Reform regulate land leasing and agribusiness venture arrangements. These are: AO No. 2, Series of 2008 (Guidelines Governing Lease of Lands in AR Areas & the Determination of Lease Rental Thereof); AO No. 9, Series of 2006 (Revised Rules & Regulations Governing AVAs in Agrarian Reform Areas); AO No. 2, Series of 1999 (Rules & Regulations Governing Joint Economic Enterprises in Agrarian Reform Areas); and PARC Policy Order No. 1 – August 18, 1997 (JVAs Between DAR & Other Interested Parties and the Processing for Lease Back Arrangement, JVAs & Other Schemes that may be Recommended by the PARCCOM to the PARC).

Executive Order (EO) 226 or Omnibus Investments Code of 1987 created the Board of Investments (BoI) mainly tasked to regulate investments and business ventures in the country by foreigners or business organizations foreigners partly or wholly own. It provides for tax breaks or incentives to foreign entities registered with the BoI.

Special Economic Zone Act of 1995 (Republic Act 7916) provides for fiscal incentives to businesses located inside so-called eco-zones including what is provided under PD 66 or the Export Processing Zones Authority (EPZA) and those under the EO. Other existing laws are sectoral laws such as Indigenous Peoples Rights Act (IPRA) or RA 8371, Magna Carta for Women or RA 9710, and National

Integrated Protected Areas or RA 7586. These laws protect and safeguard the rights of indigenous peoples (IPs) and rural women over land resources. The IPRA requires consultations with and obtaining of the free and prior informed consent (FPIC) of local stakeholders before the granting of permit to large-scale investments in mining on ancestral domains of IPs.

Republic Act 9367 or the Biofuels Act of 2006 seeks to reduce dependence on imported fuels with due regard to the protection of public health, the environment and natural ecosystems. JAO 2008-1 contains guidelines for investors and stakeholders of the biofuels industry designed to help facilitate and promote investments and avoid overlapping of regulatory requirements among implementing agencies and departments of the government.

2.3. Interaction of Domestic Laws with International Covenants and Treaties

All three countries -- Cambodia, Indonesia and the Philippines -- are state parties to international human rights treaties such as the Universal Declaration on Human Rights, International Covenant on Economic, Social and Cultural Rights (ICESCR), International Covenant on Civil and Political Rights, and International Convention on the Elimination of all Forms of Racial Discrimination, and the International Convention on the Elimination of all Forms of Discrimination against Women. The Philippines, in addition, is a state party to other international treaties such as the Convention on the Rights of the Child and the additional protocol to the Geneva Conventions relating to the protection of victims of international and non-international armed conflicts.

The above international covenants and treaties are incorporated into the laws of the three countries guaranteeing and safeguarding the rights to own land and to water and land resources and to freedom of expression and assembly of their respective citizens.

2.4. Effects of Large-Scale Land Acquisitions on Small-Scale Women and Men Farmers and their Communities

Large-scale investments are purported to generate huge revenues for the country, and thus improve the quality of life of the poor, especially small-scale farmers. Reality on the ground proves otherwise. The adverse effects of these investments on affected communities far outweigh their supposed financial or material gains, if any.

Across the three countries, affected families lose their lands and livelihoods, thereby impoverishing them further. They get displaced from their lands where they have lived for years, and family members are separated from one another. Young people are forced to migrate to the city or neighboring country to find jobs. Such investments also cause the degradation of the environment and pose environmental hazards not only on affected communities but on nearby communities as well (Please see national papers).

In some cases, communities suffer food insecurity. In Cambodia, for instance, affected villagers lose their access to forests and non-timber forest products on which their livelihood depends. Similarly, in the Philippines, villagers have lost access to home-grown food as their lands have been converted into monocrop plantations.

Conflicts arise among the villagers themselves or between the company and the villagers as a result of land grabbing. Such conflicts often times result in violence. Villagers get hurt or killed in some cases. Children get psychologically and emotionally traumatized and need to be counseled. Due to displacement, women, especially the mothers left to take care of family and home, are further challenged to stretch resources to meet their families' needs.

2.5. Cases

The tables below present in summary some basic details about the selected cases studied in the three countries. Tables 3A (Cambodia), 3B (Indonesia) and 3C (Philippines) feature the nature and location of the cases per country, total hectares of land, and number of villagers/farmers affected, and the status of the cases as of writing. Table 4 presents the socioeconomic impacts of the cases on the affected communities per country and Table 5 presents the actions or initiatives taken by the affected farmers/villagers and other stakeholders per country.

2.5.1. Nature of Cases

Of the nine cases, four are for agricultural investment (two in Cambodia and two in Indonesia), two for tourism development (both in the Philippines), one for infrastructure development (Indonesia), one for manufacturing (Indonesia), and one for biofuel production (Philippines).

2.5.2. Location and Total Hectares of Land and Communities Affected

Locations of the investments are mainly in the rural areas whose residents are mainly small-scale farmers and indigenous peoples. Total number of farmers/villagers affected ranges between 100 and 6,000, while total hectares of land affected range from 500 to 45,000. Based on the cases, the Philippines has the highest total number of hectares of land and number of farmers/villagers affected.

2.5.3. Status of the Cases

In almost all the cases, affected farmers or villagers filed cases against the companies owing to questionable processes and deals entered into by the latter in getting the lands of the former. Some cases were able to obtain some victory such as in the case of the villagers in Cambodia (see case 2, Table 3A). The farmers were able to get back more than half of the total hectares of land taken from them. In Indonesia (see case 1, Table 3B), the villagers were able to obtain a partnership agreement with the company. However, such partnership agreement has yet to be implemented.

In the Philippines, due to concerted efforts of various sectors (e.g., mass mobilizations, lobbying in Congress, multimedia campaigns), the biggest case, the APECO case (see case 3, Table 3C), had become high profile; a bill had been filed in Congress to repeal the APECO law and graft and corruption charges have been filed against its proponents. As a result, implementation of the project had been stalled.

Unique to the Cambodia cases is that conceded lands for economic development had been left idle. No development had been done since the lands were taken from the farmers or villagers.

2.5.4. Adverse Socioeconomic Impacts

Across cases, loss of lands and livelihoods are the main adverse socioeconomic effects on the farmers or villagers. Loss of access to land and water resources, food insecurity, displacement and forced relocation, and degradation of the environment (including coastal and forested areas) are also common impacts across cases. Other adverse effects are children getting psychologically and emotionally traumatized (cf. Philippines, Table 4), destruction of rice fields, and forced migration to the city or neighboring country (cf. Cambodia, Table 4).

2.5.5. Actions/Initiatives Taken by Affected Farmers and Other Stakeholders

Common initiatives taken by affected farmers or villagers are filing court cases against the companies concerned or petitions before concerned authorities to consider their cases (e.g., get back their lands)

and decide on their favor (cf Table 5). Other initiatives taken include: conduct of dialogues, issuance of statements and letters of appeal, participation in seminar-workshop to increase knowledge and skills regarding cases, seeking assistance, including legal advice from government and non-government agencies, and forming associations or alliances.

Other stakeholders, including public and private sectors, NGOs, and church, provided assistance to affected farmers or villagers in the form of technical skills, legal services, seminars and skills training (please see national papers for individual cases per country).

Specific to the Cambodian experience are the interventions taken by international institutions such as the USAID and WB that provided financial support in the conduct of skills training in land rights advocacy and land management and administration, respectively.

Table 3A. Country: Cambodia

Nature of Case	Location	Hectares affected	Total no. of villagers/ farmers affected	Status
1. Agricultural (plantation of unidentified crops by KDC, a private dev't company)	La Peang, Ta Ches, Kampong Chhnang	522 (145 not included in the sale)	108 families	No development has been done on the land. Case filed by farmers for the return of 145 ha still pending in court
2. Agricultural (Tri Star Company cultivates maize, bean, cassava, and acacia)	Trapang Phlang and Taken communes, Koh Sla Region, Kampot Province	9,800 total (5,100 in 2 villages covered by the case)	2,000 families (163 families in Tuol Dauntei and Dom Pdao villages)	3,000 of the 5,100 ha have been returned to the villagers; 2,100 ha still to be returned
3. "Shoe factory" by a company whose identity is unknown to villagers	Bati District, Takeo Province	50 ha covering 4 villages	Not available	No development has been done but the place was bulldozed, resulting in the covering/obstruction of the water canal.

Table 3B. Country: Indonesia

Nature of Case	Location	Hectares affected	Total no. of villagers/farmers affected	Status of the Case
1. Hybrid coconut and cocoa plantations	Senyerang, Jambi Province	7,234	1,600 households (2,000 farmers)	Partnership agreement between villagers and PT WS remains to be implemented

2. Trans-Java Highway Project (Kertosono-Mojokerto, East Java)	Jombang Regency, East Java	330.5	Not available	Compensation consignment has yet to be finalized
3. Oil Palm Plantation	Sarapat Village, Kalimantan Province	Not available (forest lands)	Not available (affected Adat community)	

Table 3C: Country: Philippines

Nature of Case	Location	Hectares affected	Total no. of villagers/ farmers affected	Status
1. Tourism development (conversion into a beach resort)	Barangay Imba, Caluya Municipality, Antique Province	444	300 people (128 houses demolished)	Case still pending in court
2. Biofuels project	(Malindang) Tudela Municipality, Misamis Occidental Province	36,000-45,000	4,000 households	Community filed a petition for the transfer of the NCIP provincial officer and issued a call to advance the development of IPs towards self governance
3. Aurora Pacific Economic Zone and Free Port (APECO Project)	Casiguran, Quezon	13,000 (5,370 as ricelands)	6,169 farmers and 726 IPs	Case brought to Congress, still pending (505 hectares to be awarded to Aurora State College in Oct. 2011)

Table 4. Socioeconomic Impacts of Cases

	Case 1	Case 2	Case 3
Cambodia	Loss of livelihood Forced migration to city and Thailand Engaging in alternative source of livelihood (e.g., harvesting earthworms for sale, sewing palm leaves, hired hands)	Loss of source of income and food Food insecurity	Loss of source of water for rice fields due to covering of drainage system. Loss of drainage system causing flooding. Destruction of rice fields due to flooding. Loss of source of income.
Indonesia	Loss of land and livelihood Killing of a villager Displacement	Loss of livelihood Relocation of villagers	Loss of source of livelihood

Philippines	Loss of houses Loss of livelihood Psychological and emotional trauma due to demolition of houses Forced relocation of families (bunkhouse)	Loss of livelihood Food insecurity (no more farm produce for home consumption)	Loss of livelihood Conflict among affected villagers/IPs Environmental degradation Food insecurity Loss of game in the forests Displacement of communities, including IPs
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Table 5. Initiatives taken by the affected villagers/farmers and other stakeholders

	Case 1	Case 2	Case 3
Cambodia	Held dialogue with gov't officials Filed case in court for the return of 145 ha not included in the sale	Held protest actions Held dialogue with company moderated by government official	Called a meeting with villagers who sold land to the company. Attempted to dialogue with company whose identity was unknown.
Indonesia	Held protest actions (e.g., blocking of water way leading to factory of PT WKS) Joined farmers' organization Attended meeting with government officials and other stakeholders	Requested hearing at regional assembly to express position on suggested compensation	Sought legal advice and assistance from concerned NGOs and GOs Issued statement and letter of appeal

Philippines	Organized themselves into an association (IFSA) IFSA leaders underwent paralegal training, etc. conducted by PAKISAMA	Awareness raising activities and signature campaign Dialogue with company (Isabela Alcolgas Corp.) Meeting with sectoral representatives in Congress Participation in seminar Protest actions Case documentation	local mobilizations (e.g., marches and caravans) establishment of Task Force APECO national level) Filing of bill to repeal APECO Law Filing of case to declare APECO as unconstitutional Production of documentary on case Filing of graft and corruption charges against APECO proponents Press/media campaigns Indefinite camp out by 15 farmers at the agrarian reform office in Quezon City Use of social networking (Facebook) against APECO
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3. Conclusions

Large scale land investments in the three countries presented above prove to be more detrimental than beneficial to the people whose lives and livelihoods such investments purportedly aim to improve. Adverse effects of such investments far outweigh their supposed positive effects, if any. They further impoverish rather than alleviate the socioeconomic conditions of small scale men and women farmers. And more often than not, it is the women and children, as well as the old and the infirmed, the most vulnerable sectors, who suffer the most. The issue gets even more pathetic and ironic when lands grabbed are left idle. Victims lose their lands and livelihoods for virtually “no reason” at all.

Laws and policies of these countries to safeguard and protect the rights of their citizens to land and to resources as well as to regulate the acquisition of lands and access to natural resources by foreigners are more often than not violated instead of strictly implemented. Gaps in such laws and policies are exploited to serve the interests of the economically and politically powerful.

National governments primarily mandated to prioritize and serve the welfare and interests of their respective citizens oftentimes fail to fulfill such mandate in the name of national development. Rights of their citizens, especially the marginalized and the voiceless, in our case, the small-scale women and men farmers, including indigenous peoples, are sacrificed. These governments even create the enabling environment, mainly through laws and decrees, for large-scale investments of both foreign and local public and private corporations to thrive and prosper in their lands.

Where affected small-scale women and men farmers and communities are weak and uninformed about their rights, land grabbing becomes an uncontested adversary. And even as these hapless farmers find their voice and fight for their rights, some back out for fear of reprisal. Their fears are valid, as some of them get hurt or killed in the process.

On the other hand, where affected farmers and communities are supported and assisted by multi-sectoral groups employing multi-media strategies, land grabbing becomes a high-profile case warranting the attention and action of high government officials. As the case gets elevated to the national level and even to the international level, more and more stakeholders get involved, and affected farmers get higher chances of winning their case.

The three cases studied per country may only account for a fraction of the countless similar cases happening in each country. Nevertheless, they reflect the reality on the ground and the interplay of factors both at the national and local levels that either improve or worsen the condition of the farmers and their communities.

Laws and policies are crucial in any organized and functional society and should be used to enhance order and engender harmonious relationships among members of the society. These laws and policies become counter-productive and are rendered useless if they fail to facilitate order and are manipulated to serve the interests of the powerful and moneyed few.

4. Recommendations

As large-scale agricultural land investment has become a global phenomenon, addressing issues attendant to the phenomenon needs to be done not only at the local but, more so, at the global level. The approach, however, as is being done by international institutions such as the WB, FAO, IFAD, and UNCTAD, needs to be more consultative and dialogic rather than confrontational and hostile in order to be effective and achieve the desired results for the good of both parties -- the investor, either local or foreign, and the affected communities. It has to be a win-win solution.

The FAO's Voluntary Guidelines for the Governance of Tenure of Land and Other Resources passed in late 2011 is seen by many, including participants in the national consultations conducted in the three countries, as promising initiatives and may serve as a best way forward. Surely, there are gaps to be filled and issues to be addressed, but as a whole, such initiatives could become powerful international instruments if ratified by members of the United Nations. At the moment, such principles and guidelines are voluntary and do not obligate any country or state.

Aside from the Voluntary Guidelines, the FAO, together with IFAD, the World Bank and UNCTAD worked together to develop a set of draft principles for responsible agricultural investment (RAI) which was released in February 2010. The RAI principles include respecting land rights, not jeopardizing food security, transparency and good governance, consultation and participation, economic viability, social sustainability and environmental sustainability. The RAI is currently under review and consultations are being conducted. For farmers, it is crucial to assert the primacy of their interests over lands as a productive resource over that of foreign interests in all possible fora that would be made available to them. This would mean participation in consultations and fora with the position that investments can only be acceptable if they ensure the continued access, control and decision-making of small-scale farmers,

indigenous peoples and rural women and that these investments would not threaten their livelihood and food security.⁴

The three national papers have recommendations specific to their situations. A common thread running through all these recommendations, however, is the call by all affected small-scale women and men farmers across countries to all concerned public and private sector individuals and organizations, specifically those who hold decision-making powers, at the local, national, and regional levels to seriously consider their plight and take immediate action as regards the issues they have raised.

The issue paper published by AFA in March 2012, entitled “Land Grabs or Large Scale Land Investments? Protecting Farmers’ Rights to Land”, contained the following action points for small scale women and men farmers:

- 1) Opt for good practices and innovative models of agricultural investments that do not involve land acquisition and operate within existing tenurial arrangements that protect smallholder agriculture. However, these models such as contract farming and public and private partnerships cannot in themselves be promoted as good alternatives. Farmers need to scrutinize them on a case by case basis, to ensure that they are not skewed in favor of big agribusiness companies, leaving little negotiating room for farmers and resulting in landgrabbing by other means.
- 2) Demand transparency from their respective government in all of these land transactions. Government should make the terms of these negotiations public. Accountability mechanisms and sanctions should be clear. Explicit redress mechanisms should be established.
- 3) Demand active and stronger government regulation in the observance of land rights, forestry and labor laws for these land investments.
- 4) Participate in effort to document and validate these land investments at the ground level.
- 5) Be constantly vigilant and work towards organizing themselves to further empower themselves against disadvantageous land deals.

Time is of importance. “Justice delayed is justice denied.”, The current global phenomenon of large-scale agricultural land investments, as experienced by AFA members in the three countries, is undeniably unjust. Multi-sectoral efforts at all levels are crucial in order to tip the balance. As mentioned, it should be a win-win solution. Given the initiatives taken by various stakeholders in the covered countries, such a solution is possible.

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