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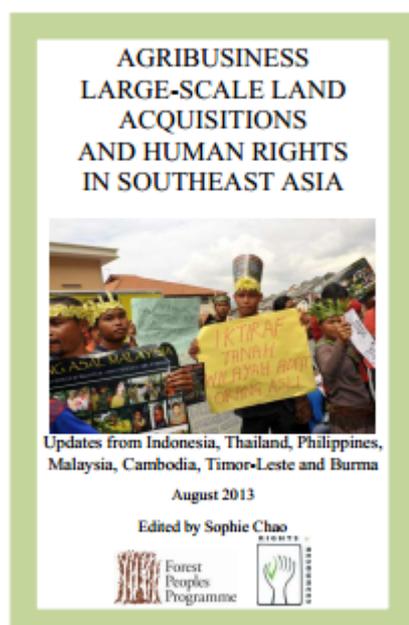
Agribusiness Large-Scale Land Acquisitions and Human Rights in Southeast Asia

Resource
August 2013

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Summary

Large-scale land acquisitions facilitated to promote export-oriented agriculture and land development have become a matter of international concern. Whereas, on the one hand, they are encouraged by national governments to accelerate development, generate revenue and foreign exchange and create jobs, they are also designed to generate profits for (often foreign) investors, provide commodities and food security for other countries and bring wealth to local elites. Reconciling these different interests is itself challenging.

However, the rapid imposition of such schemes also pose multiple challenges to host countries in terms of: preserving national sovereignty; ensuring national and local food security; having adequate institutional capacity and legal frameworks to regulate rapid changes in land ownership and use; providing tenurial security to both citizens and investors; ensuring that land acquisition from local communities and indigenous peoples is done fairly; guaranteeing respect for human rights; providing for rule of law and access to justice; preventing negative impacts on the environment and; avoiding negative impacts on the political economy and the undermining of sound land governance.

These same issues have been a matter for detailed debate at the United Nations, in particular in the context of the Commission on Food Security under the Food and Agriculture Organisation. This work led in May 2012 to 194 countries adopting the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.

In Southeast Asia, the national human rights institutions of the region have already engaged in a three-year-long process of collaboration to address these same challenges from a rights-based perspective. The first year of work culminated in the promulgation of the Bali Declaration on Human Rights and Agribusiness in Southeast Asia, in which the human rights commissions of the region and a supportive network of NGOs emphasised the importance of securing the rights of local communities and indigenous peoples in the face of this unprecedented pressure on their lands. The Declaration, and the wider conference of which it was the outcome, emphasised the duty of States to protect internationally recognised human rights and the responsibility of businesses to respect them, even where national standards and laws are deficient.

The second year of work sought to bring these matters to the attention of the ASEAN Human Rights Commission and to explore with the AICHR ways in which it can receive complaints and make recommendations to inform standard setting. The meeting also examined the possibilities of the AICHR sanctioning an international fact finding process to look into cross border agribusiness cases of human rights violations, and possibilities for the establishment by ASEAN of a regional human rights instrument for Southeast Asia. The main outcome of the Phnom Penh workshop was the Phnom Penh Statement on Human Rights and Agribusiness in which the workshop participants appealed to the Cambodian Government to resolve the long standing land conflict in Koh Kong province between a Thai-Taiwanese sugar plantation company and local people, and to the European Union and the sugar importers Tate and Lyle and the American Sugar Refining Company to

investigate the continuing human rights violations. They also called on the ASEAN InterGovernmental Commission on Human Rights to develop remedies for human rights violations resulting from transborder agribusiness investments and operations in the region.

The series of studies of which this is the overview are a contribution to the third year of this process. The aim of the studies has been to pull together in a simple form, updated information about large-scale land acquisitions in the region, with the aim of identifying trends, common threats, divergences and possible solutions. As well as summarising trends in investment, trade, crop development and land tenure arrangements, the studies focus on the land tenure and human rights challenges. As shown on the map, seven national updates have been compiled based on the available literature for Burma, Thailand, Cambodia, Malaysia, Indonesia, TimorLeste and the Philippines, each following a similar format. The studies seek to summarise what laws and policies already exist in national human rights frameworks that could ensure respect for rights in large-scale land development and, on the basis of this analysis, recommend possible solutions to the problems identified. In this overview we bring out some of the key findings from these updates.

Editors

Chao, Sophie

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