



global witness

Corporate accountability and land rights: relevant international and regional instruments (and their limits)

Megan MacInnes
Campaign Leader - Land
July 2014

“Land-related rights” in international human rights instruments

- UN Declaration on Human Rights
 - Convention on Economic, Social and Cultural Rights
 - Rights to food and adequate housing
 - Convention on Civil and Political Rights
 - Rights to freedom of expression, assembly and association
 - UN Declaration on the Rights of Indigenous Peoples
 - Free, prior and informed consent
 - UN Human Rights Council adopted resolution 16/11 on human rights and environment (April 2011)
 - Special Rapporteur – Professor John Knox
- Convention on Biological Diversity
 - Provisions supporting improved transparency and participation
- ILO 169 for Indigenous Peoples
 - Free, prior and informed consent



Land-rights in international standards

- UN Committee on Food Security
 - Voluntary Guidelines on the Governance of Tenure of Land, Forest and Fisheries
 - First intergovernmental position on relationship between human rights, land and natural resource governance
 - Implemented through national multi-stakeholder platforms
 - Responsible Agricultural Investment Principles
 - Being negotiated now, not “PRAI”
 - States and private sector blocking progressive measures
- Guiding Principles for Business and Human Rights
- OECD Guidelines on Multi-National Enterprises
 - 43 adhering governments (with grievance mechanism)



ASEAN – based standards and guidance

- ASEAN Intergovernmental Commission on Human Rights
 - ASEAN Human Rights Declaration (Nov '12)
 - Important integration of human rights within ASEAN
 - Drafting process lacked transparency and consultation
 - Doesn't fully reflect international human rights instruments already ratified
 - No grievance mechanism (like Inter-Americas Court)
- ASEAN Commission for the Promotion and Protection of the Rights of Women and Children
 - Reflecting only two human rights conventions ratified by all ASEAN members
- ASEAN Socio-Cultural Community Blueprint (2009)
 - Promoting Corporate Social Responsibility
 - ASEAN CSR Network (launched Nov 2011): Vietnam, Singapore, Malaysia, Indonesia, Thailand and Philippines
- No mention of land and contextualised by ASEAN over-arching principles on non-intervention



Some limits ... and alternatives

- Nothing specific for land or agribusiness sector!
 - Significant limitations on implementation and compliance mechanisms for international human rights instruments
 - Progressive and land-specific international standards are voluntary
 - Are ASEAN mechanisms weakening already inadequate systems?
-
- Importance of embedding rights-based approach to land and natural resources within national legislation
 - Widening gap between agribusiness and international regulatory frameworks – forest, extractives and conflict mineral sectors
-
- Alternative approaches to corporate accountability and land rights:
 - Legal cases being taken against foreign companies in home countries
 - Trade and regulatory measures – finance in and commodity flows out

