

Knowledge Program
STUDY TOURS TO THE PHILIPPINES AND TO INDONESIA

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PARTNERS: STAR Kampuchea and the Asian NGO Coalition for Agrarian Reform (ANGOC)

INTRODUCTION: The study tour program to the Philippines and Indonesia, which was a joint activity between STAR Kampuchea and the Asian NGO Coalition for Agrarian Reform (ANGOC) and Bena Desa Secretariat was successfully organized from September to November 2005. ANGOC is a regional association of 24 national and regional networks of non-government organizations (NGOs) from 10 Asian countries actively engaged in food security, agrarian reform, sustainable agriculture and rural development activities. Bena Desa Secretariat or InDHRRA is a non-government organization, which works on human resource development at the local level. At the regional and global levels, is better known as InDHRRA (Indonesian Secretariat for the Development of Human Resources in Rural Areas).

These study tour were made possible with financial support of the Development and Partnership in Action (DPA), DanchurchAid (DCA), Lutheran World Faith Federation (LWF), Forum Syd, and International Land Coalition (ILC).

GOAL OF THE PROJECT: To improve STAR Kampuchea partners' capacity to be skillful and dynamic advocate, particularly on the areas of land, fishery and forestry.

OBJECTIVES:

1. 30 staff members of STAR Kampuchea's partners and local government explored and learned more about advocacy in the region, particularly on land, fishery and forestry, from experienced NGOs and People Based Organizations (CBOs) in the Philippines and Indonesia.
2. Relationships and networking among NGOs, POs, other networks and local government of Cambodia, Philippines, and Indonesia were built and strengthened, which created a joint force for a specific advocacy.

ACCOMPLISHMENTS:

Study Tours to the Philippines and Indonesia

After the clear programs have been developed, based on the need assessment of capacity building of STAR Kampuchea's partners, in cooperation with STAR Kampuchea, ANGOC and Bena Desa, and in consultation with Mr. Andrew, Policy Program Officer of the International Land Coalition, two study tours were organized. One was to the Philippines from September 10 to 20, 2005 (11 days) and another one was to Indonesia from November 20 to 30, 2005 (11 days). Please see the program attached. The tours were successful as the fore-mentioned goal.

Both tours which participated by 33 participants were 16 in the Philippines tour and 17 in the Indonesia tour). The total number included 8 women, which 4 of them to the Philippines and 4 of them to the Indonesia). The participants were the representatives of Provincial Advocacy Networks, NGOs' partners, communities, Commune Councils' members, District Governors, and Provincial governors and staff of STAR Kampuchea.

The participants visited the following NGOs, CBOs and the national institutions. They included:

Philippines: 1. Asian NGO Coalition for Agrarian Reform (ANGOC); 2. Philippines Partnership for the Development of Human Resources in Rural Areas(PhilDHRRA); 3. Legal Resources Center (LRC); 4. SALGAN; 5. Philippines Association for Intercultural Development (PAFID); 6. Infanta Integrated Community Development Assistance, Incorporated (ICDAI); 7. Department of Land Reform (DPR); 8. Department of Environment and National Resources (DENR); 9. National Commission on Indigenous Peoples NCIP); 10. Infanta Municipality; 11. Indigenous Community in Pastolan village Bantaan province; 12 People Community in Battangas; and Fishery Community in Infanta Municipality.

Indonesia: 1. Bena Desa; 2. General Department of Land Reform (GDLR); 3. General Secretary of Food Security Department (GSDS); 4. Organic Farm; 5. Land Community in Java; 6. KPA; The Cambodian Embassy to Indonesia

The financial support for the tours was from the Development and Partnership in Action (DPA), DanchurchAid (DCA), Lutheran World Faith Federation (LWF), Forum Syd, and International Land Coalition (ILC). *Please see the Financial Statement attached.*

Shared Experience Workshop

A Workshop on "Land Policy Reform in Cambodia and Sharing Experience from the Philippines and Indonesia's Tours" were organized at the World Vision organization on the December 15, 2005, under the presidency of Mr. Ang Engthon, Board of Directors of STAR Kampuchea, and Mr. Touch Marim, the Kg. Chhnang Governor (He attended the study tour to the Philippines). The speakers were Mr. Lim Vorn, General Director of Land Department of Ministry of Urbanization of the Kingdom of Cambodia, Mr. Andrew, Policy Officer of the International Land Coalition, Mr. Bun Rithy Coordinator of Kg. Cham NGO Advocacy Network, Mr. Kim Vanak, Deputy-Governor of Bavel District, Mr. Yeoun Yeut, Executive Director of the Buddhism and Democracy, Mr. Um Hout, Chief of the Ansa Chambok Land Community. The total of the participants were 52. They included 12 women, who 13 participants came from STAR Kampuchea's NGO partners, 4 representatives of communities, 13 Chief of Commune Councils, 2 District Governors and 4 international organizations, and 10 staff of STAR Kampuchea.

The goal of the workshop was to learn about the legal mechanism taken by the government to deal with the land disputes and to share experience what the participants

have learned from the tour in the Philippines and Indonesia to STAR Kampuchea's NGO partners, its communities the Commune Councils and the relevant local authorities.

Analysis of Impacts: It is difficult to prove the impact results of the study tour in three months after the projected ended. However, through the evaluation and the workshops and group discussion, we found that all the participants were able to share their experiences gained from the tours to the members of their peer group and their respective members. Sharing lesson learned to the peer has been done in the Philippines and Indonesia. Sharing to their members, they did at the meeting at their respective office. In addition, some of the participants were selected to be speakers in fore mentioned workshop, and the remaining shared to the plenary. to the share experience. These showed that all the participants definitely gained knowledge from the tours. Other impacts reported by the participants are as follows:

- They can compare the different situation between Cambodia and the Philippines and Indonesia and similarity of these countries
- They are better in management the communities
- The new strategies in land reform were conceptualized
- They are able to share they experience about the agricultural land reform in which the government actively involved
- From the sharing lesson learned, the people have enough courage to make lawsuit, meet their authority representative and speak out to the public, and the staff dear is encouraged enough to work with the communities
- The participants are able to reflect what they learned to the improper practice of the Land Law in Cambodia. *For further information please see the attached document, but it is in Cambodian language.*

LESSONS LEARNED

Agrarian Reform in Asia

Definition of Agrarian Reform: Agrarian reform is the redistribution of public and private agriculture lands, regardless of produce and tenure arrangement, to landless farmers and regular farm workers, to include support services and other arrangements alternative to distribution of land such as production/profit sharing, labor organization, or distribution of shares of stocks.¹

Agrarian reform most often refers to transfer from ownership by a relatively small number of wealthy (or noble) owners with extensive land holdings) e.g. plantations, large ranches, or agribusiness plots) to individual or collective ownership by those who work the land. Agrarian reform usually refers to government-initiated or government-backed redistribution of – i.e. transfer of ownership of (or tenure in) – agricultural land.²

The implementation of agrarian reforms in Asian resulted in the following:

¹ www.edu.cebuestates.com/Agrarian-land-reform/

² en.wikipedia.org/wiki/Agrarian_reform

1. Occupation forces (Japan, Taiwan in the 1950s)
2. Revolutionary governments (China, 1950s)
3. Military dictatorships seeking popular support (Philippines, 1972)
4. Popular movements and public pressure (Philippines, 1988)
5. Responses to breakdowns in centralized planning systems (Cambodia after 1995)

Three types of Agrarian Structures in Asia

Dominant Agrarian Structures	Countries
<p>Type 1. Industrialized Economies</p> <ul style="list-style-type: none"> - Implemented land reforms after World War II, under totalitarian regimes or occupation forces - Agricultural modernization and rural industrialization - Small population involved in agriculture 	Japan, Taiwan, South Korea
<p>Type 2. Emerging Market Economies</p> <ul style="list-style-type: none"> - Collective farming under “Communists” revolutionary governments. Collective farms later redistributed - Equitable distribution of land and resources - Large segment of the population involved in production 	Vietnam, Cambodia, China, North Korea
<p>Type 3. Feudal and Traditional Agriculture</p> <ul style="list-style-type: none"> - Feudal relations, lands under absentee owners - Land reforms have been largely un-implemented, except for few (Philippines, Kerala and West Bengal, India) - Large population involved in subsistence agriculture 	

Asian Countries Experiencing in Agrarian Reform (The Philippines and Indonesia)

Philippines

- Major land reforms in 1963, 1972, 1988 and 1994 due to strong political pressure from farmers and social movements.
- Present programs target 8.1 million hectares, plus 4 to 7 million hectares for indigenous peoples
- Reform hampered by political landed elite, low budgets.

Indonesia

Agrarian reform of 1960-62 abolished by Soeharto government
 “Reverse” land reform, or land consolidation over past 30 years. 2,178 large plantation companies control around 3.52 million hectares. 620 production units of forestry concession control over 48 million hectares of forestry land.

Agrarian Reform in Changing Donor Agendas

1960s: Post-war reconstruction	US and allied occupation forces implement AR, to prevent spread of Communism
1960s-70s: The Cold War anti-Communism	Massive donor support to AR, as a strategy to fight Communism
1979-89: The WCARRC period	Donor support for AR declines; 30 countries implement AR, but lack of external support
1990-95: Collapse of centrally-planned economies	Socialist countries break up collective farms; donors support land administration project to

	support privatization of lands.
1995-present: Access under neo-liberalism	World Bank, US and other introduce market assisted land reforms.

Future overview: Major issue in the future: “Rights-based land reform” and “Market – assisted land reforms

Rights -Based	Market- assisted
Base on “Individual and collective community rights	Based on individual or corporate property rights and ownership
Land redistribution, based on rights through staged interventions	Land transfer is based on market transaction with minimal state intervention” willing buyer, willing seller.”
Push by civil society groups and farmer associations	Pushed by World Bank, USAID and First World donors through land administration projects

Land Conflict and its Solution in the Philippines

The Philippines was free from the colonial of Spain in 1898 and shortly was into the Spanish –American war and the subsequent sale of the Philippines to the United States, which ushered in new area of US domination. In 1945 the Philippines got independent from the United States. The Philippines is the republic state with the total population of 82 million people with 30 millions hectares of land and 7100 islands.³

In the Philippines there are many cases of land conflicts. The conflicts are overlapping of land ownership, land dividing program (Land Reform Program of the Government), conflicts between the landowners and farmers... etc.

Through this conflict the Government of the Philippines found out the systems to solve them. The processing of the land conflicts solving divided in two systems. The first is the conflicts that are solved by the authorities start from the lowest local authorities, including Village Captain, Town Major, City Major, provincial Governor, and the Region Committees and the last is the Presidential Council. From this processing, if the parties of the conflict don’t agree with the solution, which negotiated by the above committees, the case will be on the second system that is the trial by the courts. The Municipality Court is the first trial of the conflict and the following are the regional Court and Supreme Court is the latest.

Rational and Brief History Reform Implementation

Rational and Brief Reform Implementation

The Agrarian Law was enacted for political, economic, and social reasons. Politically and socially, they were intended to diffuse social tension caused by inequitable and highly skewed distribution of wealth. Economically, they were intended to broaden the basis of growth and development with farmers contributing to and sharing on the benefits of such growth and development.

³ The presentation on Land Problems in the Philippines, ANGOC September 2005

Laws enacted prior to DP 27 (1972) primarily dealt with improving tenancy relations. They included such features as:

- Payment of shares to payment of fixed lease rental to the land
- Providing greater management power overland in favor of farmer tenants
- Granting the tenants with security of tenure
- Pertains to emancipation of tenants from the bondage of rice and corn lands
- Land owners were given seven-hectare retention while farmers ere granted with three hectare award if irrigated and five hectares if non-irrigated

RA 6657 – Comprehensive Agrarian Law

- It covers all agricultural land, public or private, regardless of types of crops planted or existing arrangement over the land
- It provides for five-hectare retention limit for landowners and award of maximum of three hectares for the farmers

Status of the Reinforcement of Agrarian Reform

The Agrarian Reform Program targeted the coverage of about 8.1 million hectares to benefit about 3 million farmers. Original time frame for the activities for distribution was 10 years (1988-1998). As there are some land that was not distributed the program was extended to another 10 years, i.e. until the year 2008. To date, the undistributed land consisted of about 800,000 hectares with 60% comprising contentious lands or lands with strong owner resistance.

Problem and Issues in Implementing the Agrarian Reform Program

- Confusing implementation policies
- Lack of political wills, corruption, incompetence, and inefficiency in Department of Land Reform bureaucracy
- Lack of systematic monitoring and evaluation of the program

Agrarian Justice Issues

- Lack of legal support to farmers faced with harassment cases
- Regular courts entertaining agrarian cases
- Lack of due process in agrarian law implementation cases
- Confusing jurisdiction between agrarian law implementation cases and cases under the adjudication board
- Slow and unfavorable solution of agrarian cases.

Inadequate Support Mechanism

- Distribution of the lands was not adequately supported with necessary agricultural infrastructure as well as favorable credit, prices, access to market, and other agricultural policies
- Selling of distributed lands and consequent loss of land by foreign Businesses (FBs) who are unable to make the lands productive.

Land Use Issues

- Absence of national land use policy that will clarify state priorities in land use

- Existing land use policies are sectoral in character and their harmonization is subject to different interpretations
- Jurisdictional issue-conversion of agriculture lands is under the Department of Land Reform while reclassification of agricultural land is under the local government units.

Budget Issues

- Agrarian budget is subject to political lobbying
- Tendency of landed congress to reduce the budget for acquisition of lands and to realign the budget to support services

Post Land Tenure Improvement (LTI) Issues

- Lack of security of farmers awarded and registered titles
- Installation of farmers with awarded and registered titles
- Mining appears to be the state's priority in terms of land use
- Conversion of agricultural lands already covered under the program into nonagricultural uses

Current Advocacy Efforts

Local Level: Strengthening people's organizations and developing their claim-making capacities; Formation of community-based paralegals to serve as legal support and facilitators for legal employment of the communities; Engagement in local governance and pushing for the inclusion of the LTI agenda in the community's agenda.

National Level: Advocating for increasing budget for land acquisition; Advocating for the passage of the National Land Use Act; Influencing the Executive agencies to issue favorable implementation policies; Advocating for reaffirmation of titles issued to farmers as indefeasible as ordinary titles; Advocating for favorable agricultural policies including credit, prices, and access to market; Advocating for increased people's participation in local governance.

Agrarian Reform on Indigenous People: Indigenous Peoples of the Philippines refer to a group of people or homogenous societies identified by self-continuously lived as organized territory, and who have, under claims of ownership since time immemorial, occupied, possessed and utilized such territories, sharing common bonds of languages, customs, traditions and other distinctive cultural traits, or who have inroads of colonization, non-indigenous religions and cultures, became historically differentiated from the majority of Filipinos Indigenous Peoples shall likewise include peoples who are regarded as indigenous on account of their descent from the populations which inhabited the country, at the time of inroads of non-indigenous religions and cultures, or the establishment of present state boundaries, who or all of their own special, economic, cultural and political institutions, but who may have been displaced from their traditional domains or who may have resettled outside their ancestral domains.

To implementing the Agrarian Reform program with indigenous people, the Republic Act No. 8371 was enacted to recognize, protect, and promote the rights of indigenous culture

communities/indigenous peoples, and to create the National Commission on Indigenous Peoples, as well as to establish implementing mechanisms and appropriate funds for these purposes. It is the embodiment of the rights and aspiration of indigenous people, which are follows:

- Right to Ancestral Domains/Ancestral Lands-covers the rights to ownership and possession of indigenous people to their ancestral domains shall be recognized and protected
- Right to self-governance and Employment reorganizes the inherent right of indigenous peoples to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the state shall guarantee the right of indigenous peoples to freely pursue their economic, social and cultural development.
- Social Justice and Human Rights ensures that the employment of any form or coercion against indigenous peoples shall be dealt with by law.
- Cultural Integrity includes respect, recognition and protection of the rights of indigenous peoples to preserve and protect their culture, traditions and institutions. It shall consider these rights in the formulation and application of national plans and policies.

Agrarian Reform in Indonesia

Indonesia is the largest archipelago in the world. It consists of five islands and about 30 smaller island groups. Altogether there are 17,508 islands and islets of which about 6,000 are inhabited. The archipelago is on a crossroad between two ocean, the Pacific and the Indian oceans, and bridges two continents, Asia and Australia. This strategic position has always influenced the cultural, social, political and economic life of the country. The sea area is four times larger than its land area which is about 1.9 million sq km.

In 2000 (per June 2000), Indonesia's population of about 203 million people is the world's fourth largest, and the island of Java is home to two-thirds of these inhabitants. The population consists of 101, 641 million males and 1001, 814 million females. Its population is divided among 300 ethnic groups speaking 250 district languages and dialects.

After the dependence from Dutch in 1945, Land Law was drafted in 1948 to 60 and then enacted. The Law was not reinforced. Instead, the government used the Proclamation of the President, which allowed the companies to occupy the lands. The Land Law no. 05/1960 read as follows:

- The state land company has to distribute the landless farmers for their cultivation
- State shall have rights to confiscate the lands from the land that are not cultivated or from the family who possess the land more than 7. 50 hectares. After giving the appropriate compensation, these lands are kept as state land and are reserved for the landless.
- In the areas where there is a high density of population, each family is able to receive 0.3 or 0.5 hectares.

- The government developed a policy to send the voluntary citizens living in the high-density areas to live in the areas where there is enough land. Each family is able to receive at least 2 hectares
- The failure of using the lands the government warns the landlord in three steps. First, when the land were not used in 5 years, second after the warn of 3 years when the lands were still not used, the government request for sale of the lands with the appropriate cost, and the third one, if there is not agreement on the cost, the government shall confiscate the lands to keep for the distribution.
- The Indonesian citizens whose family members are more than 7 the government shall give 5 hectares of fertile land or 6 hectares of unfertile land.
- The foreign citizens do not have rights to own the lands.
- In the year of 2001, the Indonesia Assembly enacted the law which urged the Government to even better enforce the land policy especially the land reform policy.
- The public servants have right to own the lands not more than 2 hectares and promise to live on that land when he/she retired.

The Land Institution Management

The land in the Indonesia was managed by different institutions according to the regime and their administration:

1945 1960	Managed by Land Committee
1960 1967	Managed by Land Department
1967 88	Managed by State Affairs Department
1992 02	Managed by Land Committee
2002- Present	Managed by Land Department (This Department is not subject to any institutions as the previous times)

Under the support of this institution, 40 % the Indonesian citizens have got land titles

Policy on Food Security: Indonesia has developed a Security Food Department according to the Law no. 07/1996 to regulate the food security in order to support the Indonesian economy. The ideas of this development are in the following:

- To secure food for the people and better life condition
- Food shall be available in the whole country that the people can support their life
- To Balance the import and export food of the country
- To seek for market for the citizens
- The government and farmers determine the appropriate cost of the products which is consistent to the labor
- Provide urgency support where there are disasters

Organic Farm: The delegation was provided opportunity to visit an organic farm which was established more than 20 years ago. We learned that land never wants any thing

from the human, but the human used the land for their benefit and destroyed the land. Human has to know how to use the land effectively. The grudge indulges the human use chemical fertilizer which harms the only the land but the human health. Mr. FAGATO established this organization to teach the people on how to do organic farm on the land around 20 hectares.

Farmer Association in Java: West Java is a high land which is 500 meters above the sea. In the past this area was colonized by Dutch who authorized the land to the state company. There are around 500 families who live on the land of 260 hectares. In 1984, tea products were very poor and only 4 to five workers remained working. As a result, in 1997, the land was not cultivated and become a forest area. In 1999 at the same time there was a political crisis the people took advantage to reclaim the land with the support of NGOs who support them to organize communities. The strategies they used were, for example, making petition, rallying, marching to the commune and district offices, Department of Land Reform to solve their problems.

In this struggle, the advocacy activists challenged many problems. They were injured, arrested, killed, murdered with poisoning, and kidnapped, and so forth. Regarding to the killing and murder, the Communities sent the complaints to the involved institutions, but no action taken. After the reclaim, the land were controlled and owned by the community. The company can go to invest in that area, but the permission shall be authorized by the community in prior. The condition include, for example, the company has to promise to build the infrastructure, and cropping shall be consistent to the land, and do not keep the land uncultivated.

The community organizes regular monthly meeting to discuss issues, share responsibility and sharing information for the members of the community. The community has developed small-frequent radio which the coverage can be broadcast for their community. After they have got land back, their living condition is better.

CONCLUSION

The land disputes in the in Indonesia and the Philippines are found similar in some degree. As the administration of these countries has been quite often changed, the policy on land has been amended to fix the situation. In similarity to Cambodia, the disputes on the land happen between the citizens and the state, the company, and the powerful and the rich. The poor are most vulnerable to the case. This is due to the government is unable to enforce land law properly and does not pay enough attention to the living condition of the people, but indulges the company and the investors to do wrong. The contract with the company was expanded more than 25 years due to the corruption Politicians break the promise before they have been elected. Terrorists who targeted the tourism that are largely damaged the national budget and jobs, which hampers the effective implementation of the laws.

The advocacy of these countries is considered strong. Win-Win solution is a first mechanism used by the communities for their dispute solution. With the support of the capacity building from NGOs, the communities are able to deal with the sensitive issues,

for example, in the conflict between the community and powerful people or military forces, the communities do not attempt to confront with them, but they seek for a support from a group or individual who have similar status to powerful. This can be avoided from the violation. The overriding factor leading their advocacy succeeded is the formation of communities who are committed, participative, cooperative and active. Making lawsuit to court is the last resort for their dispute solution.

To help the landless, the government sends the voluntary citizens to live in the area where density population is lower. They are provided the land and subsidy. At the same time, government builds infrastructures for them, which enable them to reach to the market.