



PRESS INFORMATION—FOR IMMEDIATE RELEASE—01 December 2011

"Bali Declaration acclaimed at Agribusiness and Human Rights in Southeast Asia Workshop"

The international meeting of South East Asian Regional Human Rights Commissions on 'Human Rights and Business: Plural Legal Approaches to Conflict Resolution, Institutional Strengthening and Legal Reform' hosted by the Indonesian National Human Rights Commission (KOMNASHAM), in conjunction with Sawit Watch and Forest Peoples Programme (FPP) was held in Bali, Indonesia, from 28th November to 1st December 2011. It was attended by 58 participants from the national human rights commissions of the Southeast Asian region, the ASEAN Intergovernmental Human Rights Commission, notable academics, representatives of indigenous peoples, as well as members of supportive national and international NGOs.

The meeting focused on the challenges of ensuring respect for the rights of indigenous peoples and rural communities in the context of rapid agribusiness expansion, notably the palm oil sector, while recognising the right to development and the need to improve the welfare and situation of indigenous peoples and local communities. As Marcus Colchester, Director of Forest Peoples Programme, said:

"The 'Bali Declaration on Human Rights and Agribusiness' which resulted from this meeting, reminds companies of their legal obligation to fulfil their responsibilities to respect human rights and calls on States to protect the rights of their citizens, including indigenous peoples, in the face of unprecedented pressure by agribusinesses. The UN Special Rapporteur on the Right to Food, Olivier deSchutter, gave an inspiring start to this conference and the leadership being shown by the regional national human rights commissions gives us hope that there is energy to put this compact into effect."

All participants from the various Southeast Asian countries shared their rich experiences and provided insightful recommendations on human rights and agribusiness issues. As Thomas Jalong (National Indigenous Network) said:

"Expansion of Oil Palm Plantation is a fundamental issue, the source of conflict, and abuse, but also the key to sustainable development and livelihoods for indigenous peoples is the right to the land and the customary rights therein. Land is, and will remain, the source of their survival."

Drawing from the experiences and issues examined, it was recommended that states review oil palm development and land use policies, adopt principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in their land and development policies, that communities be further empowered to protect their rights, that companies subscribe to the Roundtable of Sustainable Palm Oil (RSPO) principles and criteria, as well as improve participatory consultation processes with local stakeholders.

Cambodia, represented at the workshop by members of the the Community Legal Education Center (CLEC) and the Cambodian Center for Human Rights (CCHR), is a signatory to a number of international human rights instruments which recognise the basic rights and freedoms that all humans are entitled to. Businesses have and continue to violate a significant number of these internationally recognised human rights. The impacts of agribusiness (agro-industry) on local communities include land conflict, forced displacement and intimidation, livelihoods and food insecurity, erosion and criminalisation of traditional cultural practices, human rights violations, problematic overlaps in land classification, such as agro-industry and forest areas, indigenous peoples' areas and threats to the environment and health of local communities. As Seng Maly and Ny Sophorneary from Community Legal Education Center stressed in their presentation:

"Local communities are living in fear of arrest or murder over land disputes. It is not infrequent for companies to resort to military action against communities if they protest to their presence and activities. In some cases, the communities are forbidden access to their former customary lands, prevented from joining workshops and activities organised by NGOs, or banned from gathering into groups altogether"

Philippines is largely an agricultural country, almost 14.2 million hectares (half of the country's area) of which is classified as agricultural land. Jo Villanueva of the Samdhana Institute notes:

"Promoted by the state as a key to economic growth and rural development, oil palm is very promising in terms of income and benefits to landowners. As a thriving domestic industry with the potential to reach untapped international markets, palm oil is under huge demand and may provide significant opportunities of labor and employment. There are indeed Agrarian Reform Beneficiaries (ARB) cooperatives and "outgrower" farmers that have benefited from palm oil production, but there are also many experiences that point to disincentives, violation of rights, land grabbing, violation of contracts and so forth, by the industry."

Loretta Ann P. Rosales of the Commission on Human Rights Philippines, also stated that Philippines needs a rights-based approach to agricultural expansion, a principle and practice equally applicable to all Southeast Asian countries. Rights-based development encompasses both collective and individual development. The human rights norms most relevant are those to food, water and development, as well as underpinning environmental policies (eg. protection of watersheds, biodiversity conservation). Policy must not trample on the rights of indigenous peoples to their ancestral lands, their own idea of economic development, culture, livelihoods, it must recognise the vital role of women in agri production/development, and must not discriminate against them based on traditional gender roles and relations.

In Thailand, the National Economic and Social Development Plan has been dominantly directed within the mind-set of capitalism and economic development, focusing on the change of mode of production from subsistence to cash-oriented development. These developments overwhelmingly disregarded people's participation and mainly focused on responding to the State's Policy on Energy Generation with single-sided support for energy consumption and utilisation in industrial and urban areas.

Therefore, the recommendations for protecting the rights of the Indigenous people were: Upraising and embedding of “Community Rights” with decentralisation of powers; institutionalisation of supporting infrastructures responding to “Community Rights”; enforcing Community rights and development; and Community rights and rights to fair trials and judicial process.

As a country that has the biggest number and various natural resources, Indonesia has been facing numerous human rights issues. The representatives of Indonesia were Nur Kholis (Human Rights Commission of Indonesia), Norman Jiwan (SawitWatch), Abdon Nababan (Alliance of National Indigenous People), Mumu Muhajir (Epistema). Their presentations at the Workshop concluded that there are three crucial dimensions to indiginity are Land, blood and social systems. As part of Indonesia, The Representative of Papua, Septer Manufandu's (FOKER LSM Papua) presentation focused on MIFEE (The Merauke Food and Energy Estates) that will destroy the forest and livelihoods of Papuan indigenous people in Merauke. He also described that the sources of the Papuan conflict can be grouped into five issues: Marginalization and discrimination, failure of development, state violence and human rights abuse, political status and historical construction, and natural resource exploitation. He urged peaceful and constructive dialogue key to solve the issues. As Abdon Nababan also mentioned in his presentation:

“Discrimination towards Indigenous People of Indonesia by the government is based on economical benefits. For example, Balinese and Papuan Indigenous People. Since the backbone of Bali’s economy is highly depending on the tourism which needed support of its cultural richness, the government grately respect the Balinese Indigenous along with their customary law. Meanwhile, West Papua’s economy is depending on its natural resources. Therefore the existence of Papuans Indigenous people is considered as a threat towards the government’s efforts to occupy the natural resources.”

Elected member of the UN Permanent Forum on Indigenous Issues, Raja Devasish Roy, notes:

“For the right to Free, Prior and Informed Consent (FPIC) to be fully implemented, it must not be coerced, manipulated or manufactured (free). It must happen well before the “ball starts to roll too fast” (prior). It must be preceded by the supply of full information in appropriate format (informed). And the consent obtained must be unequivocal and follow the decision making process of the people/community concerned (consent).”

The participants also expressed their thanks to the Indonesian Commission on Human Rights (KOMNASHAM), as represented by Ifdhal Kasim, Chairman of the Commission, and Nur Kholis, Vice-Chairman of the same, for inspiring and hosting the meeting. They also conveyed their warm appreciation to SawitWatch, the Forest Peoples Programme, the Centre for Peoples and Forests, the Samdhana Institute and the Rights and Resources Initiative for helping to organise and support the meeting.

They welcomed the Statements of the UN Special Rapporteur on the Right to Food, Olivier de Schutter, and the Member of the UN Permanent Forum on Indigenous Issues, Justice Raja Devasish Roy. The International Conference unanimously adopted a Declaration henceforth known as Bali Declaration.

As the main output of the conference, the Bali Declaration resolves to work with governments, legislatures and corporations in Southeast Asia to ensure that they take urgent steps to reform or reinforce national laws and policies relating to land tenure, agrarian reform, land use planning and land acquisition so that they comply fully with their countries' human rights obligations, including the right to food, the right of all peoples to freely dispose of their natural wealth and resources, and the right not to be deprived of their means of subsistence. As Fergus MacKay, Forest Peoples Programme, mentioned:

"A sustained collaborative approach is vital to ensuring that the Bali Declaration holds its weight. This includes National Human Rights Institutions taking the lead in working with indigenous peoples, civil society, governments, and supportive non-governmental organisations. The lack of any one of these groups will detract from the functioning of the whole initiative. Collaboration remains the key to effectiveness."

As Nur Kholis, Vice-Chairman of the Indonesian Commission on Human Rights, also stated:

"Not only must we coordinate at the regional level amongst the existing national systems in resolving the harmful impact of agri-business, we must also learn from the practices of other regions, such as Latin America, Europe and Africa in order to formulate a regional mechanisms that provides or facilitates access to grievance mechanisms for victims where national mechanisms are considered ineffective."

NOTES TO EDITORS

"Human Rights and Business: Plural Legal Approaches to Conflict Resolution, Institutional Strengthening and Legal Reform" Workshop took place at Hotel Santika Premiere Beach Resort Bali, Jalan Kartika Plaza, P.O. Box 1008, Tuban, Kuta – Bali, Indonesia. Tel. (62-361) 751267, Fax. (62-361) 751260, 761889.

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"Divers Paths to Justice: Legal Pluralism and the Rights of Indigenous Peoples in Southeast Asia" by Marcus Colchester and Sophie Chao (eds.) with Ramy Bulan, Jennifer Corpuz, Amity Doolittle, Devasish Roy, Myrna Safitri, Gam Shimray and Prasert Trakansuphakon: www.forestpeoples.org/topics/rightsland-natural-resources/publication/2011/new-publication-divers-paths-justice-legal-plu

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