The Responsibility of Business to Respect Human Rights in the context of Voluntary Guideline on the Responsible on Governance of Tenure (VGGT)

Why?

Land tenure rights are continually ignored or inexistent for many Cambodians. Business can negatively impact land rights as they buy land in disregard of local communities' rights, forced evictions and removal.

How?

The VGGT is to serve as reference and guidance for the governing of the tenure of land, fisheries and forests, promoting secure tenure rights. Setting responsible practices and frameworks to promote the governance of tenure, as well as the achievement of food security and sustainable development.

What?

The Guidelines are to improve tenure of land, fisheries and forests. They seek to do so for the benefit of all, with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection and sustainable social and economic development. It looks to strengthen the capacities and operations of authorities, civil society, communities and private actors. Promoting cooperation and transparency between actors.

What?

Both public and private actors are to use the VGGT, including the government, local authorities, judicial bodies, civil society, community based organizations, and private sector. All parties can use the Guidelines to for reference as to secure tenure, a foundation to the development of other human rights.

Key ways for business to meet its responsibility to respect human rights:

- Private sector companies, both national and international, must respect legitimate tenures held by communities and individuals. As per Articles 3.2 and 12.4 of the VGGT.
- Companies must not contribute to environmental degradation and harm food security, respecting the national law and legislation. As per VGGT Article 12.12.
- States should support smallholders, in particular in sensitive investments, promoting investment models that encourage partnerships that include local tenure right holders. As per Articles 12.2 and 12.6 of VGGT.
- Stakeholders and the State should hold good-faith consultations before initiating any project, free of intimidation and keeping the parties informed of their rights including those with subsidiary rights (Articles 9.9, 12.7, and 12.9).
- Impact assessments should be conducted by the State before any large-scale transactions of tenure rights, with due diligence to ensure legitimate tenure holders are identified and an assessment of negative and positive qualities of the investment (Article 12.10).
- Private sector should work to prevent corruption and promote ethical practices in their dealings for land tenure rights, including appropriate risk management and grievance mechanism to deal with potential adverse impacts on human rights and legitimate land tenure rights. As per VGGT Articles 8.9, 3.2, and 12.4.

Relevant Cambodian Law and International Law:

- The Constitution of the Kingdom of Cambodia: binds business operating in Cambodia and incorporates the UDHR, the ICCPR and the ICESCR directly into Cambodian law through its article 31.
- The Land Law: determines the regime of ownership for immovable properties in the Kingdom of Cambodia for the purpose of guaranteeing the rights of ownership and those related to immovable property.
- The Labor Law: governs relations between employers and workers resulting from employment contracts to be performed within the territory of the Kingdom of Cambodia, sets a minimum wage that must be compatible with human dignity.
- International Labor Organization's conventions ratified by Cambodia: set out basic principles and rights at work, including key human rights principles relevant to business enterprises
- UNGPs: although non-binding, they constitute the authoritative standard of conduct for corporations regarding human rights
- OECD 2011 Guidelines for Multinational Enterprises: provide non-binding principles and standards for responsible business conduct in a global context
- OECD-FAO Guidance for Responsible Agricultural supply Chains: helps enterprises observe standards of responsible business conduct to ensure that their operations do not lead to adverse impacts
- 2012 Voluntary Guidelines on the Responsible Governance of Tenure: set out principles and internationally accepted standards for practices for the responsible governance of tenure, with a goal of supporting the progressive realization of the right to adequate food in the context of national food security

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