

Challenges on Land Tenure in Asia-Pacific: Findings from the GLTN-study on Land Tenure in Asia and the Pacific⁶

By David Mitchell, RMIT University

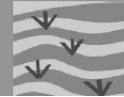
While the land agenda has peaked at the global level, land tenure issues abound in the region. Urbanization and the rapid transformation of urban areas in the Asia-Pacific region has been the engine of economic growth and prosperity in most countries. This economic success has come with social costs related to equity of access to land and environmental costs. Poverty is concentrated in less favored areas; vulnerable groups have been affected and there are major challenges related to climate change, natural disasters, food security and environmental degradation. The study identified seven major land tenure challenges in the region:

Changing rural populations. Agriculture in the region is dominated by smallholders, with an ageing farmer population increasingly consisting of women. Colonial and national land reforms, and increasing land values have left landholdings concentrated in the hands of a few. A result has been a rapid decline in the average size of smallholder farms. Food and fuel prices, the impact of climate change, and the growing demand for agrofuels increase competition for land. Large-scale foreign farmland acquisitions and large infrastructure, mining or forestry projects provide opportunities, but there are concerns about their impacts on poor local people.

Women's access to land. Access to land for women varies under state laws and customary arrangements, and poor rural women can be disadvantaged. Deep-rooted cultural practices and legal barriers in many countries deny women land rights. Duality of legal systems and a dichotomy between the law and practice also impact on women's land and property rights. Women's ability to inherit property is restricted in many societies. Laws and customs that govern family and social relationships have a significant impact on whether women have the right to inherit. Women with strong property rights are less likely to become economically vulnerable as a result of migration, abandonment, divorce or death.

Rapid urbanization (and urban growth). Population growth combined with a lack of affordable land in safe areas typically manifests as unplanned and informal settlements appear within unsuitable or hazard-prone land. Local governments struggle to meet basic urban infrastructure and service needs. Forced evictions and land grabbing can lead to loss of shelter and disconnection from livelihoods, especially in countries and regions with recent or ongoing armed conflict. As Asian cities grow, the demand for land causes land speculation and market distortions, bringing unforeseen pressures on an already scarce resource.

⁶Extracted from the paper and presentation of David Mitchell, RMIT. For more details, contact <david.mitchell@rmit.edu.au>. For the full report on "Land Tenure in Asia and the Pacific: Challenges, Opportunities and Way Forward" written by David Mitchell, Danilo Antonio, Lowie Rosales-Kawasaki, and Donovan Storey, visit <http://www.gltm.net/index.php/resources/publications/publications-list/download/2-gltm-documents/2219-land-tenure-in-asia-and-the-pacific-challenges-opportunities-and-way-forward>



Indigenous peoples' rights to land. Approximately two-thirds of the world's indigenous peoples (IPs) live in the region and land is central to their life, culture and religion. IPs are among the most socially and economically marginalized members of society, facing dispossession of their lands and natural resources. Encroachments onto marginal and forest areas, territories of IPs and common property resources, and grabbing of indigenous people's land have continued. A proportion of them are also part of the global urbanization trend but IPs have difficulty finding employment and housing.

Climate change and natural disasters. Asia-Pacific is among the most vulnerable to climate change, including more frequent natural disasters, glacial melt, sea-level rise, and drought. The poor and most marginalized with poor tenure security are more prone to long-term displacement brought by natural disasters. Land issues include people settling on hazard-prone areas, land grabbing and eviction after a disaster, and the management of migration and resettlement due to climate impacts. While the region offers huge potential for Reducing Emissions from Deforestation and Forest Degradation (UN REDD+) program implementation, interventions may have impacts conflicting with their existing property rights.

Challenges to Islamic tenure and principles. Islamic principles and tenures remain influential as concepts, even where colonial reforms created new tenure types and formal approaches to land administration. However, there is a plurality of tenures in predominantly Islamic countries with formal, customary and Islamic tenures which results in land issues. Potentials to support pro-poor and gender-responsive land administration interventions exist in using Islamic law principles. However, more research is needed on how these could be used as tools in practice.

Barriers and Limitations in Land Administration and Management

The last major challenge identified by the GLTN study is the *need to enhance land administration and management*. The legal and policy frameworks in most countries were largely developed during colonial periods and often only serve the elite. Duality exists between formal and informal systems and across sectors of government. Customary and other informal rights and norms are often not recognized and not recorded. In most countries reviewed, land tenure records are paper-based, out of date or inaccurate, and are vulnerable to destruction from disasters. Land-use planning in most countries is ineffective, highly political and subject to serious capacity and governance issues. Land valuation processes are weak, often determined by tax or paid revenue.

The key barriers to effective land administration and management include: (i) capacity limitations in public and private sectors requiring a long-term investment, (ii) limited high-level support and the reliance on local champions, and (iii) the large number of existing conflicts and backlog of land disputes which have a debilitating effect. ■