

Land as a Human Right:

An Imperative Towards the Realization of the Sustainable Development Goals

A Regional Workshop Summary Report

Dismissed as a waning sector in the last two decades of the 20th century, land and agriculture are back in the global development agenda. The Post-2015 Agenda is accompanied by the Sustainable Development Goals (SDGs). It is supported by the report of the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, where it identifies that “secure rights to land, property and other assets” as a building block in reducing poverty.

Aimed to realize the human rights of all and to achieve gender equality and the empowerment of all, the SDGs outlined 17 goals and 169 targets related to economic, social and environmental aspects. While all the goals are important in the Asian region, three related goals are critical and need to be addressed at the shortest possible time: Goal 1 (end poverty in all forms), Goal 2 (zero hunger) and Goal 16 (peace, justice and

strong institutions). And in these goals, access to land and agrarian reform is essential to the achievement given the Asian context where majority of the poor are landless, near-landless and smallholder farmers. As such, access to land brings livelihood, reduces social tensions and conflicts over resources, achieves sustainable management of lands, and improves overall peace for greater political and economic stability. Land is NOT just an economic commodity but a necessary instrument of equity for the poor.

However, land has always been a source of conflict. Not only is the number of land conflicts rising, but also the degree of conflict – employing violence in many cases – is intensifying. Such land conflicts may result from overlapping land laws and policies, the resolving of them do not take place overnight. There is also the serious question of incentives. Land grabbing is almost

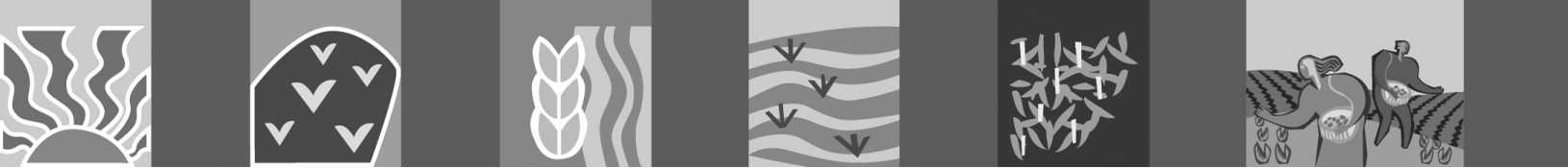


always done to gain more profit for governments and for companies alike – profits. Thus, a number of governments actively encourage agricultural investments. Even for small landowners, the incentive to sell or lease the land to a more financially rewarding entity leads to the loss of land and livelihoods for poor farmers and rural workers. Displacements are a necessary development cost, and communities are the collateral damage.

It is in this context that the Asian NGO Coalition (ANGOC), Land Watch Asia (LWA), International Land Coalition (ILC-Asia) and STAR Kampuchea

in partnership with Forum Syd, HEKS/EPER-Cambodia and UN Cambodia Office of the High Commissioner on Human Rights (UNCOHCHR) organized the regional workshop “**Land as Human Rights: An Imperative towards the Realization of the Sustainable Development Goals**” which:

- provided a status of the implementation of SDG goals 1, 2 and 16 in Asia;
- presented and discussed land governance challenges in Asia;
- presented and discussed the two sub-regional approach papers on linking land as human rights; and,



- formulated an action agenda to reflect the recommendations in pursuing responsible land governance and recognizing land as human rights towards contributing to the achievement of SDGs.

Around 65 representatives from CSOs from Bangladesh, Cambodia, India, Indonesia, Lao PDR, Nepal, Philippines and Vietnam), including Cambodian government officials, national human rights institutions and regional institutions participated in the workshop.

Workshop Highlights

SDG Implementation in the Asia region

- MDGs were good at planning but less good at linking planning to budgeting and making sure the results of the investments matched plan priorities
- MDGs covered a limited agenda of separate targets; SDGs present an integrated agenda showing linkages between the different goals and targets

- MDGs focused on aggregate achievements like cutting poverty by half; SDGs have to be achieved for all starting with those left most behind
- SDGs see governance not only as a key enabler of all the development goals, but also focus on the governance of the new agenda itself and ensuring that it will be implemented through a multi-stakeholder partnership
- need for collaboration among GO, CSO and the private sector as a crucial component in SDG implementation
- lack of reliable data and hence, the important role of CSOs in collecting data
- a number of the SDGs relate to land rights, which justifies land rights as human rights
- recently concluded Habitat III reinforces the importance of land in the new urban agenda

Major recommendations

- evidence to show that land is a key enabler and accelerator for sustainable development as a whole, including quantifying the investment needed to reform and protect land rights, but also quantifying the potential benefits and development impacts across the agenda
- advocating to government on the data frameworks that will be needed to identify those at risk of being left behind in relation to land and to ensure that those are incorporated in the new agenda so that the disparities between different groups attract and progress in reaching the furthest behind is measured
- engage with governments on the multi-stakeholder partnerships for implementing and monitoring the new SDGs, specifically to make concrete proposals on the role civil society should play



Land governance challenges in Asia

- high poverty incidences in the region despite high economic growth; majority are in rural areas
- with the rush for land, land is treated purely as an economic asset; results to increasing consumption & consumerism, and land speculation
- lack of transparency, accountability & popular empowerment that lead to “elite capture”
- national legal systems that centralise control over lands, with no legal recognition of land rights of local users
- protection given to investors that sidelines the rural poor
- undervaluing the contribution of smallholder, family farming

Major recommendations

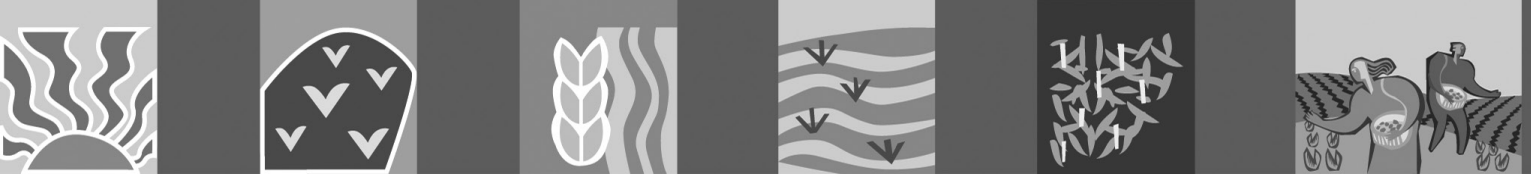
- acknowledge & respect the resource rights of rural people in large-scale land transactions
- legally recognize the land rights of the rural poor, including over the commons
- put smallholder production at the center of strategies for agricultural development
- make international human rights law work for the rural poor
- make decision-making on land inclusive, transparent & accountable
- ensure environmental sustainability in land & water-based acquisitions and investments

Women and Land Rights in Asia

- women’s access to land is important not just for livelihood or economic empowerment, but is strongly correlated with rights-based outcomes such as freedom from violence, decisional autonomy, and sexual and reproductive health

“.. evidence to show that land is a key enabler and accelerator for sustainable development as a whole, including quantifying the investment needed to reform and protect land rights, but also quantifying the potential benefits and development impacts across the agenda.”

- 70% of farm work is done by women but receive lower salary
- most women are landless and women’s land rights are often undocumented
- *In Bangladesh:* accelerated rural outmigration has led to feminization of agriculture; women do not have access to support services; Islamic law and customary law disadvantageous to women
- *In Cambodia:* lack of knowledge on land and property rights; prone to widespread abuse by creditors; women at the forefront of land conflict negotiation and protest
- *In Nepal:* 73% of women are engaged in agriculture but, in the absence of certificates are not recognized as farmers; less than 20% of women have formal property ownership; patriarchal nature of Nepalese society is incorporated in legal instruments, therefore women are always at a legal disadvantage
- *In the Philippines:* relatively advanced in terms of policies on women and land rights; for agrarian reform beneficiaries; land titles issued to women are only half of those issued to men; women in agriculture earn less than men



Major recommendations

- need for paradigm shift, challenge the culture of patriarchy
- promotion of gender-sensitive laws and programs
- monitoring of women's land rights and more stringent data-gathering methods

Mainstreaming Land Rights as Human Rights

- Globally accepted concepts of human rights (civil, political, economic, social and cultural) enshrined in the declaration and covenant of the United Nations Generally Assembly have always been the concern of millions of landless and land-poor people
- Much remains to be done for ensuring social equity and justice in the world where people controlling the vast swathe of land and its natural resources by foul means within the national boundaries are the ones controlling the national governments and international economic organizations
- In South Asia:
 - customs and practices often come in the way of realizing genuine land rights
 - SAARC has not recognized the interrelatedness of poverty alleviation, agricultural production, food security and land rights/access to land
 - Bangladesh: more than half of the population of the country is landless poor (around 68%); a recent study on property disputes estimated that one in every five households in the country suffers from land disputes; Khas land grabbing all over the country by the powerful for commercialization, urbanization & industrialization and for infrastructure development

- India: digging the graveyard (100,000 villages lost since 1921); increasing outmigration (90M people now live in slums); development projects, extractive industries, reforestation projects lead to displacement
- Nepal: inequalities regarding land access as one of the underlying causes of the decade-long armed conflict between the Government of Nepal and the Communist Party of Nepal-Maoist (CPN-Maoist); most common land-related conflicts in the country are inheritance conflicts among family members, boundary conflicts between neighbours, conflict between landless people and authorities, and conflict between landowners and tenants; a family without land in a peasant society is deeply handicapped since most of the government services are connected to land ownership certificates
- In Southeast Asia:
 - ASEAN's policy on non-interference and country-independence approach hinders the implementation of land as human rights
 - Cambodia: Economic Land Concessions on the rise, resulting to displacement of farmers; lack of property rights; property patterns are root causes of poor land management; fragmented land regulation/administration
 - Indonesia: rapid and rampant "depeasantization"; one-fourth hectare lost every minute; escalating violence, land conflicts
 - Philippines: strong resistance from former landlords and corporations claiming ownership of farmer and IP lands; threat of ejection for farmers who participate in agrarian programs; land



grabbing by mining and agro-industrial firms; harassment and violence of land rights defenders

Major recommendations:

■ South Asia

- CSOs to engage the Technical Committee on Agriculture and Rural Development (TCARD) of the SAARC on land-related issues
- lobby for the creation of permanent inter-governmental human rights mechanisms such as the Regional Committee on the Issues of Land Rights and Special Rapporteur on Agrarian Issues and Land Rights of Indigenous Peoples
- land rights issues can also be brought in the People's SAARC (South Asian People's Summit, People's Assembly), South Asia Forum and Working Group on South Asia Human Rights Mechanism
- governments, CSOs and academic institutions of the SAARC region should link their respective programs on land rights as part of the implementation plans of the SDGs

■ Southeast Asia

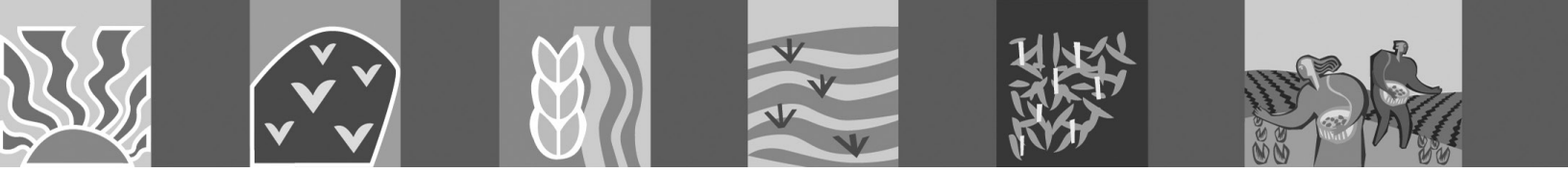
- increase advocacy and lobbying for the establishment of National Human Rights Institutions (NHRIs) in ASEAN country-members that have no NHRI yet
- bring land issue into SEANF and AICHR mechanisms
- SEANF should be pushed to develop mechanisms for joint investigation and monitoring security of land tenure, land grabbing and land conflict cases with transnational/trans-borders dimension

- ASEAN government should be approached in order to improve/change the ASEAN Declaration on Human Rights (to add some points on mechanisms to monitor Member States' obligation to promote and protect human rights of ASEAN people)
- In countries where there are NHRIs: (a) lobby for the establishment of special rapporteur or unit within the NHRI to hold special procedures on land issue; (b) conduct national inquiry on IPs' rights and other land related problems; and (c) take a lead on the process to formulate National Action Plan on Business and HR.

Action Plan

Four workshop groups (i.e., Cambodia, Lao PDR-Vietnam, Indonesia-Philippines and South Asia) were organized to reflect on how the recommendations are to be translated in ongoing work, or pursued by the participants, both at country and regional level. Three major areas of collaboration have been identified: policy, capacity building and networking.

Towards this end, the participants shall pursue the **goal** of "*empowering communities to protect and defend their rights to land*" through the implementation of the action plan below detailed in the following pages. ■

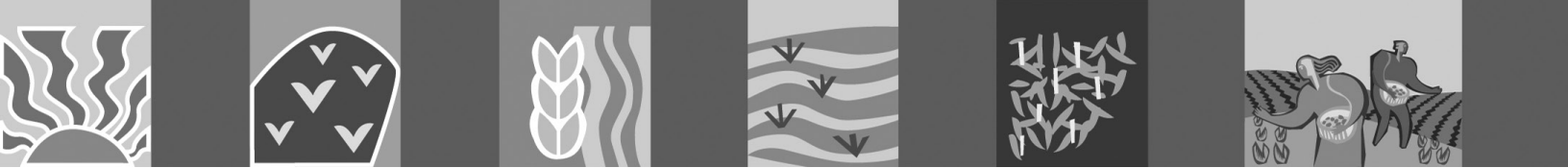


ADVOCACY			
<i>Land rights organizations and communities as part of the regional dialogues and processes on the imperatives of land rights as a human right and an essential strategy to achieve the SDGs in Asia</i>			
KEY RESULT AREA	KEY ACTIVITIES	WHO	WHEN
National Human Rights Institutions (NHRIs) recognize land rights as a human right	Engage NHRIs through series of dialogues at national and regional levels	ANGOC, AR Now!, CARRD, KPA, Komnas HAM, CHR	Based on existing projects
Land rights as part of the deliberation at Asian level	Lobby SEANF to conduct joint investigation on land conflicts with regional dimension	ANGOC, AR Now!, CARRD, KPA, Komnas HAM, CHR	Ongoing
	Lobby SEANF to establish regional inquiry on IPs	ANGOC, KPA, Komnas HAM, CHR	Ongoing
	Lobby AICHR (through SEANF) to set-up in its mechanism to review land issues	ANGOC, KPA, Komnas HAM, CHR	Ongoing
Strengthened dialogues among governments, CSOs, communities, NHRIs at regional and national levels	Participate in regional dialogues of ASEAN, AICHR, SAARC	ANGOC, LWA, AR Now!, CARRD, KPA, SK, NGO Forum, ADIC, WMC, HRTE, CIPO, SCW, MVI, HEKS, Forum Syd, ALRD, CDA, CSRC, EP	Ongoing
	Actively engage formal and informal policy processes at national level	ANGOC, AR Now!, CARRD, KPA, SK, NGO Forum, ADIC, WMC, HRTE, CIPO, SCW, MVI, HEKS, Forum Syd, ALRD, CDA, CSRC, EP	Ongoing
	Conduct scoping studies in South Asia	ALRD, CDA, CSRC, EP	To be determined
	Recognition of customary tenure in the new forestry law in Vietnam and land law in Laos	LIWG, Foreland/MRLG	Ongoing



KEY RESULT AREA	KEY ACTIVITIES	WHO	WHEN
Increased awareness and engagement in the formulation of national action plan of UN Guiding Principles on Business and Human Rights (UNGP BHR)	Conduct orientation workshops on UNGP BHR	ANGOC, AR Now!, CARRD, KPA, SK, NGO Forum, ADIC, WMC, HRTF, CIPO, SCW, MVI, HEKS, Forum Syd, Komnas HAM, CHR	Ongoing
	Participate in the formulation processes of national action plans of UNGP BHR	ANGOC, AR Now!, CARRD, KPA, SK, NGO Forum, ADIC, WMC, HRTF, CIPO, SCW, MVI, HEKS, Forum Syd, Komnas HAM, CHR	To be explored with Komnas HAM, CHR
	Regional dialogue on UNGP BHR	ANGOC, LWA, AR Now!, CARRD, KPA, SK, NGO Forum, ADIC, WMC, HRTF, CIPO, SCW, MVI, HEKS, Forum Syd, ALRD, CDA, CSRC, EP	To be determined

CAPACITY BUILDING		<i>Enhanced capacities of CSOs and communities on policy advocacy and dialogue through training and tool development</i>	
KEY RESULT AREA	KEY ACTIVITIES	WHO	WHEN
Standardized and accurate data related to land rights as part of evidence-based advocacy	Continue land monitoring initiative of Land Watch Asia	ANGOC, LWA	Ongoing
	Request GLTN to support the development of land tools	ANGOC, GLTN	Ongoing
Increased capacity through in-country and sub-regional dialogue and exchange	Develop network dialogue	Foreland, LIWG, LCG, NGOF, SK	July and August 2017
	Exchange Lao-Vietnam MONRE's cooperation	MRLG	Just started



NETWORKING <i>Popularize land rights as human rights advocacy through regional knowledge sharing and exchange</i>			
KEY RESULT AREA	KEY ACTIVITIES	WHO	WHEN
Increased solidarity among CSOs and communities at regional level	Participate in regional workshops	ANGOC, LWA, AR Now!, CARRD, KPA, SK, NGO Forum, ADIC, WMC, HRTF, CIPO, SCW, MVI, HEKS, Forum Syd, ALRD, CDA, CSRC, EP	To be determined
	Organize land rights fora in Peoples SAARC, SAPA		
	Cross country regional exchange visits	ALRD, CDA, CSRC, EP	
Increased awareness on land rights in the broader society	Engaging media	All	Ongoing