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A Regional Workshop on Land Monitoring Initiatives: Proceedings

21-22 April 2015
Brentwood Suites, Quezon City
Philippines



LAND WATCH ASIA

**A Regional Workshop on Land Monitoring Initiatives:
Proceedings**



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SUMMARY REPORT:

LAND WATCH ASIA

Regional Workshop on Land Monitoring Initiatives: “Towards an Accountable Governance on Land”

21-22 April 2015
Brentwood Suites, Quezon City, Philippines

Organized by the
Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)
In partnership with
Global Land Tool Network (GLTN), International Land Coalition (ILC) and Misereor

INTRODUCTION

By its sheer land size and population figures, Asia’s impact on key global issues is vastly significant. One such issue is global food security. Within Asia is found a third of the world’s agricultural area and 15% of the forests that remain. Three-fourths of the world’s farming households live in Asia, 80% of whom are small-scale farmers and producers (World Bank, 2008)—and most of whom do not own the land they till or have too little of it to be able to eke out a decent living.

Yet, decisions on who can own land and how land will be used and managed are made by different stakeholders with varied perspectives and objectives. Thus, central to the discussion on land rights is **accountable governance of land**. Civil society

organizations (CSOs) are called upon to continue their watchdog role as a countervailing force, as a critical intervention towards effective and accountable land governance is monitoring and advocacy by civil society.

At the same time, efforts to optimize global support for land rights are underway. On 11 May 2012 in Rome, the Committee on World Food Security (CFS), with membership of 98 countries, endorsed the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. Similarly, as a follow-up to the Rio+20 conference, governments and the international community have agreed to develop a new set of goals, targets and indicators that will be used for measuring and accelerating progress in reducing hunger and poverty. Thus,



the Open Working Group on the Post-2015 Sustainable Development Goals (SDGs) was created to propose SDGs for consideration and action to build upon the earlier Millennium Development Goals (MDGs). And an important contribution to the implementation of the Rio+20 outcome is the design of a **framework for collecting and monitoring tenure security**.

ANGOC and Land Watch Asia (LWA), with the support of the International Land Coalition (ILC) and Misereor, have developed a land monitoring framework which covers specific indicators on land tenure and access to land. Through this initiative, ANGOC recognizes the opportunity to mainstream land rights in the implementation of the SDGs. At the same time, in partnership with the Global Land Tool Network (GLTN), ANGOC,

ILC and Misereor organized a regional workshop on land monitoring initiatives. This undertaking is in pursuit of one of the recommendations arising from an earlier initiative, the “Regional Multi-stakeholder Consultation on Land Tenure in Asia-Pacific” co-organized by GLTN, UN-Habitat, FAORAP and UN-ESCAP.

This publication contains the major highlights of Land Watch Asia’s “Regional Workshop on Land Monitoring Initiative: Towards an Accountable Governance on Land” held in Manila in April 2015.

ANGOC and LWA express our gratitude to GLTN, ILC and Misereor for partnering with us in this endeavor. Special thanks as well to the participants and to the production team for their valuable inputs in preparing this Summary Report.



CONTEXT AND RATIONALE

Asia is rich with 34% of the world's agricultural area and 15% of the world's remaining forests. It is home to 75% of the world's farming households, and about 80% of these are small-scale farmers and producers. The poorest of the poor have practically no land, while those who have more land are slightly better off.

However, the political environment remains ambivalent, if not indifferent, towards upholding redistributive land and resource policies. Land and forests are seen more as tools for profit rather than for food security or environmental conservation. This phenomenon is manifested with the bias of national land policies towards commercial agri-business or extractive ventures and urbanization. Customary laws, if any, often conflict with or are disregarded by State laws. Though redistributive land reform policies are in place in some Asian countries, the various legislations in the country run into conflict with each other, causing the beneficiary sectors to fight among themselves.

On the other hand, global support for land rights needs to be optimized to promote this issue. For instance, the Committee on World Food Security (CFS), with membership of 98 countries, endorsed the Voluntary Guidelines on Responsible

Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security in Rome, Italy last 11 May 2012. These voluntary guidelines, developed as a result of negotiation among different groups of stakeholders – government agencies, civil society, the private sector, United Nations agencies – set out principles and internationally-accepted practices that may guide the preparation and implementation of policies and laws related to tenure governance.

As a follow-up to the United Nations Conference on Sustainable Development, governments and the international community have agreed to develop a new set of goals, targets and indicators that will be used for measuring and accelerating progress in reducing hunger and poverty. Thus, the Post-2015 Agenda is accompanied by the Sustainable Development Goals (SDGs), which build on the Millennium Development Goals (MDGs).



LAND WATCH ASIA (LWA)

In 2007, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) convened land activists and NGOs within the region working on land issues. The objective was to explore the possibility of undertaking a regional campaign to focus specifically on the issue of land and agrarian reform at both the national and regional levels. The outcome was the Land Watch Asia (LWA) campaign.

The LWA campaign aims to ensure that access to land, agrarian reform, and equitable and sustainable development in rural areas are addressed in national and regional development agendas. The objectives of the campaign are to:

- take stock of significant changes in the policy and legal environments;
- undertake national and regional advocacy activities on access to land;
- jointly develop approaches and tools; and
- encourage the sharing of experiences on coalition-building and actions on land rights issues.

As an initial activity, country papers were commissioned to look into the different policy and legal environments on land in Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, the Philippines and Sri Lanka, to identify the key actors working on land issues, and to formulate policy

recommendations that civil society organizations (CSOs) could undertake. Based on these studies, country campaigns were formulated, resulting in a Land Watch Asia regional framework for policy work and advocacy.

To date, the LWA campaign:

- has contributed to the process of policy change by catalyzing the advocacy work of partners and other campaigns in the country; and given the limited resources, has identified strategic areas for policy advocacy which were lobbied with governments through dialogues and mobilizations;
- at the country level, has served as a platform for land advocates and CSOs to strategize and share campaign activities; and has either strengthened or established formal and informal structures where Land Watch partners can present and lobby their respective policy proposals to



government agencies and international development organizations;

- has developed and piloted the CSO land reform monitoring framework which articulates the key assumptions and indicators, and formulates the methodology and mechanisms for CSOs to undertake monitoring – in order to engage constructively in policy dialogue with various stakeholders; and,
- developed knowledge products that have been disseminated widely, both in print as well as through uploading of the electronic files in the portal of ANGOC's website (<http://www.angoc.org/portal/agrarian-reform-and-access-to-land/cso-land-reform-monitoring-in-asia/>)

ANGOC and LWA recognize the opportunity in the Post-2015 Agenda processes to strategize in mainstreaming land rights, through the CSO land reform monitoring initiative, where specific indicators on land tenure and access to land have been utilized by the members.

WORKSHOP FOCUS AND OBJECTIVES

From its inception, a key target area of the LWA campaign was *governance of land issues*. Monitoring was seen not as an end in itself, but as a tool to probe deeper into that target area. "Monitoring land reform

programs (as well as land access for the rural poor) is therefore essential for its contributions to overall governance—land is equitably distributed, tenure rights are secure, and administration is sound and just." [Foreword, *CSO Land Reform Monitoring in Asia*, 2012]

Thus, the focus of the 2015 LWA regional workshop was "**Towards an Accountable Governance on Land.**" As ANGOC Chair Emeritus, Fr. Francis Lucas, stated in his opening remarks: "Central to the discussion on land rights is the governance of land, as different stakeholders with varied perspectives and objectives, decide on how land will be used and managed. The quest for an accountable governance on land remains a constant challenge. For CSOs, it is important to continue their watchdog role as a countervailing force. A critical intervention, then, for CSOs in making land governance effective and accountable is that of monitoring and advocacy."

This workshop focus was supported by the following specific objectives:

- present and discuss the land monitoring reports prepared by LWA and other groups;
- enhance the land monitoring framework in the light of pressing issues and global initiatives; and,
- explore ways forward to continuously build a regional platform for common action towards accountable and effective governance on land.



KEYNOTE ADDRESS:

THE PHILIPPINES' LAND REFORM EXPERIENCE

In his keynote address at the workshop, Secretary Virgilio de los Reyes of the Philippines' Department of Agrarian Reform (DAR) presented several substantive points, drawn from the experience of the country's own agrarian reform program. Among these is the need to view agrarian reform as more than mere physical transfer of land to landless farmers, but as the redistribution of a "bundle of rights" over an asset—including the rights to use and derive income from the transferred lands. Similarly critical, in the Secretary's view, is the need (only recently addressed in the Philippine Development Program 2010-2011) to adopt an agricultural policy that acknowledges *smallholder agriculture* as the base of the country's rural development—to make sure that *smallholders*, better known as agrarian reform beneficiaries, are at the forefront of agriculture.

With only 9% of private lands remaining for redistribution under the Philippines' agrarian reform program, the DAR is now taking an objective look at several areas for improvement and rectification:

- 1) ensuring that the ongoing digitization effort does not only provide transparency and accountability of land records, but does not sacrifice accessibility by ordinary people in the process;
- 2) uncovering possible 'distortions' in implementation such as awarding collective titles over lands that were not actually alienable or disposable, or selecting beneficiaries out of convenience rather than genuine community-based consultation;
- 3) upholding the farmers' right to self-selection regarding how and in what form (business unit) they will be collectivized, if needed; and
- 4) addressing the 'demographic realities' of the program—recognizing that beneficiaries do age, have children, and may wish to pursue other options, hence the need for a 'second-generation land transfer' mechanism from a beneficiary to a landless farmer.

Today, following years of land transfer, the challenge is how to enable the country's smallholders to 'engage the market.' A daunting task indeed, as that market is now dominated by huge, mainly international, corporations who have taken on the role that the state economy used to play, imposing quotas and production targets. There is also the growing reality that, for today's smallholders, "Agriculture is just one of the pathways out of poverty. As such, we must realize that staying in agriculture...is essentially a choice of the smallholder himself."



WORKSHOP DESIGN

In terms of design, the workshop was divided into the following:

- seven country presentations of LWA partners;
- three Mekong country presentations (Lao PDR, Myanmar, Vietnam);
- presentation and validation of GLTN scoping study on land tenure initiative in Asia-Pacific;
- inputs on global processes (Post-2015 SDGs, Voluntary Guidelines, Responsible Investments for Agriculture and Food Systems, Post-International Year on Family Farming, ILC's People-Centered Land Governance);
- inputs from three research/academic institutions in improving the monitoring framework (Bangladesh, Indonesia and Philippines); and
- parallel small group discussions (to discuss how to further improve the monitoring framework, how to link the monitoring initiative with post-2015 SDG processes and how to foster networking and exchange of information)

COUNTRY PAPERS¹

BANGLADESH

Land Reform Monitoring Report 2014

By Abul Barkat, Ph.D.

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Chief Advisor (Hon), Human Development
Research Centre (HDRC)

(Presented by Roshan Jahan Moni, ALRD -
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Land Governance Issues/Updates

As early as its 2011 Land Reform Monitoring Report, Bangladesh had formulated a Land Reform Development Index (LRDI), which was acclaimed by the academia, practitioners, and the society at large as an innovative and practical endeavor to track the state of land reform of a country. However, in its Report for 2014, it was pointed out that the experiences of acceptance of the LRDI and its outcomes by the government are yet to be satisfactory. The expected positive results are acknowledged to be dependent on the government's commitment and seriousness in addressing land reform itself.

¹ ANGOC shall produce a separate publication containing the abridged country monitoring reports (Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan and the Philippines), a regional summary and the updated land monitoring framework.

Indicators Used/Key Findings

Despite the updated information/data in this latest Report, it was also noted that, during the last three years, the value of the overall LRDI has remained almost unchanged—except for certain indicators, which are actually manifestations of a worsening situation (e.g., issues related to land grabbing and associated indicators, number of people killed per 100,000 population, etc.). In the last three years as compared to 2010-11, the absolute number of people killed due to land-related disputes and litigations has increased. However, the relative number has not increased, primarily due to Bangladesh’s increased population size during this period. Therefore, the relevant index value measured in terms of “number of people killed per 100,000 population” remains the same or near the same.

What is the practical use of the above LRDI results for development and monitoring of land reform in Bangladesh? The following could be the key directions to address:

- The overall LRDI in 2011 was 0.225. This has gone down to 0.221 in 2013. In a best land reform environment, LRDI should be close to 1. The country’s LRDI is closer to “zero,” implying that land reform is still in its embryonic stage. Therefore, vigorous efforts are needed to accelerate land reform in Bangladesh.
- Relatively speaking, both blocks of land reform (“access to land” and “land tenure”) are lagging much behind the expected level. However, between the two, the “access to land” block is lagging behind the “land tenure” block

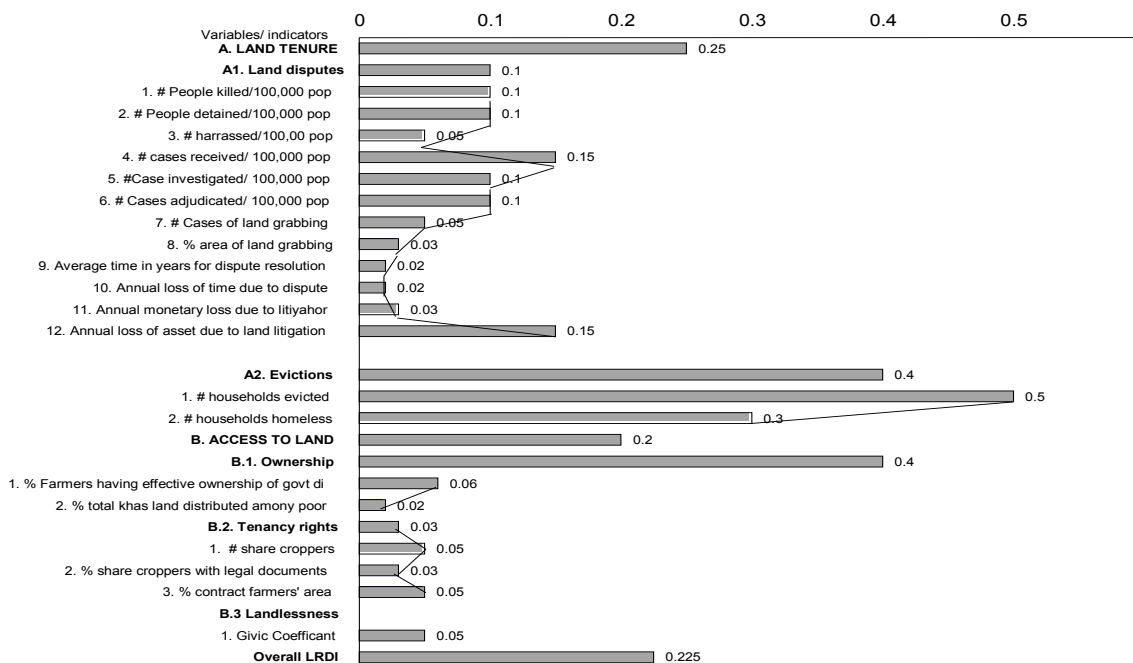



Figure 1: Land Reform Development Index (LRDI), Bangladesh 2010 and Three Years After

Source: Barkat, A. (2015) *Land Reform Report 2014: Bangladesh*. Association for Land Reforms and Rural Development (ALRD) and Human Development Research Centre (HDRC) [Unpublished].



(with transformed value* of 0.2 and 0.25, respectively). This implies that, although attention should be given to both blocks, greater emphasis should be given to the “access to land” block.

- Indicators with transformed value* — say those equal to or less than 0.02 — represent the least addressed domains of land reform, and therefore need aggressive interventions (including advocacy efforts).

**the formula for computing the transformed value is explained in the full country paper (contact <alrd@agni.com>)*

Recommendations

On possible new variables and indicators to be included in the Land Reform Monitoring Framework—specifically for the Bangladesh context—were also put forth: (i) Grabbing of land and forest of the indigenous peoples, religious minorities and other marginalized peoples; (ii) Acquisition of *khas* land (government-owned land) by state agencies for non-agricultural purposes (e.g., military cantonment, paramilitary purposes, so-called development projects, etc.); (iii) Vested Property Return Act implementation status; (iv) Status of implementation of CHT Accord, especially those related to resolution of land disputes; and (v) Land-related acts and policies implementation status.

If any of the suggested variables and indicators are to be included in the LRMF, this must be done by relevant stakeholders in a participatory way. Further, two different LRDI will need to be developed:

one for comparison purposes with other countries, and the other for understanding the dynamics of LRD in Bangladesh itself.

On Land Reform Development and Implementation of the LRMF

On the Macro-level

1. Institute a learning process of constructing a Land Reform Development Index (LRDI) and the monitoring scheme and tools with land-rights based NGOs working in the real field.
2. Continue more research on this endeavor for further refinement and consensus building involving the core team members deployed by ANGOC.
3. Organize large-scale dissemination meetings (seminars, conferences) to sensitize all relevant persons both at home and abroad including the development partners.
4. Share the LRDI and the associated monitoring scheme and tools with the relevant persons/departments in the National Parliament, government, academia, and civil society.
5. Organize expert group meetings to work out expected ideal situation/normative scenario for each indicator by time deadline (e.g., reduce the number of people killed/100,000 population by 10 times by the year 2020, and so on).
6. The government should get out of ‘politics of statistics’ and all national statistical documents should be designed to ensure comparability.



On the Micro-level

1. Undertake vigorous advocacy towards stopping land grabbing—involving Parliamentarians (for making relevant laws), law enforcement agencies, the Ministry of Land and the Ministry of Law, and the broader civil society.
2. Organize proactive efforts not only to ensure distribution of un-distributive *khas* land to the eligible poor, marginalized, and women, but also provide them with subsidized input, low/zero interest bank loan, and linking effectively with the market.
3. Reduce land dispute and litigations through an Alternative Dispute Resolution (ADR) mechanism to be instituted by the government in which the land rights-related NGOs and civil society may play a pivotal role.
4. Have civil society take to Parliament the newly-devised laws/amendments on land-water-forest that have been analyzed from a rights-based approach, have these passed, then ensure their implementation.
5. Institute a strong, active and permanent advocacy to stop/minimize the practice of evictions without prior acceptable rehabilitation.
6. Provide legal deeds for all share-croppers—with both government and civil society working hand in hand on this matter—in order to ensure empowerment of the tenancy right.

INDIA

Homestead Land in India: A Research Report


By Jill Carr-Harris and Aasha Ramesh

(Presented by Pradeep Priyadarshi, Ekta Parishad - <jillcarrharris@gmail.com>, <pragatigvs@gmail.com>)

Land Governance Issues/Updates

The distribution of homestead lands emerged as a national priority in India in 2012, preceding the large people's Jan Satyagraha march in October of that year. The Union Government was looking for a way to advance the land reform agenda without disrupting the interests of the current landholders. Thus the distribution of shelter land found its way into the listing of the Ten-point Agreement that was signed between the Government of India and the Jan Satyagraha in Agra on 11 October 2012 and has remained an important point of consultation with the new Government in power.

At the time of the discussions around the Ten-point Agreement in late 2012, the then ruling United Progressive Alliance (UPA) government headed by Congress finalized the draft of the Homestead Act for Parliamentary approval. The Planning Commission in the 11th Plan document had already recognized the “right to a roof over one's head to be seen as a basic human right” (Kumar, 2010).



Why the Homestead Land Issue is So Critical - At the national level in India, it has become apparent that land is being earmarked increasingly for corporations at the expense of the poor. So much so that a high-level report of the Committee on the State of Agrarian Reforms and the Unfinished Task in Land Reform spelled out 350 recommendations, specifically addressing *homestead rights*. It recognized that homelessness is an incidence of landlessness and was an urgent priority.

In 2012, the Rural Development Ministry and the Ekta Parishad advocacy team drafted the Rural Homestead Rights bill (*Annexure 1 in the full country paper*). It was based on the fundamental rights of the Constitution, and therefore gave the responsibility to the federal state to make and implement laws on homestead land, even though agricultural land was primarily a state subject. In effect, this Rural Homestead Rights bill seemed like a political opening in furthering the land reform agenda. It meant that state governments would be compelled to draft this act in their own states, focusing on all those without land on which to live.

However, when the new Government of Narendra Modi came to power, the land reform agenda and the draft Homestead bill was eclipsed by the introduction of a Land Ordinance (through an emergency Executive Order) in December 2014 and again in April 2015. This Land Ordinance (2014/15) modified the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement” Act, 2013 (Act No. 30 of 2013), virtually stripping it of the guarantees

protecting farmers (especially small and marginal ones) and the landless poor against dispossession and displacement. As this was part of the larger plan of increasing investment and industrialization, the Land Ordinance favored development based on urbanization, industrialization, massive infrastructure development, and so forth. This meant that homestead protection and distribution for rural people was suddenly replaced with government priorities towards urban housing and the establishment of 100 smart cities.

Currently there are ongoing efforts to have a National Homestead Rights Act in India as well as to formulate state acts. However, as homestead land is poorly researched, ongoing political advocacy requires more evidence-based studies to counter the government’s negligence on delivering land reform. Of the two states which are the subject of this research study, Bihar currently has a draft Homestead act while Telangana has none to date.

Indicators Used

The aim of this study was to raise the issue of homestead land once again, by showing the layering of injustices that have occurred particularly for the marginalized sections of the society—and to show homestead land as an important aspect of the land reform agenda in India.

The research problem explored was the number of people that do not have ownership rights but that reside in semi-permanent or permanent housing. The study also looked at the policies which



provide for homestead plots; and raised the distinction between those who have a homestead but no title, and those who are homeless due to lack of any physical shelter.

The Bihar and Telangana studies each surveyed two districts and each covered 400 households, totaling 800 surveys in four districts of two states. The survey form had 25 questions related to all aspects of homestead. (*The questionnaire is an Annex to the full country paper.*)

Key Findings and Analysis

From the Bihar Study - The Bihar study points to the various groups of Dalits and their acute situation of landlessness in the context of a genuine shortage of revenue land for homestead. The survey and focus groups showed how important it is to regularize the land on which people are currently living. Most of those surveyed lacked title, not the actual possession of land. Giving a land deed removes the family's insecurity. This would be most helpful to Dalit caste groups in helping to reduce discrimination, to agricultural laborers in increasing their negotiating space with landlords, and especially to women who are managing the households.

There is no denying that the problem of regularizing a three-decimal² plot, in which a family is currently living, does not address the family's expansion and space issues. This minimum plot size


does not allow for a milch cow or a small kitchen garden or any form of livelihood generation. However, given the current low availability of land in Bihar, such regularization is a first and necessary step. Otherwise, land pricing will make even a three-decimal piece of land an unfulfilled dream for those most in need.

Also it has to be borne in mind that the settlements which people inhabit are primarily caste-based neighborhoods. By regularizing where the communities live, the low castes will have some security as well as some power of decision making.

From the Telangana study - In the Telangana state study, the focus was on showing the relation of homestead land to the marginalized groups such as Dalits, *adivasis* or pastoral people. The Government had given land of 1 to 1.5 decimals for Scheduled Castes (SCs) and asked them to build their houses on it, but the communities were not aware of how to obtain their titles. Nomads, in contrast, wander around and are compelled to settle down on a piece of land identified by the government, which was allocated to them. As the community is impoverished, they have to set up *kacha* structures (one-room tenements). However, most of the people have been given a *patta*³ for the site that was allotted. But irrespective of whether they have the *patta* or not, all pay taxes for the houses annually depending on the type and size of the house plot.

² A unit of measurement commonly used in Bangladesh and India equivalent to 40.46 sq. m. or 0.004 ha (Farlex Financial Dictionary, 2012) Retrieved from <http://financial-dictionary.thefreedictionary.com/decimal>.

³ *Patta* is a legal document stating the actual owner of a land (Apna Complex, 2013. *Land patta and its importance as a legal document*. Retrieved from <http://blog.apnacomplex.com/2013/09/21/land-patta-and-its-importance-as-a-legal-document/>).



Respondents from both the districts surveyed in Telangana had various problems in accessing sites, houses, and grants for construction because they do not have proof of identification and the necessary personal documents.

All of the participants in the survey and focus group discussions were of the opinion that they should be given more than three cents of land for housing and preferred that the houses be constructed by the government itself. This is because accessing funds from the government for construction is a herculean task with red tape, massive documentation requirements, and rampant bribery. Tribal communities were of the opinion that government should construct houses as per the local culture. The *adivasis* are so used to living under the sky with open spaces, so the small cement block units that the government constructs is very restricting to these communities.

Another problem that surfaced in the research was that of people not being able to hold on to their land (and therewith their homestead) as they do not have the appropriate inputs, such as water, to cultivate the land.

There is also the situation where people live in homes (which they see as their own) yet they do not own the land—which

means that they can be displaced. This is the reason why people seek the *parcha*⁴ for claiming homestead right or, in some cases, use their tax slips to prove residency for a long period of time. Therefore having a title is an important defense against land acquisition by others or eviction. It is also important to be in the record of rights once the land deed is acquired.

In other instances, homeless people are offered the opportunity to acquire a piece of land. But the land that is offered is under the possession of someone else. The police and district officials do not take responsibility for settling the family with the land *patta*. In the focus group discussions in Telangana, it was evident that many people are not able to acquire land for this reason.

Conclusion

Since the Government of India has policies for redistributing land, the failure lies in insufficient transfer. The justification is that there is not enough available land. If the government can find so much land for infrastructural development and industrialization, then it is ironic that there is not enough to regularize homestead plots. It is for this reason that having the Homestead Rights Act is so important to regulate the states into providing homestead land for India's homeless.

⁴ "any settlement document" (Bihar Land Disputes Resolution Act, 2009)



PAKISTAN⁵

Country Land Reforms Monitoring Report, 2014

Society for Conservation and Protection of Environment (SCOPE)- <scope@scope.org.pk>

Land Governance Issues

The SCOPE paper indicates that there has not been much change in the situation in Pakistan since the last report on Land Reform Monitoring in 2013. After going through three incomplete, weak and failed land reform attempts—i.e., the West Pakistan Land Reforms Regulation 1959, the Land Reform Regulation 1972, and The Land Reforms Act 1977—Pakistan is still waiting for comprehensive and broad-based land and agrarian reform.

Under the land reform program in the current 2013-2018 term of the Pakistan Muslim League-Nawaz (PLMN), the ruling party of current Prime Minister Nawaz Sharif pledged in its election manifesto that it would reclaim and irrigate additional state land for allotment to landless *haris* (peasants, sharecroppers) and tenants. It will also undertake a land consolidation program to create viable units for modern agriculture. This manifesto, however, fails to take into consideration the broader context of agrarian reforms that enable efficient joint cultivation, extension

support, and most important, a fair contractual relationship to the tenants and share-croppers of large landlords.

More recently, the Supreme Court of Pakistan heard a petition filed in 2011 pleading the Court to set aside the 1990 judgment by the Sharia Court declaring land reforms ‘un-Islamic.’

Indicators Used

The Society for Conservation and Protection of Environment (SCOPE), the National Peasant Coalition of Pakistan (NPCP), and the Alliance Against Hunger and Malnutrition (AAHM) organized a number of consultations all over Pakistan, where the participants provided updates on the situation at the provincial and local levels. The process included consultation with stakeholders, analysis of their feedback, and desk studies.

In Pakistan, credible and consistent data for a comparative analysis to measure progress year by year is almost non-existent. Thus, SCOPE took this as a challenge to carry out an in-depth situation analysis in the near future to develop innovative ways and mechanisms that could ensure availability of reliable, consistent and timely data. For 2014, this CSO Land Reform Monitoring report for Pakistan is largely based on secondary sources and data collected anecdotally.

⁵ Based on the paper prepared by SCOPE.



Key Findings and Analysis

Budget

Agriculture Budget⁶

For the year 2013-14, the Punjab government allocated Rs92 billion to agriculture out of an estimated budget of Rs871 billion, Sindh earmarked Rs6.167 billion out of Rs617 billion, KP had Rs2.913 billion out of Rs344 billion budget, and Baluchistan had Rs7.87 billion out of Rs199 billion. In terms of budget percentage, Punjab appears to have done better by allocating approximately 10% of its budget for agriculture, while the other provinces allocated a negligible proportion.

R&D expenditure on agriculture

It is alarming to note that Pakistan spends only 0.21% of its agriculture GDP on agriculture R&D. More alarming is the trend that, in the past two decades, this proportion went down by 0.22% between 1991 and 2009. “Despite being an agrarian economy, Pakistan sets aside one of the lowest allocations to the research and development (R&D) of agriculture sector in the entire developing world” (Flaherty, Sharif & Spielman, 2012).

Recently, a Ministry of National Food Security and Research has been set up at the federal level to address food security concerns, and to coordinate food production and R&D of food- and agriculture-related issues in the country.

⁶ The ‘budget’ indicator is taken as budget allocated to the agriculture sector as a whole in Pakistan and not only towards land reform, as prescribed in the monitoring framework. A budget allocation specifically for land and agrarian reform is not available at present.

Policies

Land use planning


For centuries, land use in Pakistan has been delineated by family/tribal arrangements and access to land based on size of the household and kinship. Despite initiating a two-phase National Land Use Plan between 1998 and 2001, a comprehensive policy to regulate agricultural land use is long awaited. The project summary document reviewed for the National Land Use Plan outlined the procedure to establish GIS-based land administration systems (LAS). At present, all four provincial governments are implementing separate land administration systems (LAS) in terms of automation and computerization of land records.

Women’s access to land

Most of the political parties—including the ruling PMLN—are quite open to protecting the rights of women, as well as addressing the need to distribute state land among landless farmers including women.

Land rights in Pakistan are regulated by an intricate combination of civil, Islamic, and customary laws. Ownership and transfer of property are gender neutral. However, inheritance rights are subject to Muslim Personal Laws enforced under Sharia law. There is no direct provision in the Constitution on women’s right to inheritance but it does provide guarantees and principles of policy to ensure justice without discrimination.

In 2008, the PPP-led government envisioned redistributing state land to landless farmers, largely women.



Approximately 41,000 acres of land were distributed among 2,845 women and 1,184 men recipients.

In 2012, Pakistan's Khyber Pakhtunkhwa province passed a bill on Enforcement of Women Ownership Rights. This bill makes it a punishable offence to deprive women of owning property by any means including inheritance, gift, purchase, *mehr*⁷ or acquired by lawful means.

Foreign investment

In Pakistan, the first investment policy in 1997 paved the way for foreign and local investors to invest in several areas including agriculture. In addition, the promulgation of the Corporate Farming Ordinance (CFO) 2001 further allowed listed corporations to lease land in the country. In 2009, the Government of Pakistan in its agriculture policy announced its plans to offer one million acres of land to private investors under its corporate agriculture farming (CAF) initiative, potentially to Saudi or UAE private investment companies. There are different numbers quoted for land (i.e., up to 6 million acres) that the government is planning to make available to private investors. However, negotiations with Middle Eastern funds have been widely reported in the national and international press.

⁷ In Islam, a mandatory payment by the groom (or the groom's father) to his bride at the time of marriage in the form of cash or possessions, which then becomes her legal property.


Outcome Indicators

Land Tenure - Land in Pakistan is classified as state land, privately owned land, and land with communal rights under customary law. Land for which there is no rightful owner comes under the jurisdiction and ownership of either the provincial government or the federal government.

The major land tenure types in Pakistan are: 1) ownership, 2) term lease, and 3) sharecropping. Under ownership, private individuals and entities can obtain freehold rights to land, and communal ownership rights are recognized under customary law. Term leases, which are common for parcels of agricultural land over 30 ha, are for fixed rates, may run for single or multi-year terms, and may be written or oral agreements. While sharecropping arrangements are common for land less than 30 ha—with roughly 67% of Pakistan's tenant-operated land under sharecropping in 2000, and 48% of sharecropper households falling below the national poverty line.

Disputes - A highly ineffective, duplicative and inadequate land administration system in Pakistan gives way to rural communities to subscribe the customary system for land transfer and land dispute resolution, creating insecurity of land tenure and providing cover for practices against women's right to access land.

Land disputes are the most common form of dispute filed with the formal court system. Between 50% and 75% of cases brought before lower-level civil courts and the high courts are land-related disputes and around a million cases are pending in



various courts countrywide. The Human Rights Commission of Pakistan (HRCP) also documented several cases or murders as a result of land disputes.

A recent development in KPK province was the introduction of mobile courts, intended to provide relief to the complainants and provide justice at their door steps. Recently, a mobile court decided 31 cases, 8 were land disputes and some had been in courts for the past 10 years.

It is expected that the initiative from provincial governments in terms of automation and computerization of land record would help reducing the land disputes in rural Pakistan.

Access to Land

Ownership - An increase in the number of very small and small farms (i.e., up to 5 acres) is observed, while medium-size farms are decreasing. Surprisingly, the number of large and very large farms (i.e., 25 to 150 acres) is falling but at a very slow pace. One possible explanation could be the natural process of inheritance or distribution of land among family members, which consequently reduces the farm size. The sharpest increase among small farms is noticed in the categories 'under 1 acre' and '1 to 2.5 acres.'

The data from the Pakistan Bureau of Statistics (PBS) shows that approximately 5% of agriculture farms are spread over 36% of Pakistan's cultivable land. However this shows a highly unequal land ownership which ultimately dictates economic and political order in rural Pakistan.

Based on PBS data, the 'farm area by farm size' statistics have changed in the past five decades, but there is still a long way to go. Large and very large farms (50 acres and above) still account for 35% of the total cultivated land in Pakistan. It is interesting to note that, between 2000 and 2010, there was an increase of 3% in farms 150 acres and above—possibly due to accumulation of large plots of land by corporate investors.

Tenancy Rights - Despite working on the land for generations under various arrangements, tenants' rights are routinely violated and the legal framework provides very little protection in the event of dispute and eviction.

The Pakistani state does not have the capacity to intervene to regulate the terms of contracts between large landowners and tenants. Presuming that legislated measures would be automatically complied with, despite existing administrative mechanisms being biased towards large landowners, was thus a faulty assumption.

The landlord and tenants' rights and responsibilities of agricultural land in rural Pakistan are predominately regulated by four Provincial Tenancy Acts: Punjab Tenancy Act, 1887; Sindh Tenancy Act, 1950; NFWP Tenancy Act; and Baluchistan Tenancy Ordinance, 1979.

Landlessness - It is estimated that between 20% and 40% of rural households in Pakistan are landless or near-landless and access to agricultural land is decreasing, forcing them to either lease or sharecrop land when they can or to work as laborers on and off farms. Some authors and institutions even estimate that 60% of



rural households in Pakistan are landless, thus pointing towards highly skewed landownership.

The GINI coefficient measure is commonly used to estimate equality in income as well as other social indicators such as land ownership. A score of 0 indicates perfect equality, while a score of 1 indicates perfect inequality. In 2000, the GINI coefficient in Pakistan—including landless households—was 0.86 (World Bank 2007).

Conclusions

The CSO land monitoring initiative is a step in the right direction in the Pakistani context where land ownership is unequal and skewed. The failure to implement land reform effectively has caused severe concentration of land in the hands of a small proportion of big landlords. Women, religious minorities, and indigenous groups are in a further disadvantageous position.

The more worrying development is the Pakistan government's ill-planned Corporate Agriculture Farming (CAF) policy. This policy promotes and invites commercial entities to acquire agricultural land in Pakistan, thereby threatening the survival and food security of local inhabitants.

NEPAL

CSO Land Reform Monitoring Report, 2013/2014


By Jagat Basnet

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This report from the Community Self-Reliance Centre (CSRC) admits that, to date, there has been no independent study on the land reform process in Nepal and on the country's land and agrarian reform situation. Thus, this initial effort focuses on a review of the programs and policies of the Ministry of Land Reform and Management, as well as on two specific aspects: 1) land rights violations, evictions, and harassments in 13 (out of 75) districts, and 2) access to land and agrarian reform by marginalized people. The data was generated from field research and secondary sources.

Land Governance Issues/Updates

During the election of November 2013, Nepal's major political parties voiced their support for land and agrarian reform, in principle, through their election manifestos and in dialogues between land-poor and landless farmers and the leaders of the political parties. In the past, there had also been similar commitments made, but little was implemented due to lack of political will.



As a result, between July 2013 and June 2014, landless and tenant farmers organized over 40 major demonstrations across the country demanding comprehensive articulation of land reform/rights issues in political parties' manifestos, a commitment to have a land rights focus in the new Constitution, and a stop to forced evictions. The same period also witnessed large numbers of landless farmers evicted by forest authorities through the use of force.

With no amendments in the Land Reform Act 1964 since 2008, over 40,000 tenant farmers who have filed cases have been waiting to receive the 50% of the land they have been tilling, to which they are entitled.

For its part, the Ministry of Land Reform and Management has introduced a land use policy and is drafting an umbrella National Land Policy with the collaboration of civil society organizations (CSOs) and farmers' organizations. It has also developed a 13-point action plan to implement scientific land reform as recommended by high-level commissions. But this has yet to be implemented.

A Landless Problem Solving Commission was formed in January 2012 to identify landless people and provide land in 25 districts. However, after a year-long effort, the Commission was unable to provide identity cards for the landless people and was therefore dissolved.

A team of consultants has meanwhile submitted to the government of Nepal the Agriculture Development Strategy (ADS) 2015-2025, which has yet to be

approved. But already, farmers and CSOs have misgivings about its contents and strategies.

Land grabbing by the elite is growing and agricultural land is being converted for non-agricultural uses—a major concern for the land rights movement. CSRC has undertaken research on these developments and their implications in a few selected pockets.


Indicators Used

After consultations with NLRF, strategic partners, and concerned government officials, CSRC developed two sets of CSO monitoring indicators: one focused on land rights violations, evictions, and harassment; and the other focused on access to land and relevant policies/programs. A one-day orientation program was then organized for DLRF members, land rights activists, and land rights campaigners and coordinators regarding the collection of relevant data and information from the field.

Relevant data were likewise collected from various secondary sources, such as the District Land Revenue Office, the District Land Reform Office, the District Court and Police Offices, the Ministry of Land Reform and Management, the Ministry of Agriculture, and the Ministry of Finance.

Findings and Analysis

Budget - In terms of the national budget share for land reform activities, only 0.55% of the national budget was allocated to the Ministry of Land Reform and Management



for the period 2013/2014. Although this was a 37% increase from the previous fiscal year 2012/2013, no new policies and programs have been initiated by the Ministry as most of its allotment goes to administration costs.

Agriculture - As per the Agriculture Census report, agriculture is contributing to Nepal's GDP by 35%, the highest in South Asia. However, importation of agriculture products increased from Rs. 99.35 billion to Rs. 127 billion (17.6%) in 2013/2014. The number of landowners increased from 9,276,012 to 9,749,148 (5.04%) and the plots of land increased from 27,389,012 to 28,549,358 (4.23%). Total land revenue increased from Rs 7,150,894,630 to Rs 8,379,195,630 (17.18%) in fiscal year 2013/2014.

It was also reported that, in terms of private investment in agriculture, commercial banks invested a total amount of NRS 14,290,900,000 in agriculture in 2009/10, which increased to NRS 50,909,800,000 in the year 2013/14. But as per media reports, such investments are concentrated in Kathmandu and other urban centers, and benefit only the rich class and not the marginalized and rural people.

Women and land - As per statistics from the Ministry of Agriculture (2012), 1,030,000 ha of agricultural land remain unused, while 3,091,000 ha are being utilized. Only 19.71% of women own a meagre piece of land. Although they are the main producers or workers of agriculture land, still 80% of women deprived from the land rights.


Land conflicts, harassment, and evictions

- In the course of their land rights struggle, landless peasants, women, and smallholders have been detained, harassed, and evicted. They have also filed—and are themselves facing as well—cases involving land disputes. As per the field report from 13 out of 75 districts, 31 persons (21 male and 10 female) were detained due to land conflicts in 2013/2014. Similarly, 5,968 people (3,099 male and 2,870 female) were harassed during this same period; while 472 cases from landowners and 1,152 cases from tillers (a total of 1,624 cases) were filed at government offices. Out of those cases, 646 were investigated and 533 were adjudicated. Also in this period, 760 families were evicted and 40 households became totally homeless due to this eviction. As per the report of the Department of Land Reform and Management for 2014, a total of 49,202 cases at the land revenue office have yet to be decided.

Positive steps taken - The Government of Nepal has continued the waiving of taxes for women by 25% in urban areas, by 30% in hill areas, and by 40% in remote areas. The Government has also drafted an Agriculture Development Strategy and shared it to the general public for discussion. For its part, the Ministry of Land Reform and Management plans to develop a digital data base of land plots and land owners in the current fiscal year.

Conclusions

The Government of Nepal has no mechanism for independent monitoring and evaluation of land reform in the



country. While they have been conducting some reviews within their Ministry mechanism, these are not transparent nor do they involve the participation of CSOs and marginalized people. Reports which they have published are missing some of the district records and information. The Ministry of Land Reform and Management itself admits that it does not have a realistic data base system.

Recommendations

For government/Ministry of Land Reform and Management

- To ensure the land rights of marginalized farmers, form an independent land monitoring committee to review the Ministry's plans and progress, and make recommendations for the rights of marginalized people.
- Ensure the implementation of its recommendations by the independent committee.
- Option: CSOs may also extend financial and human resource help, but government should recognize the work of CSOs and provide support to them as well.
- Undertake wider consultation and partnership with concerned stakeholders for greater transparency and accountability of its land reform efforts.
- Earmark a budget for independent land reform monitoring and review of policy gaps on land issues.
- Invest the total revenue which they generated from the land revenue or land reform offices.

- Support the land reform from the VDC or DDC and develop the policy and mechanism for this.

For CSOs

- Form a common platform among all the CSOs working on land reform issues, particularly the development of a CSO monitoring mechanism.
- Generate evidence-based cases and support for the policy formulation process.
- Generate, disseminate, and use relevant information and data to inform the land reform advocacy campaign.
- Coordinate with other stakeholders for policy development and implementation, and for greater support for land reform from below.

For donors

- Continue and increase funding support to develop land reform monitoring systems, CSO capacity building, and further research activities.
- Support collective efforts on land reform, such as participation and ownership by marginalized people, CSOs, and government institutions.

For the Land Rights Movement

- Mobilize its members for land reform from below and pressure political parties and stakeholders to support land reform.



INDONESIA

Land Reform Monitoring Report 2014

By Iwan Nurdin

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Since the passage of the Basic Agrarian Law No. 5 of 1960, the Indonesian government has had an obligation to its people to implement the agrarian reform (land reform) agenda. However, the agenda was never implemented—whether within the New Order government of Soeharto or after it. This is despite the Basic Agrarian Law No. 5 having been strengthened by the MPR decree No. IX/2001 on Agrarian Reform and Natural Resources Management in November 2001.

This report by Konsorsium Pembaruan Agraria (KPA) presents the main agrarian problems in Indonesia in the light of the political context in 2014—an election year for the country. It focused its monitoring on two main areas: (1) land policies and (2) agrarian conflicts.

Land Governance Issues/Updates

Law No. 6 of 2014 on Village Affairs - On 15 January 2014, Law No. 6/2014 on Village Affairs was passed after seven years of debate. This law is intended to address rural development problems, such as budget imbalances, inequality of natural resources management in rural areas, and inequality of infrastructure development. It also hopes to encourage rural transformation and rural people and


indigenous people (IP) empowerment in agrarian reform implementation, as every village government will receive a generous development fund annually from the central government. (This law defines ‘rural area’ as one in which the main activity is agriculture—including natural resources management—with area functions such as village housing, infrastructure facilities, social services, and economic activities.)

This law provides a chance for agricultural and rural development in which the village government and people are the main actors. The challenge, however, is ensuring transparent village financial management for the benefit of the people.

The Land Bill - With the 1960 Basic Agrarian Law (BAL) marking its 54th year, there was a push by the Indonesian Parliament and Government to pass the Land Bill to be a substitute for the 1960 BAL. It was intended as an ‘operationalization bill’ for the BAL, the provisions and details of which needed to be aligned with the present agrarian conditions—while upholding the broad agrarian dimensions (not the narrow sense of land) and the populist principles held highly in the BAL.

Basically, the Land Bill is envisioned to translate certain provisions of the BAL, specifically the ones governing land. In addition, civil society has further expectations of the bill:

1. Integrated and wholistic approach on addressing land issues among various government agencies.
2. Address agrarian conflicts.
3. Implement agrarian reform.

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4. Strengthen the rights of indigenous peoples (IPs), women landless tillers, and small peasants.
 5. Strengthen land use through just spatial plans which protect the environment.

Constitutional Court Decision on the Judicial Review of Peasant Protection and Empowerment Legislation - 2014 was marked by a victory of the civil society movement in the fight for peasant constitutional rights. The Indonesian Constitutional Court had earlier granted a judicial review of Law No. 19/2013 on Peasant Protection and Empowerment (Perlitan), in response to a case filed by the Advocacy Team of Peasants' Rights. In the resulting ruling on 5 November 2014, the Constitutional Court granted the rewording of certain key terms and phrases in the law to more strongly safeguard peasants' rights.

The success of civil society's lawsuit against the Perlitan legislation is seen as 'a breath of fresh air' for peasants' position and status in the eyes of the law. Further, the law also provides security to peasants through the granting of free state land (up to a maximum of 2 ha in an agricultural area), including the government's obligation to provide capital loans for peasants.


Civil Society Lawsuit on Law No. 18/2013 on Prevention and Eradication of Deforestation - Civil society once again—through an Advocacy Team of Anti Forest Mafia—filed a lawsuit against Law No. 18 of 2013 on the Prevention and Eradication of Deforestation (P3H). A number of this law's articles were assessed as law enforcers and corporations as violations guided as

forest protection acts. Therefore, in order to fulfill and protect the constitutional rights of indigenous peoples, local people, and peasants within, surrounding, and in direct contact with forest claimed-areas, such a judicial review of the Law on P3H by the Constitutional Court has become a necessary and relevant cause to fight for.

Joint Regulation on Procedures for Settlement of Land Tenure Inside Forest Areas – On 17 October 2014, a Joint Regulation was issued by the Ministry of Domestic Affairs, the Ministry of Public Works, and the Head of the National Land Agency on Procedures of Land Tenure Settlement Inside Forest Areas. It was expected to address problems of peasants and IPs whose land claims or other evidence of ownership have become sources of conflict regarding tenure and management inside forest areas. Now they would have the chance to register their rights/claims to be acknowledged and legalized by government. However, the joint regulation also contained a number of challenges, such as those concerning status acknowledgment of IPs and generalizing peasants/IPs with other applicant groups (individual or government) in applying their claims/rights.

Institutional Changes on Land, Forest and Rural Development - Under the previous administration, President Soesilo Bambang "SBY" Yudhoyono was unable to direct his ministers/heads of agencies to sit together and put an end to sectoral-ego⁸ in the agrarian sector and ensure the fulfillment

⁸ An approach when institutions work in a sectoral manner.



of agrarian reform promises. Therefore, in order to realize Nawa Cita, which targets to distribute 9 Million ha of land to peasants, it is necessary for the current President, Joko “Jokowi” Widodo, and his working cabinet to achieve coordination and cooperation among the ministries/institutions implementing agrarian reform. And this effort must be led directly by the President himself. The primary ministries concerned with bringing the Presidential agrarian reform vision and mission to reality are:

- **Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN)**- The establishment of this Ministry by Jokowi was in response to the demands of agrarian reform groups. It is envisioned to protect the millions of peasant, IP, and villager households, which have been living within forest areas without any legal protection, simply because there was no administration system for land rights that applied to them. This would entail making adjustments in the many land and agrarian resources legislations and regulations which have been overlapping for years—as many as 632, from legislations at the national level to regulations at the minister level (National Land Agency, 2013).


As mandated by MPR Decree No. IX/2001 on Agrarian Reform and Natural Resources Management, the Ministry should be the primary mechanism for national legislation concerning agrarian affairs and natural resources—thereby answering the ‘sectoral-ego’

problem among ministries/institutions in the land, plantation, forestry, energy/mineral resources, agriculture, and coastal-marine sectors.

Further, a primary task of the Ministry is the redistribution of 9 million ha of land as promised in the vision and mission of Jokowi-JK, as well as the resolution of agrarian conflicts which have been categorized into structured, systemic, and massive conflicts. It should immediately identify which lands would become the object of agrarian reform, i.e., all types of state land not subjected for redistribution (maximum excess land, absentee land, autonomous ground); productive forest land that can be converted; abandoned land; and concession land that has been the source of agrarian conflicts.

In addition, the Ministry should ensure that the beneficiaries of agrarian reform are landless tillers (farm workers), peasants, IPs, and other poor people groups whose livelihood depends on land as their primary production tool. It should also ensure active participation and involvement of local people and existing people’s organizations (peasant unions, IP organizations, fishermen’s unions, etc.) in determining agrarian reform objects and beneficiaries.

In all these undertakings, the Ministry of ATR/BPN must work in coordination with the Ministry of Environment and Forestry, the Ministry of Agriculture, and the Ministry of Village Affairs, Disadvantaged Area Development, and Transmigration.

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- **Ministry of Environment and Forestry** - Despite the sectors of environment and forests being joined under one Ministry, these have frequently clashed with each other on matters involving the agrarian sector. In the context of agrarian reform implementation, the forestry dimension should merge into the environment dimension, and not the other way around.

The Ministry of Environment and Forestry has an important role, considering that most agrarian reform objects are located within forest areas, as a result of the Law No. 41/1999 on Forestry claims. This law had led to overlapping of mandates between the Ministry of Forestry and the National Land Agency regarding agrarian resources tenure, use, and management. Therefore, in the Jokowi-JK government era, there must be strong cooperation and coordination between the Ministry of ATR/BPN and the Ministry of Environment and Forestry in contributing to agrarian justice through providing agrarian reform objects from within forest areas.


- **Ministry of Agriculture** - In addition to achieving agrarian justice, another objective of agrarian reform is to bring about food security and independence for the nation and its people. Thus, the Ministry of Agriculture should ensure that peasants, IPs, and other marginalized groups are able to make productive the land distributed through agrarian reform. The Ministry should also encourage ecological restoration and natural resources sustainability in the agriculture sector.

The agrarian reform program implemented by the Ministry of ATR/BPN should, therefore, be in synergy with the Ministry of Agriculture, considering that the latter is directly related to the process of food production and food security, key factors to peasants' and villagers' prosperity.

Furthermore, the Ministry of Agriculture has a responsibility to decrease food importation, end agricultural (food) land conversion, and prioritize capacity building and empowerment of peasants and fishermen to have control over their use of seeds, fertilizer, and pesticides. As such, this Ministry is one of the foundations of agrarian reform success.

- **Ministry of Village Affairs, Disadvantaged Areas Development, and Transmigration** - Those belonging to the poor sector in urban areas are often informal workers, workers in the manufacturing sector, and migrant laborers—most of whom are former rural inhabitants who had left their villages because of their lack of assets and access to land and natural resources. Thus, the passage of the Law on Village Affairs and the move of government to accelerate village development through the Ministry of Village Affairs, Disadvantaged Areas Development and Transmigration must likewise be in line with the agrarian reform agenda.

Some priority matters for the Ministry to address: (1) villages as legal subjects and beneficiaries of agrarian reform can be created through a Village



Property Business which controls and manages land and other village natural resources, such as village forests, ancestral forests, and land of the village treasury; (2) villages as living spaces for agrarian reform beneficiaries who are peasants, agricultural workers, and IPs who, together with the village government, are primary actors in village development; and (3) village government, villagers, and people's organizations (peasant unions) taking the lead in determining agrarian reform subjects and objects.

Key Findings and Analysis

For this 2014 report, KPA focused its monitoring on agrarian conflicts which they characterize as 'structural agrarian conflicts.' These are caused by various policies or public officials' decisions which have led to the grabbing of people's land and resulted in social, economic, and political impacts. Therefore, land disputes involving individuals, inheritance rights, or private-corporate disputes are not included in the agrarian conflict categorization presented in this report.

Data Collection Method - The quantitative data on agrarian conflicts throughout 2014 recorded by KPA were from victims who reported the incidents through its network partners at both the national and local levels. Other data were also gathered by monitoring mass media news reports (print, electronic, and on-line). It may be concluded, then, that the number of conflicts presented is actually a minimum of those that, in fact, happened or are happening. Not all areas of the country

could be covered, especially with regard to their agrarian conflict situation; and media coverage of agrarian conflict issues tends to be limited.

Agrarian Conflict Number - For 2014, KPA recorded at least 472 agrarian conflicts throughout Indonesia. These involved 2,860,977.07 ha of land, and affected at least 105,887 households. Along with the Masterplan project on Indonesian Economic Development Expansion (MP3EI), which stressed on infrastructure development, the highest number of agrarian conflicts in 2014 can be seen in infrastructure projects—with at least 215 agrarian conflicts (45.55%) in this sector alone. Plantations ranked second, with 185 agrarian conflicts (39.19%). The rest were from the various sectors: forestry with 27 conflicts (5.72%), agriculture with 20 conflicts (4.24%), mining with 14 conflicts (2.97%), water and marine with 4 conflicts (0.85%), and 'others' with 7 conflicts (1.48%). Compared to 2013, the number of conflicts had escalated by 103 incidents, or 27.9%.

Observing the large number of agrarian conflicts caused by infrastructure development throughout 2014, it can be surmised that the implementation of the Law No. 2/2012 on Land Acquisition for Development in Public Interest and its other derivative regulations is a major cause of the ease of land grabbing in the name of development. Another critical factor was the implementation of the MP3EI program which divided Indonesia's mainland-water area into six economic corridors based on primary commodities. The intensified production necessitated increased infra-

structure which has led to destruction of natural resources and harm to the environment.

KPA records for the last 10 years show that, from 2004 to 2014, there have been 1,520 agrarian conflicts on 6,541,951,000 ha of land, involving 977,103 households. That translates to an average of two agrarian conflicts per day, 1,792 ha of people's land grabbed per day, and 267 households per day whose control and management of their rights have been taken away.

Agrarian Conflicts Coverage – In terms of the size of area covered or affected by the recorded conflicts in 2014, the water and marine sector was in the highest position with 1,548,150 ha (54.11%). Next was the plantation sector with 924,740.09 ha (32.32%), followed by the forestry sector with 271,544 ha (9.49%), the infrastructure sector with 74,405.16 ha (2.6%), the agriculture sector with 23,942.7 ha (0.84%), 'others' with 11,242 ha (0.39%), and the mining sector with 6,953 ha (0.24%). The water and marine sector had the broadest agrarian conflicts coverage due to the annexation of mineral and gas concessions on the Malaysia-Indonesia border. This was an escalation in coverage area for this sector of 1,579,316.91 ha (123%) compared

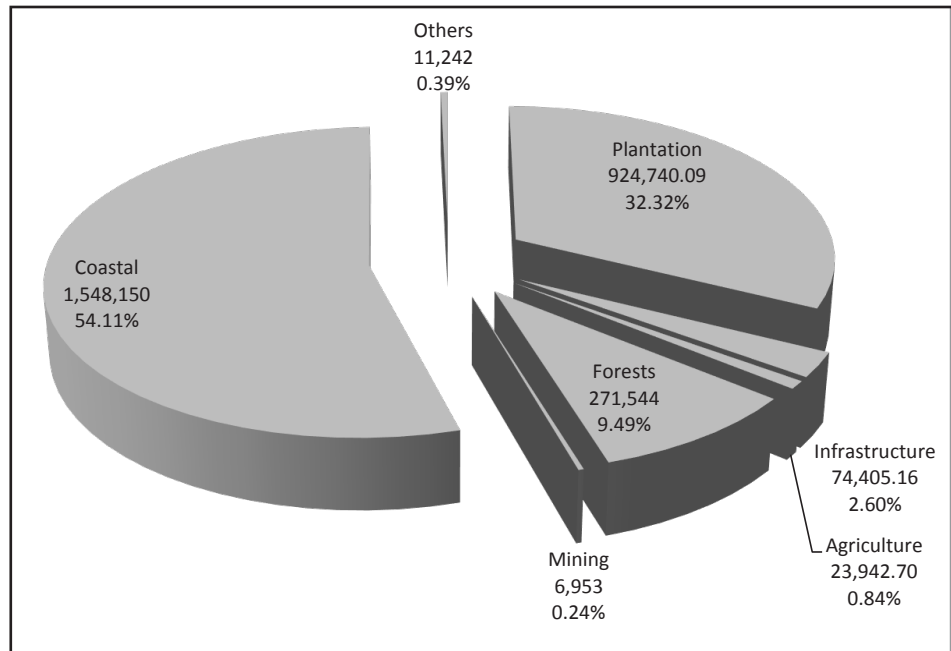


Figure 2: Coverage of agrarian conflicts per sector in ha and % (KPA, 2014)

Source: Nurdin, I. (2015). *Indonesia land monitoring*. Consortium for Agrarian Reform (CRA) [Powerpoint slides]

to 2013. Every year, the agrarian conflicts coverage area continues to rise. Over the last 10 years, agrarian conflicts have involved a total of 6,541,951,000 ha.

Victims and Actors of Violence in Agrarian Conflicts – The number of victims of violence related to agrarian conflicts is likewise increasing every year. For 2014, there were 19 killed, 17 shot, 110 injured through physical violence, and 256 arrested in the course of such conflicts. This level of violence in agrarian conflicts shows that the Indonesian National Army and the Indonesian National Police have failed to provide and enforce security for the victims, as well as ensure the people's livelihood rights over their land and water resources. In fact, the police and army involvement has worsened the acts of intimidation and terror against villagers.



In terms of actors of violence in agrarian conflicts within 2014, the number of cases dominated by police forces was 34, by villagers was 19, by corporation security was 12, by thugs was 6, and by the Indonesian National Army was 5. Repressive measures taken by security forces, corporation security, and thugs worsened the conflict situations in the field. The Indonesian National Army/ Indonesian National Police always served as the 'right hand' of corporations and of the political/government elite.

Within the last 10 years, a total of 85 people have been killed, 110 shot, 633 wounded from physical violence, and 1,395 arrested. This shows that the use of arrests in dealing with agrarian conflicts is on the rise. In the course of KPA's advocacy work on agrarian conflicts, especially the ones which involved its members (peasant unions, IP organizations, and urban poor groups), KPA also had data that there were 260 victims of agrarian conflicts perpetuated by state apparatus (131 in West Java, 44 in Central Kalimantan, 17 in North Sumatera, 15 in Central Sulawesi, 14 in Sumatera, 13 in Central Java, 11 in NTT, 8 in East Java, 4 in Bengkulu, 2 in West Kalimantan, and 1 in East Kalimantan).


Agrarian Conflicts' Incidence by Province
- In 2014, KPA's records showed the 10 provinces with the highest incidence of agrarian conflicts: Riau 52 conflicts (11.02%); East Java 44 conflicts (9.32%); West Java 39 conflicts (8.26%); North Sumatera 33 conflicts (6.99%); South Sumatera 33 conflicts (6.99%); Central Java 26 conflicts (5.51%); DKI Jakarta 25 conflicts (5.3%); Banten 20 conflicts (4.24%); South Sulawesi

19 conflicts (4.03%); and Jambi 17 conflicts (3.60%). It is possible, however, that there could be latent agrarian conflicts in certain provinces which did not go off in 2014.

The high number of conflicts in Riau points to the vast expansion of industrial forests and oil palm plantations there. The granting of concessions on people's governance areas to corporations by public officials has resulted in what amounts to land grabbing from those who had been controlling and managing the land. Next to Riau, all the provinces in Java (East Java, West Java, Central Java, DKI Jakarta and Banten) had the highest incidence of agrarian conflicts. This points to the Javanese forest monopoly by Perhutani, PT Perkebunan Nusantara (PTPN)⁹ operation, and other expansion projects and infrastructure developments as causing the rise in agrarian conflicts in Java. In the infrastructure sector, the incidence of conflicts increased from 105 in 2013 to 215 in 2014, a significant rise of 104%.

Agrarian Conflicts Stakeholders - Disputes over land and natural resources in various areas of the country showed the following groups of stakeholders involved: 221 agrarian conflicts involving people against private corporations; 115 conflicts involving people against government (central/region); 75 conflicts involving people against people; 46 conflicts involving people against state corporations; and 18 conflicts involving people against Indonesian National Army/ Indonesian National Police.

⁹ A state-owned plantation company and the largest sugar producer in Indonesia.



State and private corporation control and tenure over agrarian resources is seen to be the primary cause of agrarian conflicts. In the plantation sector, for instance, 26 agrarian conflicts were recorded of people vs. a state-owned enterprise plantation, and 85 conflicts of people against a private plantation corporation (majority in oil palm production). While in the infrastructure sector, it was recorded that 76 state corporations and 41 private corporations had caused agrarian conflicts.

Perhutani Forest Area Monopoly - One case in particular is that of the state-owned enterprise in the forestry sector (Perhutani) which dominates agrarian conflicts with people, as a consequence of the Perhutani monopoly over Javan forest governance. This has become a source of agrarian structure injustice¹⁰ in the Javan forest area, as the Perhutani area is bordering at least 6,172 villages, and there are 366 villages within the forest area. This situation means that at least 21 million citizens live within or bordering the Perhutani area.

In 2014, nine locations of Perhutani claims were recorded as causing agrarian conflicts with local villagers. Furthermore, claim disputes and conflicts between local villagers' living area and the Perhutani area almost always ended in the arrest of villagers.

¹⁰ Conflicts caused by injustices in ownership, control, and management of agrarian resources (Komnas HAM, KPA, and WALHI, (2014). *Agrarian Conflicts Resolution Jokowi-JK Must Be Priority*. Retrieved from <http://www.kpa.or.id/news/blog/english-agrarian-conflicts-resolution-must-be-jokowi-jk-priority/>).


Perhutani claims that the boundaries of its management area had already been set since the Dutch colonial era (1865-1930s). However, its Minutes of the Boundaries (BATB) have never been transparent. That is why the 1960 Basic Agrarian Law clearly mandated that Western rights over land should be converted as of 1980 at the latest.

If Perhutani BATB asserts the establishment of state rights (*staatsdomein*) over the Java and Madura teak forest, the 1960 Basic Agrarian Law had already erased the effectivity of colonial agrarian legislations. Therefore, Perhutani's control over Java forest areas based on colonial BATB no longer applies in independent Indonesia and its monopoly should be dissolved.

Conclusion

KPA carried out the following activities in line with this Monitoring Report:

1. ***Documentation of land conflicts*** - KPA documented the data of agrarian conflicts nationwide from January-December 2014, by recording the conflicts reported through mass media and through members of the KPA regional network to the KPA national secretariat. The monitoring focused primarily on 'structural agrarian conflicts,' which are those caused by various policies or public officials' decisions which resulted in land grabbing and social, economy and political impacts. Individual land disputes and those involving inheritance rights or private-vs.-corporate disputes were not included in the monitoring.



2. *Discussion on Agrarian Conflict* - In line with recording the data, the KPA legal aid team discussed several cases to increase public awareness on the impact of land conflicts. They organized media briefings and made a formal report to the National Parliament and the National Commission on Human Rights. A major case in 2014 took place in Karawang Wes Java Province where hundreds of households were evicted by land grabbing for purposes of building an industrial area.

3. *Monitoring land policies and advocacy on the Land Bill* - KPA continues to monitor the regulations that are still in the deliberation process, or that have already been endorsed to Parliament. KPA also produced the position paper for the regulations as a basis for policy advocacy.

For laws that, in KPA's view, were counter to the agrarian reform principle, KPA developed alliances to challenge these laws before the Constitutional Court. Thus, in 2014, their alliance won the appeal to eliminate certain articles in Law No 19/2013 on Protection and Empowerment of Farmers that discriminated against farmers' organizations that had been developed by CSOs. KPA also conducted several discussions and public hearings in Parliament regarding the draft Land Bill.

CAMBODIA

Land Governance in Cambodia

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Land Governance Issues/Updates

The various governments of Cambodia have introduced a number of land administration programs, especially that of land registration, since the collapse of the Khmer Rouge regime in 1979. From 1979 to 1989, land throughout the country belonged to the state, and farmlands were operated as *kromsamakior* solidarity groups—10 to 15 families working on the same plot and sharing its yield collectively. Eventually, however, most of the collectivized lands were transformed into private lands as it was admitted that collectivization produced low yields because of the lack of ownership by the cultivators.

The rise of land conflicts - Prior to the 2000s, around six million has of Cambodian forestland had been granted to companies and individuals in the form of forest concessions. The government, however, eventually cancelled the majority of these concessions due to their negative impacts on the forest—only to award, in their place, large areas of land to companies and individuals in the form of Economic Land Concession (ELCs). By 2013, it had granted more than two million of these concessions to private companies and wealthy persons.



And based on a report of LICADHO issued in March 2015, three-fourths of Cambodian agricultural land is now under the control of private companies, the majority of which are foreign corporations.

The granting of ELCs created many problems such as land grabbing, land conflicts and forced eviction—all with negative impacts on the land security of the local people. Reports say that almost one million people have been affected by the granting of these concessions, with a number seeking suitable compensation with the support of NGOs. Those affected have also resorted to other means to air their demands, such as the blocking of national roads, marching to the city, or gathering in front of the National Assembly building or the Prime Minister's house. In some cases, villagers have used violent measures to protect their homes and land, but were suppressed by the military forces and through judicial means.

Land distribution/transfer mechanisms

- To improve land management policy, the Royal Government of Cambodia (RGC) ratified the Land Law in 2001. Over the years since then, it introduced the following land registration mechanisms: Sporadic Land Registration, Systematic Land Registration (SLR), Social Land Concession (SLC), Communal Land Titling (CLT), and Directive 01. All of these ended up beset with problems ranging from inefficiency, lack of resources (staff, facilities and funding), limited scope, to corruption.

Indicators Used

Given the problems of the land registration mechanisms mentioned above and the massive granting of ELCs in recent years, an increase in land conflicts and disputes was inevitable. However, it was noted that the available data does not focus much on the mechanisms to address such conflicts, especially at the district, commune and local levels. Thus this research sought to trace the views of the local officers involved in land conflict resolution, by posing the following questions:

- How has land been distributed and who benefits and who loses (tenant/landless/women)?
- What are the status and role of women in the land redistribution process and ownership?
- How does land redistribution, mainly ELCs, link to land tenure and land security and landlessness in Cambodia?
- What is the scope of conflicts that have emerged out of the land distribution process, both with the government's Systematic Land Registration and the D01 land registration campaign?
- What would best support key stakeholders in dealing more effectively with the current land conflicts, in compliance with contemporary land laws?



Research Methodology and Sampling

The areas covered by this research had experienced the different types of land registration mechanisms, such as Sporadic Land Registration, Systematic Land Registration, Communal Land Titling, and the Directive 01; as well as different kinds of challenges, natures of conflict, and response mechanisms.

The study employed the qualitative approach to draw out answers to the research questions, as the nature of the research problem and its dynamism are not easily quantifiable. It covered two communities in each of the five selected provinces – BanteayMeanchey, Pursat, SvayRieng, Ratanakiri and Mondulakiri—representing both lowland and upland geographic areas, a range of land registration mechanisms, and areas where land conflicts are occurring.

In each of the studied communities, interviews were conducted with focus groups of affected community members, using the interview guide; key informant interviews were done with police, commune councilors, district officials, provincial officials, and department officials; and case studies were documented. At the national level, the team interviewed officials of the Ministry of Rural Development (MRD) on their involvement in communal land registration within the indigenous areas. NGOs working in land management and registration, such as NGO Forum and Development and Partnership in Action (DPA), were also interviewed. The research team also conducted site visits to the areas where conflicts are taking place.

Key Findings and Analysis

The results of the research study indicated the following impacts, challenges and gaps in the land distribution efforts of the Cambodian government:

- There are internal struggles within the CLT community themselves to manage their land effectively which has resulted in the current land fragmentation and tension.
- Potentials for overlaps are brought up between ELC or company and communities in their registration process, especially under Directive 01. In this case, it is important to look at the history of which party came in before or after as they may be invited to negotiate.
- Communal land-titled areas are still under threat from in-migrants and ELCs.
- The threat is even more severe for an IP area where registration is ongoing and has not obtained the titles yet.
- The process of Communal Land Titling has been complicated, protracted and difficult to understand for community people.
- While Communal Land Titling has been protracted for long, and the fears of land loss mounted, the new opportunity for private land ownership through Directive 01 has also been forthcoming. This has halted the CLT process up to the present.
- Participation in the CLT process was seen as not its entirety to some actors.



- It is important that some aspects of relevant laws need to be well disseminated to a larger population. This calls for the broad-based participation of stakeholders in the process in order to open up options that are suitable to the specific context.

Recommendations

Proposed policy options/solutions for future consideration:

- Devolve power to the district and commune levels with proper support and resources to be more convenient for local people.
- Provide technical support and recruit more cadastral staff to help implement land registration.
- Speed up the land registration in the conflict-prone areas or among IPs to provide land tenure security and increase land productivity.
- Reconsider the roles and the efficiency of land conflict resolution authorities to guarantee land conflict resolution.
- Provide support for proper boundary poles to avoid future conflicts.
- Engage broader participation of stakeholders in land registration, as in the practices prior to 1989.
- Reorganize the system to ensure that it can function properly to resolve the emerging conflict in the community.

- Create better awareness among the communities, so they may approach NGOs for help, as a basis for the community to start the process.
- Have the Ministry of Rural Development and Interior conduct training sessions to create better awareness and understanding among community members even if someone tries to lure them into changing their minds.



PHILIPPINES

2014 Philippine Land Reform Monitoring Report

By The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)
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In partnership with the College of Social Work and Community Development, University of the Philippines (UP-CSWCD) and Xavier Science Foundation, Xavier University (XU-XSF)

Since its conception in 2010, the CSO Land Reform Monitoring Initiative in the Philippines has been describing and analyzing people's access to land and resources by keeping track of the government's accomplishments in these areas. In the agrarian sector, the determinant of such accomplishments was the number of hectares (ha) of agricultural land distributed under the Comprehensive Agrarian Reform Program (CARP); in the aquatic reform sector, it was the number of Fishpond Lease Agreements (FLAs) issued; while for the indigenous community sector, it was the number of Certificates of Ancestral Domain Title (CADTs) awarded. Beyond these accomplished targets, however, it is equally vital for CSOs to monitor the areas that government usually overlooks. These involve understanding the magnitude of tenurial insecurity by meticulously monitoring tenure rights violations. After all, the protection of rights and lives of beneficiaries is as important as giving them the right to access and control resources.

Objectives of the Study

This 2014 land monitoring report aims to contribute to this understanding through the following objectives:

1. Identify the nature of resource conflicts occurring in the Philippines involving agrarian lands, municipal waters and ancestral domains through case reports, specifically focusing on: a) conflict actors, b) causes of resource conflicts, c) intensity of resource conflicts, d) impacts of resource conflicts and e) conflict resolution strategies.
2. Describe what human rights violations were committed that have resulted to resource conflicts.
3. Formulate recommendations to contribute in the process of managing and resolving resource conflicts.

Methodology

To fulfill its objectives, this study collected studies and other secondary materials generated by CSOs and government agencies on cases of land conflicts in the Philippines—both resolved and ongoing—over resource use, access and control involving farmers, coastal municipalities and indigenous communities.

The study underwent four phases: i) face-to-face and electronic consultations with the Research and Extension Development Office of the University of the Philippines - College of Social Work and Community Development, (UP-CSWCD) and the Xavier Science Foundation of Xavier University (XU-XSF); ii) data gathering through key informant interviews and

a review of literature of reports and case studies prepared by government agencies and CSOs; iii) a joint consultation workshop allowing other CSOs to share their feedback on the preliminary methodology, recommendations and conclusions of the monitoring report for improvement; and iv) discussion and presentation of the final draft in a workshop jointly organized by ANGOC, UP-CSWCD and XU-XSF, and participated in by government agencies and CSOs.

Findings

A. Conflicts on Access to and Control of Agricultural Lands

In a desk research conducted by Global Witness in 2012, it was found that 711 individuals were killed worldwide from 2002-2011, defending human rights related to environment, specifically land and forests (Global Witness, 2012). While the study found that, in many countries, systematic information on killings is deficient, it did identify the Philippines as one of the countries with the highest reports of killings. From 2002-2011, the Philippines accounted for 50 cases (7.03%) of the total number of killings recorded in 26 countries worldwide (Global Witness, 2012). An additional 197 cases of deaths worldwide were reported from 2012-2013, placing the Philippines third among countries with the highest cases of deaths among land and environment defenders (Global Witness, 2014).

The prevalence and intensity of land conflicts in the Philippines is likewise supported by data from the Commission on Human Rights (CHR) and the Department of Agrarian Reform (DAR). As seen in

Table 1, in 2014 alone, a total of 77 cases of agrarian/ land-related conflicts were recorded by the CHR, as well as eight cases of eviction/forced eviction (CHR, 2015) and one case of harassment (CHR, 2015).

On the other hand, as seen in Table 2, the agrarian legal service of DAR has processed and resolved an average of 51,127 agrarian law implementation cases every year in the last five years; represented 1,642 and

Table 1. Breakdown of Number of Agrarian/ Land Related Cases of Conflicts Filed with the Commission on Human Rights in 2014 (CHR, 2015).

Region	Total number of complaints filed
Ilocos	8
Central Luzon	4
CALABARZON	7
Western Visayas	4
Zamboanga Peninsula	10
Northern Mindanao	14
Davao	9
SOCCKSARGEN	8
CARAGA	13
TOTAL	77

Source: Commission on Human Rights. (2015). Breakdown of Number of Victims of Killed on Agrarian/Land Conflict Related Complaints/Cases Filed with the CHR. Quezon City.

16,568 ARBs in judicial courts and quasi-judicial courts, respectively, since 2011; mediated and reconciled 47,870 agrarian disputes via alternative strategies since 2012; and settled 21,060 cases through the DAR Adjudication Board. While these accomplishments are commendable, a more detailed report of these alarming numbers must be sought to know the magnitude of the disputes.

Table 2. Agrarian Legal Services Accomplishment of DAR from 2010 to 2014.

Agrarian Legal Services	2010	2011	2012	2013	2014
Agrarian Legal Assistance	67,894				
Resolution of Agrarian Law Implementation	52,075	56,338	37,790	56,428	53,005
ARB Representation in the Judicial Courts		4,203	1,078	648	639
ARB Representation in Quasi-Judicial Courts		14,787	16,930	18,674	15,884
Mediation of Agrarian Disputes			44,704	45,258	54,646
Adjudication of Cases	19,409	19,006	23,432	21,640	21,816

Source: Accomplishment Reports of the Department of Agrarian Reform from 2010 to 2014.

With this end in view, this monitoring report includes five actual narratives of the experiences of farmers and agrarian reform beneficiaries struggling to acquire their land or secure their right to tenure.¹¹

- Farmers reclaiming their land in San Francisco, Agusan Del Sur from the Filipinas Palm Oil Plantation Inc. (FPPI), the biggest palm oil operator in Mindanao
- Human Rights Violations against Farmers in Hacienda Dolores, Porac, Pampanga by Leonardo-Lachenal-Leoncio Holdings (LLL) and FL Property Management Corp. (FL), partner corporations of Ayala Land, Inc.
- Conversion of Farmlands into Real Estate Properties in Gimalas, Balayan, Batangas by Empire East Land Holdings, Inc. (EELHI), a company of Megaworld (CARRD, 2014)
- Land grabbing through Agribusiness Venture Agreements with Agrarian Reform Beneficiaries in Tagum, Davao del Norte by HARBCO and LAPANDAY (AR Now!, 2014)
- Victory of CARPER in the Bondoc Peninsula, Quezon Province

Conflicts on Access to and Control of Ancestral Domains

From 2009-2012, the National Commission on Indigenous Peoples (NCIP) recorded seven clusters of IP rights violations (IPRVs) (as shown in figure 1 below). The four most prevalent violations are those against: i) civil and political rights (extra-judicial killings, enforced disappearances, tortures, murders and homicides), ii) ancestral domain rights (encroachments, displacement due to conflicts with settlers, development activities, and demolitions), iii) militarization and private armed groups, and iv) benefit sharing (unfair distribution and misappropriation of royalties, misunderstanding or misimplementation of agreements). Notice that the second most prevalent complaints recorded by NCIP IPRVs are those related to ancestral domain rights.

¹¹ For the complete accounts, please refer to the full Report at <http://www.angoc.org/portal/>.

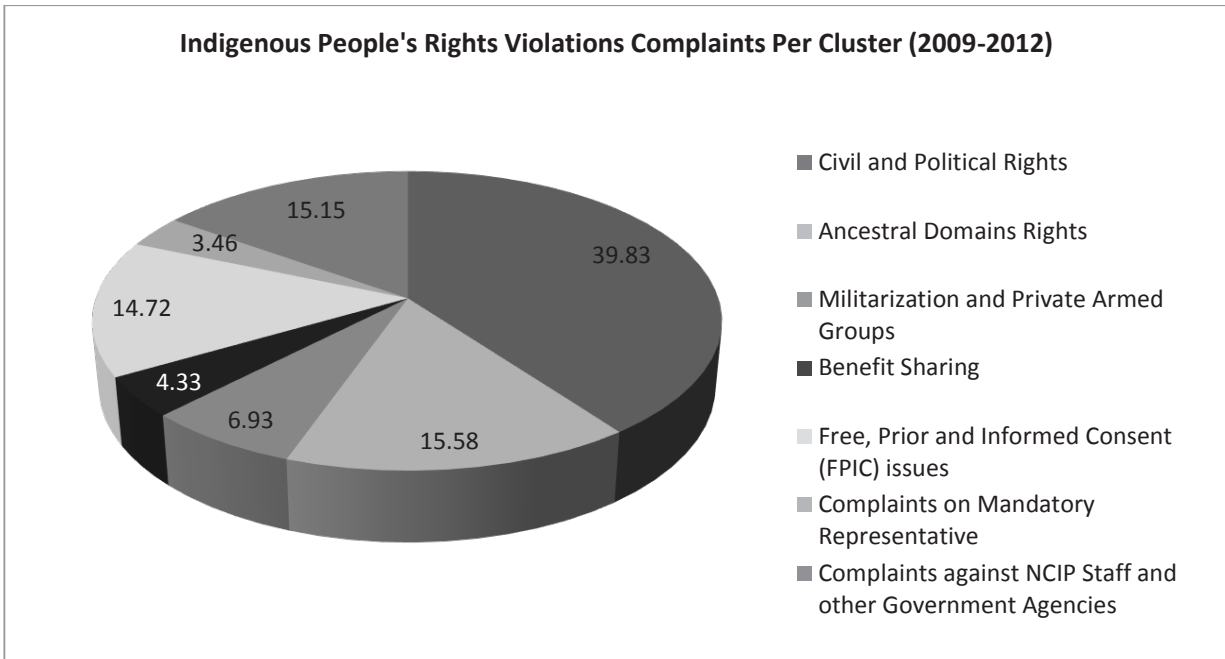


Figure 3. Indigenous People’s Rights Violations Complaints per Cluster (2009-2012).

Source: “Indigenous Peoples Rights in Practice and Quick Response for IP Rights Violations: A Human Rights Report of the 5th NCIP-CEB” (2012)

Table 3 shows a detailed version of NCIP’s data on IPRVs, indicating the number of complaints recorded per region. It can be gleaned that Region X has the greatest number of complaints, while Regions V and VIII have no record at all. More significantly, from 2009-2012, NCIP has recorded 68 cases of ancestral domain rights violations. This cluster accounts for 15.58% of the total number of complaints related to IPRVs recorded. It also indicates that Region XIII accounts for majority of the complaints related to ancestral domain rights violations recorded.

Table 3. Number of Indigenous People’s Rights Violations Complaints per Region from 2009-2012.

Type of Complaint	Number of Complaints Per Region													
	CAR	I	II	III	IV	V	VI & VII	VIII	IX	X	XI	XII	XIII	Total
Civil and political Rights	1		4	6	1				9	23	10	19	19	92
Ancestral Domains Rights	1		3	6	6		2		2	6	1	5	36	68
Militarization and Private Armed Groups	1		1						2		5		8	17
Benefit Sharing	1		2		2				1			2	3	11
FPIC Issues	3				3				7	10	5		4	32
Complaints on Mandatory Representative									1	2			5	8
Complaints against NCIP staff and other Government Agencies				1	1				9	10		6	14	41
Total	7		10	13	13		2		31	51	21	32	89	269

Source: “Indigenous Peoples Rights in Practice and Quick Response for IP Rights Violations: A Human Rights Report of the 5th NCIP-CEB” (2012)

In addition to the above data, this monitoring report presents the following documented case studies of conflicts involving ancestral domain lands.¹²

- Special Economic Zone APECO and the Agta/Dumagat Ancestral Domain Chain (De Vera and Libre, 2015)
- Mamanwa in Barangay San Pablo, Jabonga, Agusan del Norte and Mindoro Resources Ltd. (MRL), a Canadian mining company exploring nickel, copper and gold in the Philippines (De Vera in ANGOC, 2014)
- Copper and Gold Mining in Tampakan, South Cotabato by Filipino-owned Alsons Prime Investment Corporation, operated by a local subsidiary,


Sagittarius Mines Inc. (SMI) (UNHRC General Assembly, 2014)

- Corporate Social Responsibility Accomplished in Ambuklao and Binga Dams by SN Aboitiz Power Benguet, Inc. in a mediated dialogue overseen by the Compliance Advisor/Ombudsman (CAO) of the World Bank Group and the Conflict Resolution Group Foundation, Inc. (CoRe Group)

Resource Conflict Involving Municipal Waters

In 2014, the Bureau of Fisheries and Aquatic Resources (BFAR) rendered 120 legal and advisory services under the fisheries and aquatic resources regulation services (DA, 2014). This number gives us an idea of the frequency of conflicts involving the use of and access to municipal waters. In addition, the Law Enforcement Quick Response

¹² For the complete case study summaries, please refer to the full Report at <http://www.angoc.org/portal/>.



Team (LE-QRT) enumerated the number of maritime incidents and issues involving commercial fishing vessels per region in 2014, showing that such conflicts include poaching, illegal fishing, and commercial fishing vessels violating RA 8550 or the Philippine Fisheries Code.¹³

Municipal fishers value water resources not only for the income they produce but also for their long-term productivity to sustain future generations and as a basis of identity. Commercial fishers, on the other hand, seek to increase production to meet international and domestic demands for fish products as well as to have better wages—often resorting to destructive and highly efficient fishing methods which result to overfishing. The conversion of mangrove areas for purposes of aquaculture further reduces municipal and commercial fishers’ access to their fishing grounds, and contributes to the depletion of various marine species that breed there, consequently decreasing the fish caught by municipal and commercial fishers.

- **Illegal, Unregulated and Unreported (IUU) Fishing in the Philippines**

In June 2014, the European Union (EU) issued a “yellow card” warning to the Philippines due to its failure to regulate illegal fishing activities, based on the EU’s Illegal, Unregulated and Unreported (IUU) Regulation of 2010. In this regard, the country was given six months to take action and improve its legal and monitoring system concerning aquatic resources.

In April 2015, this warning was revoked as EU acknowledged the Philippines’ efforts to improve its fisheries governance,

addressing IUU fishing practices. Republic Act 10654, which amends the Philippine Fisheries Code, was passed into law on February 27, 2015 and a 41-member technical working group (TWG) was formed to draft the implementing rules and regulations to be finished by September 2015.

- **Impacts of Aquaculture and Tourism in Calatagan, Batangas by the Juan Lorenzo Vergara (JLV) Shrimp Farm and Various Reports¹⁴**

Analysis

Nature of conflicts involving agrarian lands

In the five cases of agrarian conflict included in this report: (1) *local community* actors are comprised of (a) farmers or farmers’ in an organized group and their families struggling to acquire rights to access and control agricultural lands, (b) agrarian reform beneficiaries trying to secure or gain back control of their lands, (c) landowners resisting the installation of ARBs in their acquired land, and (d) farmers in disagreement with other local farmers concerning land management; (2) *government* actors include the Department of Agrarian Reform being responsible for the overall implementation of laws on the Agrarian Reform Program as well as the local government unit in each community; and (3) *outside actors* are comprised of (a) agribusinesses and (b) real estate developers.

¹³ For the breakdown of conflicts, please refer to the full Report at <http://www.angoc.org>.

¹⁴ For further details of these cases, please refer to the full Report at <http://www.angoc.org/portal/>

In most cases, local communities are the victims of conflict. Being the group with less influence and power, they are usually the ones displaced, manipulated or barred from their rights. But local community actors can also be an origin of conflict. As seen in the case of Tagum, Davao del Norte, because of a disagreement over entering into an agribusiness venture, the organized farmers group was divided into two factions, resulting to destruction of fields, harassments and killings.

Most frequently, however, outside actors are the perpetrators of conflict. Between the local community actors and outside actors, the latter have more power and influence to pursue their interests involving the control and management of resources. They enter local communities, assess the area's potential in producing profits, and entice residents with riches in exchange for allowing the industries and businesses to own, control or manage the resources. For example, in the case of Gimalas, Balayan, Batangas, the Empire East Land Holdings Inc. (EELHI) saw Gimalas' potential as a park and port. They successfully persuaded farmers to waive their rights and access to land in exchange for monetary compensation.

Varying interests in using and managing agrarian lands is a cause of conflict in most cases. For the farmers of San Francisco, Agusan del Sur and Tagum, Davao del Norte, conflict occurred because they no longer saw that their agreement with FPPI and HPI-

LAPANDAY, respectively, in managing the land as just. Instead, they sought to gain back their right to control and manage the land as they deemed fit.

Institutional failure was seen as a cause of conflict in the agribusiness ventures as well. ARBs who entered into agreements with agribusiness industries failed to foresee the implications of these agreements. They were made to believe that such agreements would yield greater benefits than managing the land on their own, but instead these resulted in unjust treatment from their partners and loss of control over their land.

These conflicts over agrarian lands resulted to (1) land use conversion, (2) land grabbing, (3) displacement of farmers and communities, and (4) human rights violations.

Studying the intensity of conflicts involving agrarian lands, most of the cases reached the violent stage (see figure 4), meaning resource actors resorted to physically aggressive actions, such as intimidation,

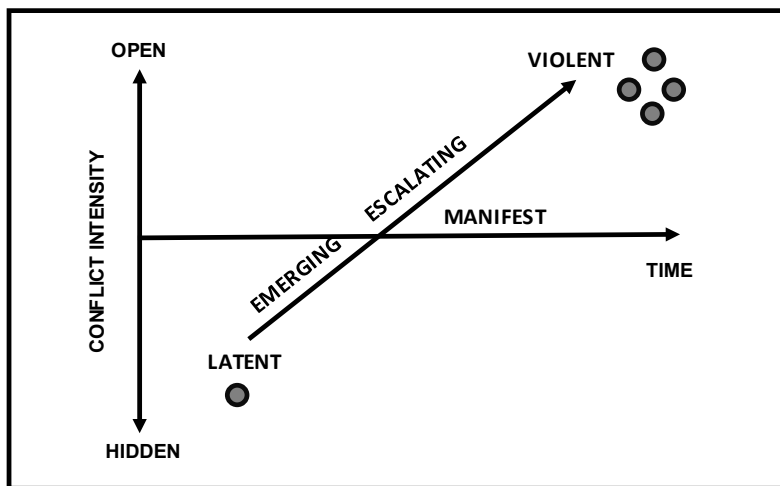


Figure 4. Intensity of conflicts involving agrarian lands.

Source: Engel and Korf (2005)

harassment, destruction of property and killings, to pursue their interests.

B. Nature of resource conflict involving ancestral domains

The actors involved in ancestral domain conflicts in these cases were comprised of: (1) *local community actors* such as the indigenous communities of Agta/Dumagat in Casiguran, Aurora, the Mamanwa of Jabonga, Agusan del Norte, the Bla’an of Tampakan, South Cotabato and the Ibaloi of Bokod, Benguet; (2) *government institutions* such as the National Commission on Indigenous Peoples, being the overall authority on the management of ancestral domains and protection of the rights of indigenous communities; and (3) *outside actors* from the extractive industries, state security personnel and non-government organizations.

Here again, local communities are usually the victims in ancestral domain conflicts, while government institutions and outside actors are the

conflict perpetrators. The latter engage in extractive activities, exploration or legislation done without considering the welfare of the indigenous communities that may be affected. For example, MRL’s exploration in the area of the Mamanwa of Jabonga, Agusan del Norte without FPIC threatens the conservation and protection of their 8,000 ha of ancestral land, including sacred, terrestrial and lakeshore areas.

In terms of the causes of conflicts involving ancestral domains, just as in agrarian conflicts, these are brought on by: (1) varying interests in using and managing ancestral domains, (2) relative power of the conflict actors, (3) institutional failure, and (4) non-inclusive natural resource management. The indigenous communities want their ancestral domain respected, conserved and protected because it embodies their history and identity, while the conflict perpetrators see the area’s potential for extractive industries and commercial use. Thus, ancestral domain conflicts have resulted to land conversion of settlements,

farms, and conservation areas of indigenous communities. In the case of Bokod, Benguet, the conversion was for purposes of hydroelectric power plants.

With regard to the intensity of the conflicts involving ancestral domains in the cases included in this report, most only reached the manifest stage and did not escalate to the violent stage—except for the case of Tampakan, South Cotabato (see figure 5).

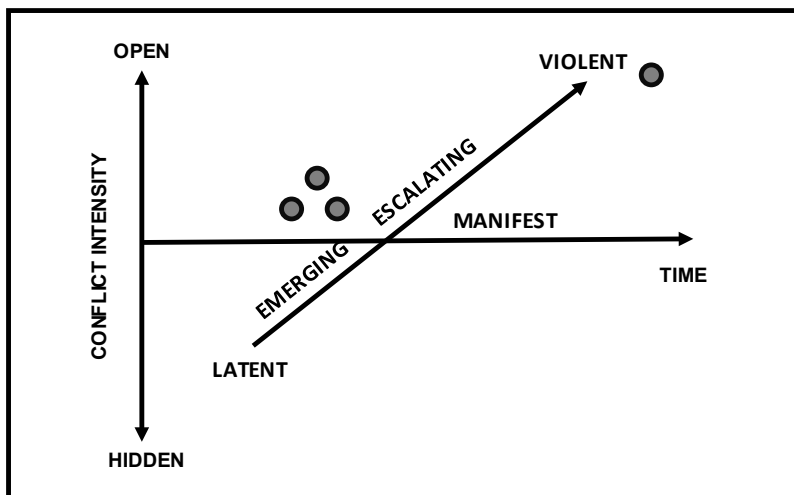


Figure 5. Intensity of conflicts involving ancestral domains

Source: Engel and Korf (2005)



C. Nature of resource conflict involving municipal waters

The nature of conflicts involving municipal waters differs from that of conflicts involving agrarian lands and ancestral domains because marine resources are communal, no one owns or controls them exclusively. Therefore, everyone can access marine resources. However, through the Philippine Fisheries Code of 1998 or RA 8550, local community fishers were given priority to access municipal waters and fish production became regulated.

Local community actors, especially the municipal fishers, are usually the conflict victims. Because of unregulated and destructive fishing methods employed by commercial fishers to meet the global demand for marine products, municipal fishers have reduced fish catch for the sustenance and income of their families. The expansion of resorts and the establishment of aquaculture farms have further restricted their access to and use of foreshores as boat docks and seaweed farms. The destruction of mangrove areas has also meant loss of marine products for household consumption. Meanwhile, government actors such as BFAR and DENR decide whether the livelihood of municipal farmers will be promoted and protected, or if aquaculture ventures and beach resorts will be allowed to deforest mangrove areas and operate within foreshores used by municipal fishers.


The causes of conflicts concerning marine resources are: (1) varying interests in using and managing such resources; (2) relative power of the conflict actors; and (3) institutional failure. While municipal

fishers seek to ensure marine resources for food and livelihood of future generations, commercial fishers and aquaculture owners pursue higher fish catch, even at the risk of depleting the fish population. Beach resort owners, meanwhile, have the power to influence the management of foreshores, and are thus able to intimidate and marginalize the seaweed farmers in these areas. In addition, failure to implement regulatory instruments allows the commercialization of foreshores and mangrove areas without following proper procedures.

In terms of the intensity of conflicts involving municipal waters, the cases included in this report were only in the manifest stage where the dispute had become a public issue. They did not escalate to the violent stage.

Conclusion

Although international human rights instruments do not necessarily include a human right to land, except for indigenous people's right to land and territory, **“land rights stand as a key human right issue, as the fulfillment of many human rights depend directly on land, including the rights to adequate housing, food, health, or to self-determination”** (FIDH and OMCT, 2014 p.7 par 2). Security of access to and control over land and its resources is a key to people's survival. Thus, conflicts over access to and control over land are also a human rights issue. While development is a constant objective of the state, it can serve as a double-edged sword (FIDH and OMCT, 2014). Development projects can improve the lives and fulfill the human



rights of people and communities, but they can also take away opportunities and hinder the fulfillment of human rights.

Human rights mainly protect individuals from actions that would threaten their civil, political, economic, social and cultural freedom. As mentioned earlier, for the indigenous communities, land and resources do not only mean income and shelter, but also history, culture and identity. As industries enter the territories of indigenous communities without going through appropriate procedures to obtain the consent of IPs, the lives and tenurial security of these communities are threatened. In the cases presented, aggressive and unlawful acts such as extra-judicial killings, harassments, intimidation and displacement are manifestations of the violation of indigenous communities' basic human right to enjoy their cultural heritage and identity which are embodied in their environment.

Recommendations¹⁵

This section builds on the proposals forwarded and agreed upon in the two consultation workshops where the draft monitoring report was presented and discussed. The recommendations called on CSOs: (i) to document and effectively use land-conflict data to muster public support, (ii) to reframe the land monitoring process in the light of a rights-based approach, and (iii) to enhance the capacities of farmers and IPs to evaluate business contracts presented to them.

At the same time, the recommendations urged the government: (i) to officially recognize land rights as basic human rights, (ii) to practice responsible land governance through proper enforcement of Free Prior and Informed Consent (FPIC) and Social and Environmental Impact Assessment (SEIA) not only for Economic Land Concessions (ELCs) but for all forms of land takeover, (iii) to establish monitoring systems and dispute resolution mechanisms in collaboration with the Commission on Human Rights (CHR) and all government agencies with a land-governance mandate and support one another in institutional building in line with a rights-based approach, and (iv) to institute accessible and affordable mechanisms at the local level for lodging of complaints and for dispute and conflict resolution—including traditional dispute management mechanisms in the communities.

¹⁵ For the detailed Recommendations, please refer to the full Report at <http://www.angoc.org/portal/>



LAND GOVERNANCE IN MEKONG

In addition to the papers from the member countries of the Land Watch Asia campaign, the Regional Workshop included presentations from three countries in the Mekong subregion—Myanmar, Vietnam, and Lao PDR.

MYANMAR

Overview of Land Conflict, Resources and Resistances in Myanmar

By Swe Set, ActionAid Myanmar

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Context/Current Policies on Land

Myanmar, formerly known as Burma, was a colony of Britain from the early 1800s to 1948. As a result, it has a colonial legal heritage regarding land and forests which persists to this day. Its post-independence experiment with democracy led to a rise in ethnic insurgencies and the communist struggle. Eventually, a military coup by General Ne Win in 1962 resulted in a period of quasi-socialist military authoritarianism until he stepped down in 1988—after which crony capitalism then prevailed. Even when a new government came to power in 2010, new legal tools likewise emerged for dispossession of land and capital accumulation under the banner of ‘neoliberalism.’

In terms of the different actors controlling the rights to and use of land by Myanmar’s people, pre-1988 saw socialist military regimes in power; from 1988 to 2000 (with a big spike in the 1990s), quasi-market reforms still allowed military land grabs and transfer to crony companies; while from 2010 to the present, neoliberalization has added foreign investors to the crony companies.

The country’s current land reform policy is instituted in the following laws:

- Farmland Law
- Vacant, Fallow and Virgin (VFV) Land
- Management Law
- Special Economic Zone (SEZ) Law
- Foreign Investment Law
- Law on Enhancing the Economic Welfare of Farmers

In addition, the land reform policy process is now also heavily influenced by growing foreign agricultural investments and large-scale infrastructure projects.

The VFV Land Management Law contains the following provisions:

- Public citizens, private sector investors, government entities and NGOs can apply to lease VFV lands for agriculture, mining, etc.
- Landless people can now access land under this law.
- Households can register up to 50 acres (20.2 ha).



- Land leases may be granted from 5,000 acres (2,023 ha) to a maximum of 50,000 acres (20,230 ha).
- Leases of up to 30 years may be granted on State land.

Among the positive developments in Myanmar's land reform efforts is the government's establishment of the following bodies:

- Parliamentary Land Confiscation and Enquiry Commission - mandated to gather evidence on land conflicts
- Land Allocation and Utilization Scrutiny Committee – mandated to work on national land use policy via government 'working groups' (Land Core Group and future CSOs to link in)

- Land Acquisition Investigation Commission – generates reports on documented land grab cases, and defines what is 'legal'
- National Land Use Management Committee – resolves land issues recommended by the Commission

Alongside these processes, there has been the formation of farmers' associations for MFA and grassroots organizing.

Key Issues and Concerns


Despite apparently positive measures to safeguard land rights and address land disputes, various types of land grabbing and conflicts continue to take place in Myanmar—through infrastructure development (roads, dams); the establishment

Table 4 : Agribusiness Concessions in Myanmar by State/Region, 2010-2013

State/Region	Allocated	Allocated 2011 / 12	Allocated	Planted 2012/13	% Planted
Naypyitaw	-	7,408	17,554	5,217	30
Kochin	596,180	1,396,575	1,381,165	172,348	12
Kayin	2,161	4,011	34,946	15,867	45
Kayah	-	-	-	-	-
Chin	-	1,542	1,743	118	7
Sagaing	100,057	259,273	533,406	19,543	4
Tanintharyi	671,594	993,887	1,896,970	359,455	19
Bago	19,772	52,238	200,150	91,074	46
Magwe	202,492	211,292	219,578	95,949	44
Mandalay	10,300	6,262	56,046	14,497	26
Mon	-	-	-	-	-
Yangon	30,978	30,980	80,208	76,243	95
Rakhine	-	7,826	131,667	13,176	10
Shon	117,096	160,626	323,833	120,403	37
Ayeyarwady	193,353	285,844	335,331	212,969	64
TOTAL	1,943,983	3,417,762	5,212,597	1,196,859	23

Source: Central MoAI, except for Tanintharyi 2012/2013 from regional office.

Note: Data only includes agricultural concessions allocated by central government.



of Special Economic Zones (SEZs); the entry of extractive industries such as oil, gas, mining, and logging; the granting of industrial agriculture concessions; and military land use.

Two categories of land conflicts were also identified: (1) those involving Burman-dominated areas and (2) those involving the 'ethnic frontier.' The former are under strong government and military control and are financed by large domestic and foreign investors. The ethnic areas, on the other hand, are dominated by cross-border financing facilitated by local ethnic elites and companies; are characterized by labor migration (not local laborers); and are mostly ignored by social movements, the media, and government.

With regard to the VFV Land Management Law, the following gaps have been noted:

- Large areas of land defined as 'vacant' or 'wasteland' (with no formal land-use title registered) are being leased/allocated by government to investors.
- The land registration process is difficult in remote areas due to lack of technical capacity.
- The maximum land grant of 50,000 acres is very large.

- The land lease period of 30 years contradicts articles of FIL allowing up to 50 years' lease.
- Grazing and forest lands cannot be communally titled.
- No independent legal redress is provided in case of conflicts.

Other areas of concern with regard to Myanmar's current land policy are:

- Swidden upland land use/management and ethnic populations are most at risk.
- Swidden agriculture practices, collective practices, and customary land rights are not officially recognized.
- Discrepancies are seen between land use maps and on-the-ground practices.
- The meaning of 'wastelands' is being contested.

With the coming of political reforms to Myanmar in recent years, a 'grassroots groundswell' has been noted, with above-ground networks and social movements emerging. The challenge is to rise above the geographical divides, ethnicities, and specific concerns to arrive at a united voice for common struggles over land and livelihood dispossession.



VIETNAM

Landa: The First Multi-stakeholder Platform Dedicated to Land Governance Reform in Vietnam

By Msc. Do Duc Khoi

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The population of Vietnam (2014) is 94.5 million, ranked 14th largest in the world and third in Southeast Asia. The country's land area totals 331,698 km², including about 327,480 km² land and over 4,500 km² of sea. Flat land accounts for 20% of this, mountains/forests account for 40%, and hills account for the remaining 40%.

Vietnam has 54 ethnic groups, 53 of which are ethnic minorities, accounting for about 14% of the total population of the country. The urban population is 30% of the total, while the rural population is 70%.

Profile of Landa

Land Alliance (Landa) was established in June 2013, and is one of six coalitions participating in Oxfam's Coalition Support Program. It is the first multi-stakeholder platform dedicated to land governance reform in Vietnam. Landa is made up of 19 NGOs, professional organizations, individuals, and social organizations active in the fields of forestry, agriculture, and poverty reduction.

Landa members work on a voluntary basis to contribute to creating opportunities for people to participate in policy development,

manage and use land resources effectively, and contribute to social justice. The Executive Board includes representatives from five member organizations.


Policy and Legal Environment of Land in Vietnam

The Land Law 2013 is comprised of 14 chapters and 212 articles, 4 government decrees, as well as circular guides from ministries and inter-ministerial circular guides. Aside from the Land Law, 20 other laws also have content related to land; along with 22 government decrees, 12 indicators, and 17 decisions of the Prime Minister.

The system of implementation of these laws and decrees includes provincial and district committees and cadastral agencies; the Ministry of Natural Resources and Environment – Officers of Communal Cadastral Administration.

Monitoring is done through a system of elected agencies such as the National Assembly, through the communal people committee; mass organizations; and private citizens who have the right to submit letters of complaint. However, as corruption in land issues ranks second to traffic police corruption, about 70% of the letters of complaint received involve land matters and conflicts of families and communities over land.

Resettlement to give way to hydropower projects is another major problem. Fourteen plants are planned, with the Son La Hydropower plant being one of them – this alone causing the resettlement of 20,000



households and affecting nearly 100,000 people, 83% of which are ethnic minorities whose livelihoods are being disrupted.

In relation to land rights of farmers, indigenous peoples (IPs), and women, it was noted that there is an absence of specific articles addressing the situation of farmers and of women; and while there are articles addressing the rights of ethnic minorities, these are not clear. However, Vietnamese women do have equal rights as men in terms of land, and land use certificates are issued jointly under the names of both husband and wife.

Key Players and Their Roles in the Land Sector

- a. Government – land management overseen by the Ministry of Natural Resources and Environment; system of information management; formulation of policies
- b. Provincial level – lease of land, allocation of land to business
- c. District level – lease of land, allocation of land to families and individuals
- d. CSOs – supervision but there are no specific rules
- e. Local groups - supervision but there are no specific rules

Landa's Advocacy Achievements in 2013-2014

1. Sent "Proposed Amendments to the draft revised Land Law," with the recommendations being based on the results of:

- a. direct community consultation conducted from November 2012 to March 2013 with 1,300 people and nearly 300 local government officials in 22 communes in 11 districts of the four provinces;
- b. direct consultation from August to September 2013 with 3,002 people in 18 communes in six districts of three provinces;
- c. polling of over 4,890 readers on electronic media, including Vietnam-Net, Bloomberg (electronic edition of Economic Times), and Danviet.vn (electronic edition of the newspaper Rural Today).

2. Coordinated with the Vietnam Chamber of Commerce and Industry (VCCI) to propose amendments and supplements to the draft Decree of the Government guiding the implementation of the 2013 Land Law. This is the sum of the results of research and community consultation lessons learned from the successful experience of some localities, to ensure a consistent process of land management from central to local levels.
3. Provided information to the Vietnam Women's Union to raise awareness of its members on the Land Law, and their rights to and obligations regarding land use and access to land use certificates.
4. Researched on "Ensuring the rights of husband and wife named in the certificate of land use rights – Red Book" done from June to September 2014 in 12 communes and six districts of three provinces.

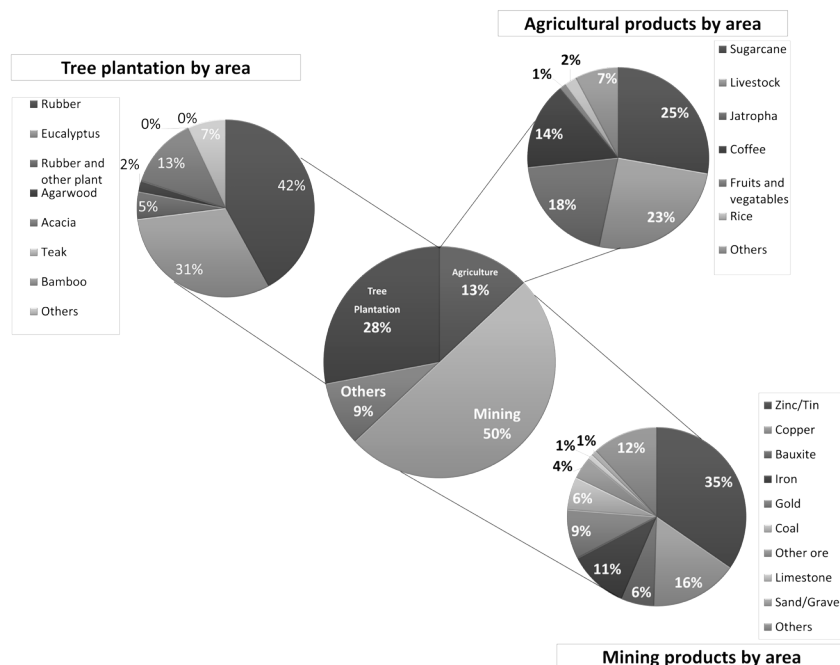


Figure 6 : Characteristics of concessions in Vietnam

Source: Centre for Development and Environment (CDE), University of Bern at LIWG Development Partners Meeting in March 2015.

- Conducted land use planning activities as agreed upon and jointly signed by government and the people. Accordingly, the people took a step by step approach to participate in monitoring land use planning at the local level in two provinces.

Key Policy Recommendations

Landa recommends the formulation of policies and specific legislation on:

- land use planning
- valuation of land and compensation
- resettlement and land use efficiency
- 3-dimensional space
- independent monitoring

Landa's partnership with other NGOs/CSOs in Asia towards the promotion of land rights:

- sharing experiences advocacy
- access to new approaches in policy formulation
- sharing of new policy rules
- capacity building
- apply land monitoring initiatives
- protection of rights of access to land by minority groups, the disadvantaged, and women



Significance of introducing the land monitoring initiative in Vietnam

The benefits of the land monitoring initiative for the people include: more methods, tools and skills to protect their rights over land; increased protection of their rights and interests; reduced “red tape” and bribery. The benefits for businesses also include protected rights and interests; reduced “red tape,” bribery, and corruption; as well as greater transparency. For government, there are more tools and information sources of social criticism, an improved confidence of the people in the government, and improving land policy. For Vietnamese society in general, the benefits are reduced complaints, greater social stability and efficient land use, and improving soil quality.

Landa in 2015-2016

Within this two-year period, the Land Alliance shall be involved in:

1. Organizing activities and policy advocacy capacity to monitor the implementation of the Land Law for its member organizations and communities;
2. Promoting the development of the monitoring model via the implementation of the Land Law in the community;
3. Researching on and integrating responses of the people on land management planning and land use planning at the local level; and
4. Leading the advocacy to improve the quality of land use management.

LAO PDR

Land Issues Working Group (LIWG)

Land Issues Working Group (LIWG) is a network comprised mainly of civil society organizations (CSOs) dedicated to awareness raising, training and capacity building, networking and promoting dialogue, providing government policy support, and research and documentation.

The situation of land in Lao PDR is characterized by exploitation of land and natural resources as a means to reach national development goals, with an annual economic growth target of 8%. The current NSEDP is funded up to 60% by foreign direct investments. Legislation on land exists in the form of PM decrees, the National Land Policy (2003), the Land Law (2003), and the Forestry Law (2007).

Major issues for farmers, indigenous peoples (IPs) and women have to do with concessions and contract farming, such as:

- gaps in the legislative base
- land titling programs have not assisted the rural poor to date
- duplication and competition between various ministries involved in land management and administration
- top-down and ill-informed decision making, imbalance of power in negotiations
- no access to information, and limited participation
- limited knowledge of Lao laws and regulations

Major challenges are the sensitivity of the issue of land rights in Lao PDR, and the fact that LIWG is an informal network. Since December 2012, the work context has significantly changed for CSOs.

Key players in the land sector are:

- Government ministries, such as the Ministry of Natural Resources and Environment (MoNRE), the Ministry of Agriculture, Forestry and Fisheries (MAFF), etc.
- The National Assembly
- Development partners (GIZ, SDC, EU, FAO, others)
- CSOs, but mainly international NGOs
- Donors (Mekong Region Land Governance Project)

Land Monitoring Initiatives in Laos

1. Case Study Data Collection by LIWG

- Investments are at the center of Lao development strategy. Thus, fully understanding their impacts is essential.
- Focusing on local communities' perspectives, and their rights as acknowledged by Lao legislation

2. Land Inventory and Recent Land Concessions Mapping by CDE

Key recommendations for National Land Policy in Lao PDR:

- Definition of clear principles for expropriation of land
- Recognition of customary land tenure rights
- Development of a policy on communal land titling
- Ensuring implementation and functioning of grievance mechanisms

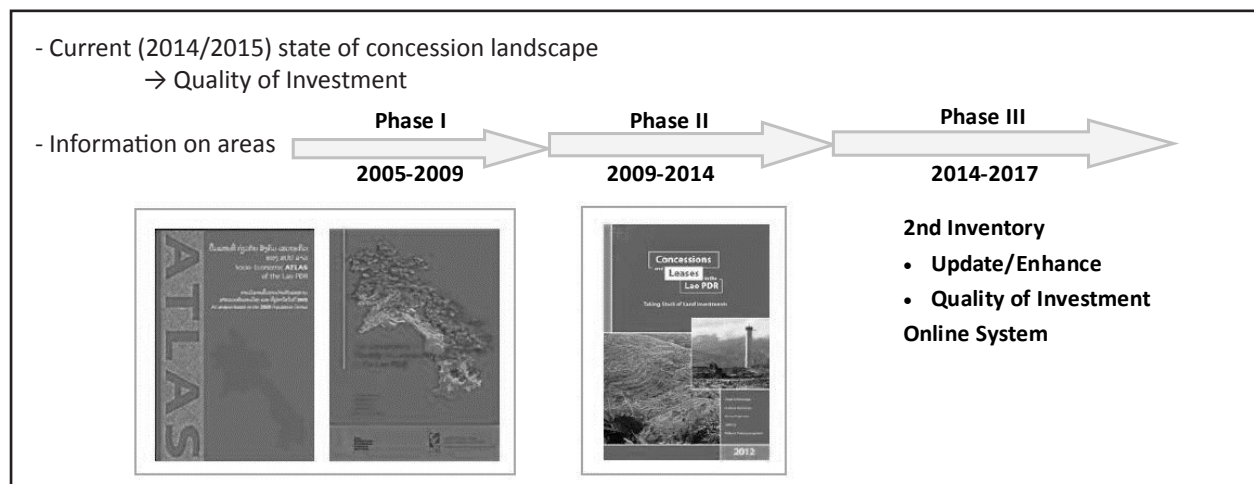


Figure 7: Land Inventory and recent land concessions mapping by CDE.

Source: Centre for Development and Environment (CDE), University of Bern at LIWG Development Partners Meeting in March 2015.

LIWG sees the importance of partnering with other NGOs/CSOs in Asia towards the promotion of land rights through sharing of evidence-based information and good/bad practices, as well as following-up on international treaties and agreements.

THE GLOBAL & REGIONAL PERSPECTIVE

Global Land Tool Network (GLTN)

Scoping Study for Land Tenure Initiative in Asia-Pacific

By Teo Chee Hai
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The GLTN scoping study for land tenure initiative in Asia and the Pacific, as presented by Teo Chee Hai, covered the following key issues in the region:

Land Tenure Initiative in Asia-Pacific

- Plurality of systems do exist – customary, Islamic, statutory
- Most people are without formal land records
- Access to land (and resources) remains tenuous for many especially the vulnerable
- Most people want their identity recognized but struggle to be recognize by the formal system
- Few circumstances where Governments are able to adequately manage land in the way they should – technical considerations; competency; capacity; institutions; policies and legislations

The review of tenure security in the Scoping Study indicates that to adequately address the issues observed will require **sustainable improvement to tenure security**.

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FOR A BETTER URBAN FUTURE




Secure Land and Property Rights for All

- Changing rural populations and access to land
- Women’s tenure security and access to land and resources
- Urban growth and tenure insecurity
- Need to recognize and protect indigenous peoples’ rights and access to land
- Impact of climate change and natural disasters on tenure security
- Islamic tenure security
- Land legislation and policy, land administration and land-based financing

The study of these key issues led to this overview of land tenure in Asia-Pacific:

It was evident that the results of the GLTN scoping study mirror most of the issues and challenges mentioned in the country monitoring reports of LWA partners. In fact, Hai acknowledged as valuable

references the various ANGOC and LWA studies (particularly the CSO Land Reform Monitoring Report) in preparing the GLTN scoping study. Key among these were: i) the lack of political will to implement laws and policies, ii) discrimination against women vis-à-vis land ownership, iii) lack or non-recognition of indigenous peoples, iv) land grabbing, and, v) overlapping



laws and institutional mandates of government agencies). At the same time, the issue of urbanization is an area of the GLTN initiative that can complement the LWA studies. Teo Chee Hai noted as well that the information provided in the LWA reports can be used by GLTN in completing the scoping study.

Global Land Tool Network (GLTN)

Global Land Indicators Initiative – GLII

By Cyprian Selebalo

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GLTN's Cyprian Selebalo provided a briefing on the Post-2015 sustainable development goals (SDGs) and the Global Land Indicators Initiative (GLII).

The speaker noted that ANGOC and the LWA partners are advanced in the sense that the land indicators have been tested and there has been a measure of collective experience gained by LWA in the monitoring procedure (data gathering, processing, analysis and validation). At the end of the day, once the SDGs are approved by UN member governments, the critical aspect will be the implementation of these at the country level, and the monitoring role that CSOs will play. It was agreed that ANGOC/LWA will continue to link with GLTN on the post-2015 SDG processes. Also, ANGOC/LWA will consider using some of the land indicators (identified in the post-SDG discussions) in its land reform monitoring initiative.

GLII – Long List of Indicators

- 1. Secure rights to land and property:** Percentage of men, women, communities and businesses with recognized evidence of tenure.
- 2. Perceived tenure security:** Percentage of men, women and businesses that perceive their land rights are recognized and protected.
- 3. Legal recognition of a continuum of land rights:** Level to which legal framework recognizes and protects legitimate land rights and uses, either through customary or statutory tenure regimes.
- 4. Equal right of women:** Level to which women and men have equal rights to own, inherit and bequeath land resources.
- 5. Land area mapped:** Percentage of land area mapped on legally recognized tenure maps.
- 6. Efficiency of land dispute resolution:** Time to resolve a land-property dispute.
- 7. Effectiveness of land dispute resolution:** Percentage reported land disputes that have been resolved.
- 8. Percentage revenue from land taxation:** Property and land taxes as a percent of GDP.
- 9. Land administration efficiency:** Time to conduct a land/property transaction.



FAO Regional Office for Asia and the Pacific

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the context of National Food Security

By Yuji Niino / FAO Regional Office for Asia & the Pacific <yuji.niino@fao.org>

Hailed as “an unprecedented international agreement on tenure governance,” the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT) of Land, Fisheries and Forests in the context of National Food Security address the issues of:

- responsible Governance – to support the sustainable use of land, fisheries and forest resources and care for the environment
- tenure – to allow people access to natural resources; who can use what resources for how long and under what circumstances

The voluntary guidelines cover all forms of tenure—public, private, communal, collective, indigenous and customary; as well as ownership and other rights to use natural resources. Their focus is for the benefit of all people, with emphasis on the vulnerable and marginalized.

Why the need to improve the governance of tenure? To improve food security, as well as to eradicate poverty through sustainable livelihoods, ensure social stability through housing security, to promote rural development through environmental protection, and thereby achieve sustainable and equitable social and economic development.

Following several phases of research and networking (2000 onwards), consultations (2008-2010), drafting and negotiations (2011), the VGGT was finally endorsed by the Committee on World Food Security (CFS) in May 2012. The guidelines were then introduced at the national level, initially covering about 35 countries who engaged in awareness-raising opportunities. Currently, at the regional level for Asia and the Pacific, the Food and Agriculture Organization (FAO) is organizing awareness-raising workshops in countries such as China, Mongolia, Myanmar, Nepal, Pakistan, Philippines, and Viet Nam. Another major undertaking is the translation of the guidelines into different languages—around 20 worldwide to date. The translations are still going through the proofing process, but will soon be available on the FAO website.

At the regional level, FAO is now strengthening the partnership with organizations such as the World Bank, IFAD, UNESCAP, and others (e.g., the Chinese Academy of Agriculture Science). With the consensus that has been built, the key now is to take the VGGT “from principles to actions.”

The Voluntary Guidelines are seen as relevant for CSOs in terms of:

- advocacy
- awareness raising
- legal assistance
- development of capacities for people to be able to enjoy and protect their tenure rights
- policy dialogue
- fostering of responsible governance of tenure

Principles for Responsible Investment in Agriculture and Food System

The Principles for Responsible Investment in Agriculture and Food Systems (CFS-RAI) were approved by the 41st Session of CFS on 15 October 2014. Corporate private investment in agriculture, including both domestic and foreign direct investment (FDI), had been increasing quite rapidly. While such investments can have transformative and positive impacts at local and national levels, some forms of investment had proven less likely to generate benefits and, in fact, carried significant risks for local communities, governments and investors.

Thus, in the aftermath of the food price crisis of 2007/8, the risks of large-scale land acquisitions attracted substantial international concern. The United Nations General Assembly, as well as governments from the G8 and the G20 alike, called for initiatives promoting responsible agricultural investment that mitigate risks and maximize opportunities, such as improved food security. One area, therefore, that the principles for Responsible Agricultural Investment seek to address is the new form of 'land grabbing' which results from both domestic and foreign direct investment.



Figure 8: Who have been using the VGGT?

Source: Niino, Y. (2015). *Voluntary Guidelines on the responsible governance of tenure of land fisheries and forests: linkages with responsible agricultural investments and post-international year of family farming* FAO Regional Office for Asia. [Powerpoint slides].



10 Principles for Responsible Agricultural Investment

- Principle 1:** Contribute to food security and nutrition.
- Principle 2:** Contribute to sustainable and inclusive economic development and the eradication of poverty.
- Principle 3:** Foster gender equality and women's empowerment.
- Principle 4:** Engage and empower youth.
- Principle 5:** Respect tenure of land, fisheries, and forests, and access to water.
- Principle 6:** Conserve and sustainably manage natural resources, increase resilience, and reduce disaster risks.
- Principle 7:** Respect cultural heritage and traditional knowledge, and support diversity and innovation.
- Principle 8:** Promote safe and healthy agriculture and food systems.
- Principle 9:** Incorporate inclusive and transparent governance structures, processes, and grievance mechanisms.
- Principle 10:** Assess and address impacts and promote accountability.

Moving forward on these principles will involve:

- further research on the impacts of agricultural investment;
- formulation of policies for promoting investment for sustainable agricultural development, while ensuring that policies, laws and regulations governing land tenure and agricultural investment are consistent and mutually supportive;
- increasing the effectiveness of support for good governance at both national and local levels; and
- more proactive engagement by civil society organizations in raising community awareness regarding civil rights and how to exercise those rights, while closely monitoring potential conflicts.

Achievements to date have been:

- formation of an Inter-Agency Working Group (IAWG) composed of FAO, the International Fund for Agricultural Development (IFAD), the United Nations Conference on Trade and Development (UNCTAD), and the World Bank (WB);
- support of and contributions to the CFS-led inclusive consultation process initiated in 2012 to develop and ensure broad ownership of the principles for responsible agricultural investment;
- initiation of a new research program in January 2015 that includes field testing principles for responsible investment in agriculture; and

- informing the public debate by sharing knowledge on responsible agricultural investment through various publications.

The CFS-RAI and PRAI are seen as useful for both private corporate actors desiring to make investments that are financially, socially and environmentally sustainable, and governments who want to develop laws and policies that promote responsible investment. These likewise help civil society groups in advocating responsible business conduct.

International Year of Family Farming (IYFF) 2014

2014 saw the marking of the International Year of Family Farming (IYFF), while 2015 is the International Year of Soils. The IYFF+10¹⁶ continues to champion the improvement of public policies in favor of Family Farming, focusing on the following areas:

- access to local and regional markets
- access to credit
- access to appropriate technology
- access to natural resources, taking climate change into consideration
- strengthening of family farmers' organizations
- the role of women and youth

Other key areas are the establishment of National Committees, the formulation of Global Guidelines for Family Farming, and the promotion of participatory research.

¹⁶ In October 2014, Brazil requested that the IYFF be extended for 10 more years.

Family Farming Knowledge Platform

Sharing quality knowledge and data is a vital component for policy dialogue and policy making to address the specific needs of family farms. To provide access to and verification of this information, a Family Farming Knowledge Platform is envisioned, to serve as the world's largest high-level collection of national laws, regulations, public policies, relevant data, best practices, compelling research, publications and articles related to family farming. The agencies concerned are still discussing and validating how this platform should function, but it is hoped to be launched very soon.

INTERNATIONAL LAND COALITION (ILC) - ASIA

People-Centered Land Governance and the National Engagement Strategies (NES)

By Erpan Faryadi, ILC Asia Regional Facilitator
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The International Land Coalition (ILC), hosted by the International Fund for Agricultural Development (IFAD) in Rome, is a global coalition of 152 intergovernmental and civil society organizations (CSOs) formed to promote secure access to land for the rural poor.

ILC membership comprises some of the major UN agencies (IFAD, FAO, UNCCD, UNEP, etc.), CGIAR centers (IWMI, ICRAF, IFPRI, etc.), and a number of think tank organizations (WRI, IIED, LANDESA,

etc.). The majority of ILC members are civil society and farmer organizations, as well as indigenous peoples.

Involvement in Land Policy Formulation and Implementation Processes

In 2007, ILC launched a regionalization process in its three main regions—Africa (based in Zimbabwe), Asia (based in Indonesia), and Latin America (based in Peru). In the current ILC Strategic Framework 2011-2015, approved by the Global Assembly of Members (AoM) in Tirana, Albania in 2011, ILC members and strategic partners agreed to strengthen the network’s organization in these regions in order to improve its capacity to support and influence regional- and national-level land policy formulation and implementation processes, and to serve as key relay between its global and national-level efforts.

ANGOC, a network of CSOs in Asia and an ILC founding member, was appointed to serve as host organization of the ILC Asia platform from October 2008 to December 2010, then extended to December 2012. For the period 2013-2015, Jakarta-based Konsorsium Pembaruan Agraria (KPA) was unanimously confirmed as the new regional host organization in the region by the ILC Asia Regional Assembly held in Antigua, Guatemala during the ILC Global Land Forum and AoM 2013.

According to the Strategic Framework of ILC (2011-2015), the primary level of intervention of ILC’s work is the country level where the greatest impact is expected, and also where the members are already working. It aims to influence the formulation and implementation of national land laws and related laws and policies for the benefit of rural people.

The political will of government is often a

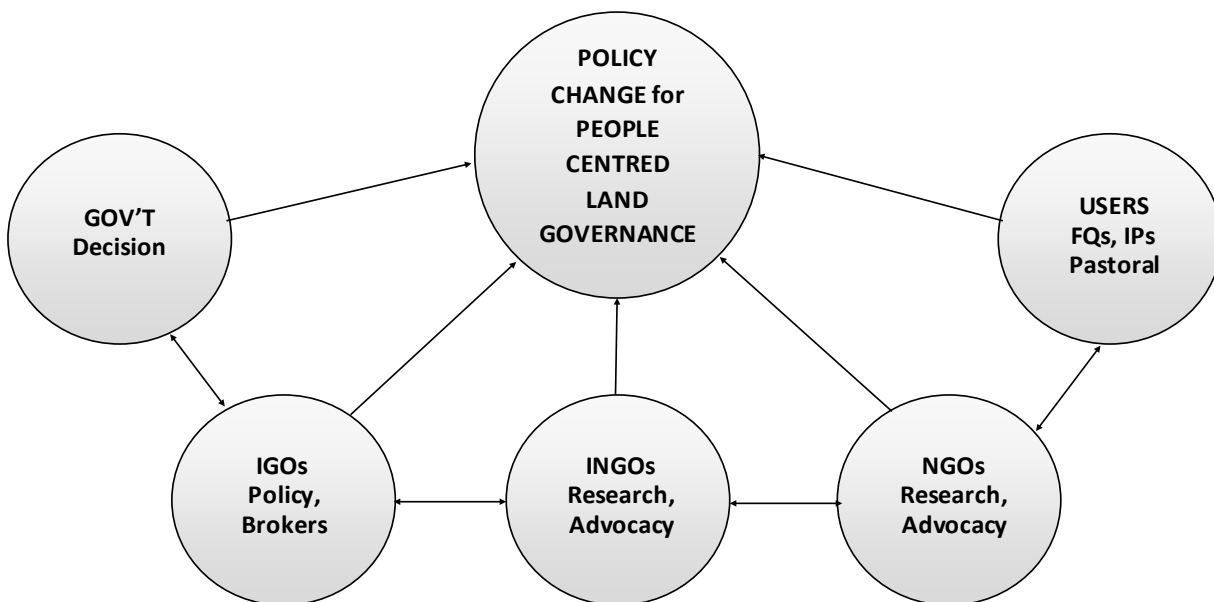


Figure 9: Connecting Actors for Effective Policy Change

Source: Faryadi, E. (2015). *People centered land governance and the National Engagement Strategies (NES)* ILC-Asia. [Powerpoint slides].



necessary, but insufficient, condition for engaging in agrarian reform processes that address inequities in ownership, tenures, and access to land and common property resources. Thus, CSOs, farmer organizations (FOs) and, in some cases, development organizations have a role to play in ensuring a pro-poor dimension in land-related reforms and policies.

ILC's National Engagement Strategies (NES) Platform

ILC's work at the country level engages the intergovernmental organization members of ILC and government institutions through the multi-stakeholder National Engagement Strategies (NES) platform. As ILC is aiming to promote people-centered land governance (PCLG), it has devised this platform which aims to involve the government, inter-governmental organizations, international organizations, networks of CSOs/NGOs, research and academic institutions, and the users of the land and natural resources themselves (i.e., farmers, indigenous peoples, fisherfolk, pastoralists, women, youth, etc).

The ILC NES multi-stakeholder platform is comprised of the coordinating committee representing ILC CSO members who form partnerships with national, state and local government institutions; research institutes; and other civil society and community organizations for awareness-raising and advocacy related to the formulation and implementation of land and related laws and policies.

In future years, the current platform aims to draw in other stakeholders such as international organizations, intergovern-

mental organizations and other networks working on land issues at the country level by using the current international principles, such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT).

Under the NES platform, members of ILC intergovernmental organizations, like IFAD, FAO, UN Habitat among others, are encouraged to get involved through their projects and programs at the country level and regional programs, and through their regional offices and country representatives/offices.

At the same time, the members of ILC have adopted the 10-point agenda of the People-Centered Land Governance (PCLG) as its guiding framework in developing its programs:

10 COMMITMENTS TO PEOPLE-CENTRED LAND GOVERNANCE

As ILC members, we commit to:

- ① Respect, protect, and strengthen the land rights of women and men living in poverty, ensuring that no one is deprived of the use and control of the land on which their well-being and human dignity depend, including through eviction, expulsion, or exclusion, and with compulsory changes to tenure undertaken only in line with international law and standards on human rights.
- ② Ensure equitable land distribution and public investment that supports small-scale farming systems,



including through redistributive agrarian reforms that counter excessive land concentration, provide for secure and equitable use and control of land, and allocate appropriate land to landless rural producers and urban residents, while supporting smallholders as investors and producers, such as through cooperative and partnership business models.

- ③ Recognize and protect the diverse tenure and production systems upon which people's livelihoods depend, including the communal and customary tenure systems of smallholders, Indigenous Peoples, pastoralists, fisher folks, and holders of overlapping, shifting, and periodic rights to land and other natural resources, even when these are not recognized by law, and while also acknowledging that the well-being of resource users may be affected by changes beyond the boundaries of the land to which they have tenure rights.
- ④ Ensure gender justice in relation to land, taking all necessary measures to pursue both de jure and de facto equality, enhancing the ability of women to defend their land rights and take equal part in decision-making, and ensuring that control over land and the benefits that are derived thereof are equal between women and men, including the right to inherit and bequeath tenure rights.
- ⑤ Respect and protect the inherent

land and territorial rights of Indigenous Peoples, as set out in ILO Convention 169 and the UN Declaration on the Rights of Indigenous Peoples, including by recognizing that respect for indigenous knowledge and cultures contributes to sustainable and equitable development and proper management of the environment.

- ⑥ Enable the role of local land users in territorial and ecosystem management, recognizing that sustainable development and the stewardship of ecosystems are best achieved through participatory decision-making and management at the territorial level, empowering local land users and their communities with the authority, means, and incentives to carry out this responsibility.
- ⑦ Ensure that processes of decision-making over land are inclusive, so that policies, laws, procedures, and decisions concerning land adequately reflect the rights, needs, and aspirations of individuals and communities who will be affected by them. This requires the empowerment of those who otherwise would face limitations in representing their interests, particularly through support to land users' and other civil society organizations that are best able to inform, mobilize, and legitimately represent marginalized land users, and their participation in multi-stakeholder platforms for policy dialogue.



- ⑧ Ensure transparency and accountability, through unhindered and timely public access to all information that may contribute to informed public debate and decision-making on land issues at all stages, and through decentralization to the lowest effective level, to facilitate participation, accountability, and the identification of locally appropriate solutions.
- ⑨ Prevent and remedy land grabbing, respecting traditional land use rights and local livelihoods, and ensuring that all large-scale initiatives that involve the use of land, water, and other natural resources comply with human rights and environmental obligations and are based on: the free, prior, and informed consent of existing land users; a thorough assessment of economic, social, cultural, and environmental impacts with respect to both women and men; democratic planning and independent oversight; and transparent contracts that respect labor rights, comply with social and fiscal obligations, and are specific and binding on the sharing of responsibilities and benefits. Where adverse impacts on human rights and legitimate tenure rights have occurred, concerned actors should provide for, and cooperate in, impartial and competent mechanisms to provide remedy, including through land restitution and compensation.
- ⑩ Respect and protect the civil and political rights of human rights

defenders working on land issues, combating the stigmatization and criminalization of peaceful protest and land rights activism, and ending impunity for human rights violations, including harassment, threats, violence, and political imprisonment.

MEKONG REGION LAND GOVERNANCE PROJECT


Innovative Approaches

By Brian Garcia - <brian.garcia@mrlg.org>

The Mekong Region Land Governance Project (MRLGP) has as its vision that farming families in the four target countries of Cambodia, Laos, Myanmar, and Vietnam (CLMV)—especially those belonging to ethnic minorities—have secure and equitable access to and control over agricultural land, forests and fisheries.

The project goal is for good land and natural resource governance to be embodied in policy and practice with transparent dialogue between actors in the four target countries and with broader regional stakeholders. Hence the project's interest in partnering with ANGOC, particularly in pursuing initiatives in improving land governance within the Mekong region and providing inputs in the broader regional ASEAN and Asian initiatives for land governance.

The MRLG Project is funded by the Swiss Agency for Development and Cooperation with additional funding from the Federal Ministry for Economic Cooperation and



Development (German acronym BMZ) and Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ). The project duration is eight years—divided into two four-year phases.

Strategic elements of the MRLG Project

The MRLG project is highly flexible and responsive, being driven by the needs and demands of its stakeholders/reform actors, as well as by opportunities. It provides two funding windows under a Grants Facility to be able to respond to emerging needs and even emergencies in land governance. The project takes a multi-stakeholder approach (government, civil society and private sector), aimed at improving engagement with the private sector and government through the support and facilitation of CSOs and NGOs. It engages in multi-level (inter-)action at the local, national and regional levels with the aim of policy implementation ‘in the field’; adding value not through creation of new structures, bodies or organizations, but through complementarity with national programs and networks that are already existing in the CLMV countries and within the region. Project activities are coordinated by one National Land Governance Facilitator in each of the four countries.

MRLG Project Progress

The Inception Phase (March 2014 to March 2015) involved the design of the country strategies for the CMLV and the start of a regional strategy, through consultations, dialogues and planning workshops in the four countries to arrive at the priority land governance issues to work on.

The Implementation Phase commenced in April 2015 with the country strategies now being implemented and the Grants Facility mobilized through two types of funding grants: (i) the Quick Disbursement Fund (QDF) – a quick response funding window to address situations that put tenure security of family farmers, women and ethnic minorities at risk, or to influence emerging land governance agendas towards a more positive policy outcome (maximum grant: US\$50,000; maximum activity duration: six months); and (ii) the Innovation Fund (IF) – provides grants to fund short- to medium-term projects to develop, demonstrate, promote or adopt innovative practices that can influence policy or be integrated into regular practices with other funding sources (maximum grant: US\$ 250,000; maximum project duration: 24 months).

THE VIEW FROM THE ACADEME/RESEARCH INSTITUTIONS

**UP College of Social Work and
Community Development (CSWCD)**

National Spatial Mapping Initiative – Agrarian Reform Lands

By Rainier Almazan (UP-CSWCD, Philippines)
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This presentation from the College of Social Work and Community Development (CSWCD) of the University of the Philippines (UP) gave an overview of the ongoing research conducted by

those who are part of the network of ANGOC especially at the local level in the Philippines, where many of the NGOs are using participatory approaches in community mapping. Specifically, it presented the “National Spatial Mapping Initiative – Agrarian Reform Lands” which aims to produce an interactive map showing the overlays of the different major tenurial arrangements and land uses, and examples of conflicting tenurial issues in certain areas of the country.

Why is land important?

- Land is a cross-cutting issue.
- Landlessness threatens the enjoyment of a number of basic human rights; e.g., right to food (as food is essentially grown on the land or cultivated from the sea).

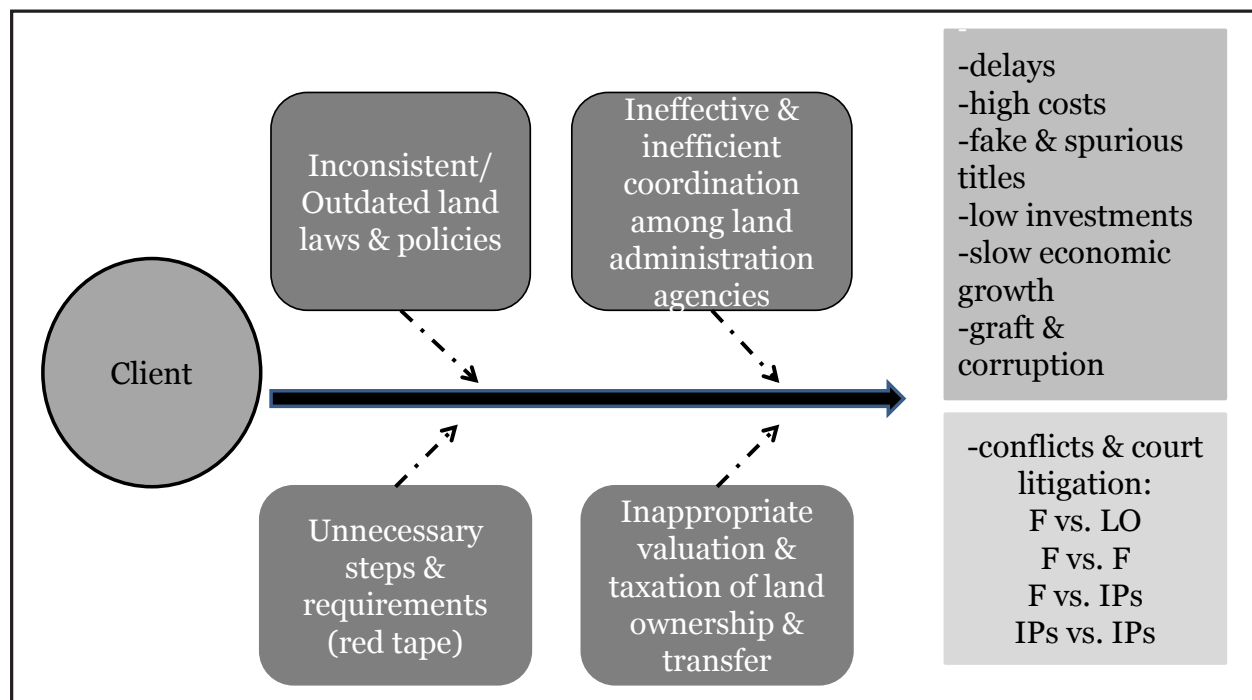


Figure 10: Issues in Land Administration

Source: Almazan, R. (2010). *Notes on enhancing land reform monitoring. Some practical experience from the Philippines*. UP-CSWCD [Powerpoint slides].



- Access to land is necessary to claim numerous economic, social and cultural rights, and as a gateway for many civil and political rights.

However, there is no right to land codified in international human rights law, except for the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT). And as guidelines—voluntary ones, at that—these do not have the binding force of a treaty. So without land, people may be deprived of some civil or political rights. In the Philippines, for instance, Filipinos were deprived of political rights during the time of the Spaniards and that resulted also in their lack of access to and rights to own and use land.

Issues in Land Administration

These are the issues that confront land administration in the Philippines. However, beyond focusing on the problem areas, more alarming are the effects of the problems: delays in obtaining one's land title, high costs for an ordinary citizen to have his or her land titled, a proliferation of fake and spurious titles, low investments in agricultural land since titles are not reliable, slow economic growth, and graft and corruption as a normal characteristic of land administration.

This then brings us to the situation of land conflicts and court litigation. Such conflicts can be categorized into different types depending on the parties involved. In previous years, most of the land conflicts were generally those of farmers vs land owners or companies (e.g., investment

companies or agricultural business companies). Today, however, there are now conflicts between farmers vs farmers, farmers vs indigenous peoples, and even indigenous peoples vs indigenous peoples over land.

INDONESIAN INSTITUTE OF SCIENCES (LIPI)

Enhancing Land Reform Monitoring Framework: A Government Institution's Perspective

By Lilis Mulyani (LIPI Indonesia)
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Agrarian Reform in Indonesia

In Indonesia, there have been three milestones for agrarian reform: (i) in the 1960s when the Soekarno government declared the implementation of land reform, (ii) in 2001 when the National People's Assembly or the MPR enacted the decision on the agrarian reform policy, and (iii) in 2004 when President Susilo Bambang Yudhoyono (SBY) announced the national vision about agrarian reform and stated that he was going to implement it in Indonesia. The agrarian reform program was designed by prominent academics from the Institute for Agriculture and also a government think tank established by SBY.

Lessons Learned from Indonesia's Agrarian Reform Pilot Projects, 2007 – 2014

The program was only partially implemented during the term of SBY, and was discontinued during the succeeding



government under President Joko Widodo (Jokowi). This has yielded a number of key observations about agrarian reform efforts in Indonesia: (i) Different regimes have different stands on land rights – e.g., what types of rights, who are the right holders, and what benefits derive from the rights, although overall economic policy is still inclined towards productivity and growth; (ii) “Extractive institutions” have grown very powerful and have greater policy influence at both the central government and the local government level; while the central and local governments are also competing over essential resources; (iii) Dualism about forest and non-forest lands (i.e., the concept of ‘state land’ and ‘state forest’ will always challenge individual and communal rights to access and use of land; the jurisdiction of the national land registration system over forestry areas and those outside forest areas).

Thus, there is a desperate need for institutional capacity empowerment. After evaluating the agrarian reform program in Indonesia, finding “champions” in the government is not easy. We must create them.

Land Reform Monitoring: “Seeing like a State” (Scott, 1998)

Now, from the perspective of government institutions, these are the impediments that the government faces in conducting land reform, particularly in Indonesia.

- *Real facts are too complex. They must be simplified into general yet strong data (numbers, graphs).*

When SBY stated his vision to implement agrarian reform in Indonesia, he asked the National Land Agency to give him figures as to how much land could be distributed to the poor people. So, his deputies worked very hard and came up with the number of 11.15 M hectares (ha). So SBY announced to the press in 2004 that agrarian reform would allow 11.15 M ha of land to be registered. But in 2007, the area was reduced. There was a problem with the assumptions as to the land that could be distributed based on the accuracy of the data. The National Land Agency had arrived at the figure of 11.15M ha based on the assumption that there are 8.15M ha of forest that could be processed under the proposed agrarian reform plan, plus another 3M ha from abandoned land. This illustrates how, in the government, real facts are too complex. It is best to simplify things by presenting data in actual numbers or graphs.

- *Program implementation gets trapped in technicalities, administrative accountability, and budget allocation purposes.*
 - The official mindset is bureaucratic, ‘top down.’ Even if the government is talking about general data, in implementation they get trapped in very specific technical and administrative bureaucratic matters.
- *A neo-populist government likes to ‘sophisticate’ its programs, using scientific language, although the implementation stands on existing structures and programs. Thus, making major changes is difficult.*



“Seeing like a State”...

- *State agencies do not work in unity. They are fragmented, divided.* – Even within the same institution, such as the National Land Agency, each deputy has his own targets, his own authority. Therefore, they compete against each other to maintain their targets.
- *There is no unity in perspectives, and no knowledge management about the vision and objectives of the agrarian reform program.* When SBY gathered several ministries—the Ministry of Forestry, the National Land Agency, the Ministry of Agriculture and the Ministry of Mining—they all seemed to understand and agree about the implementation of agrarian reform. But once they left the room, they had different interpretations. The Ministry of Forestry said they would conduct social forestry as a form of agrarian reform as it was giving access to the people. The Ministry of Agriculture had its own programs on sustainable land for food. The National Land Agency and the Mining Ministry each had its own interpretation as well. With such competition amongst one another, there is a risk for the regulations of each to ‘silence’ the others.

Evidence-based Policy – The process of agrarian reform cannot be effectively implemented if the data provided is not accurate or is not credible. This also happened in Indonesia.

- **Baseline data:** The National Statistics Bureau (BPS) has very limited indicators for land use, land

transfer, and land use change. There should be more indicators, such as women’s access to and ownership of land.

- **Data related to land:** The National Land Body, as the national body for land cadastre, is limited to non-forest areas; yet their land registration target has not reached 100% for such areas. Registration of forest areas is under the Ministry of Forestry, but is also very limited due to lack of officials.
- **National Basic Map** – Previously each institution had its own mapping methods. Now, based on the endorsement of CSOs in Indonesia, the government is acknowledging the National Basic Map as the main reference to reduce conflict in agrarian reform.
- **Knowledge about agrarian resources management and agrarian reform** also varies among academics and CSOs—one group talks about tenurial security, others about ownership rights, and still others about spatial rights—when in truth, these cannot be separated.

Next Steps for Enhancing LR Monitoring

- **Mainstreaming agrarian reform in national and local policy** – advocacy among government officials and the media
- **Availability and accuracy of data, baseline data, also providing alternative data** – standardized methods of data collection among CSOs

- Changing the bureaucratic mindset – bureaucratic reform, training for new government officials in key institutions
- Budget monitoring for more effective programs
- Local government advocacy – government “champions” need to be found locally
- Knowledge management on agrarian reform at the national, local and regional levels, in order to have a more united perspective on agrarian reform and rights by both the government sector and CSOs at these levels, through the following means:

- ◆ Create a national forum on agrarian databases, baseline data, research studies, and other agrarian resources – in accordance with the 2014 National Conference on Agrarian Reform (KNRA);
- ◆ Endorse evidence-based agrarian reform policy;
- ◆ At the regional level, gather academics and researchers (government and non-government) on agrarian reform to learn from the regional experience; organize regional conferences, publish and disseminate scientific journals.

How and Where LIPI can contribute?

- Alternative sources of data – mapping who does what, where and when. KPA has a national network that can support new sources of data related to land; while LIPI can contribute in designing the process.
- Mainstreaming agrarian reform and land rights in national policy:
 - ◆ Within the newly disseminated National Long and Mid-Term Development Planning Policy (the RPJMN) 2014-2019, agrarian reform is only casually mentioned, as if it is only “an additional program.” There is a need to make agrarian reform a mainstream program in the new government. LIPI is one government research institution that, together with CSOs, can contribute to endorse agrarian reform in mainstream policy.
 - ◆ National Strategic Planning on Conflict Prevention (adoption of Conflict Prevention Framework – LIPI, 2013) can also be used to mainstream land rights, since agrarian conflict is the number one type of conflict in Indonesia.

Human Development Research Centre (HDRC)

Improving Land Reform Monitoring Framework: Bangladesh Perspective

By Gazi Mohammad Suhrawardy (HDRC, Bangladesh) <gazisarowar@gmail.com>

Bangladesh Land Reform Monitoring Report

As presented in the Bangladesh Land Monitoring Report 2014, land reform has a long history in Bangladesh, with both government-led and market-driven dimensions.



But there was no initiative to monitor the land reform process (specifically, land reform activities, land reform limitations and challenges) before the first Land Reform Monitoring Report (LRMR) in 2011. The 2011 LRMR was the first of its kind in the country and most likely in the Asian region.

The Report put forth a Land Reform Monitoring Framework (LRMF), denoted as a Land Reform Development Index (LRDI), which has been acclaimed as an innovative and realistic means to track the state of land reform in a country. As the situation in Bangladesh stands now, the LRDI value for 2014 was found to have declined, which shows a worsening situation of the country's land reform situation.

Land Reform Monitoring Framework

The exercise of the LRMF has practical value in monitoring the directions of land reform in a country, as it makes it possible for the academia, research institutions, and policy makers to identify areas (by blocks/components, variables, and indicators) of priority interventions and advocacy towards pro-poor land reform. The state of land reform has been envisaged both in terms of inputs (e.g., budget, laws) and outcomes (e.g., land tenure, access to land) – with the input variables having 13 indicators. Data or information pertaining to the input block has been obtained from government official sources, in some cases directly and in some other cases estimated. Data/information for the outcome block was obtained mostly from relevant

research studies. In some instances, data from secondary sources were re-estimated to suit the purpose of the indicator; while in some other cases, due to non-availability of relevant data, expert judgment was sought.

Here is where there may be a problem regarding the data on which the LRMF was established and the LRDI was constructed. In cases where data/information has been obtained from government official sources – in some cases directly, and in some other cases estimated, there lies the risk of some subjective bias. In cases where data/information was obtained mostly from relevant research studies, there also lies a great problem. And in those instances when data from secondary sources were re-estimated to suit the purpose of the indicator, and in some other cases, due to non-availability of relevant data, expert judgment was sought, these could be very much subjective.

Recommendations for Improving the LRMF

The LRMF, as applied to the case of Bangladesh, suffers from lack of up-to-date, comparable and nationally representative data.

The following matrix depicts the indicators for which no research data is available, resulting in estimation based on the researchers' judgment, as well as indicators whose values are estimated on the basis of outdated (in some cases, 20 years back) data.



Table 5: LRMF Indicators with Research Gaps

No Research Data	Outdated Research Data
❖ Agrarian Reform Budget	❖ # people killed/ detained/ harassed per 100,000 population
❖ Foreign investment in land	❖ # cases received/ investigated/ adjudicated per 100,000 population
❖ # cases of land grabbing	❖ % area of land grabbed
❖ # households becoming totally homeless because of eviction	❖ Average time in years for dispute resolution & Annual loss of time due to disputes
❖ % of share croppers with legal documents	❖ Annual monetary loss/loss of asset associated with land dispute/litigation
❖ % of contract farmers' area in relation to total agricultural area	❖ # households evicted/displaced from farms/ per 100,000 population
❖ Bottom-to-top ratio	❖ % farmers having effective ownership of khas land
	❖ % total khas land distributed among landless farmers

Source: Barkat, A. and Sunrawardy, G. (2015). *Improving land reform monitoring framework: Bangladesh perspective HDRC*. [Powerpoint slides].

Considering the dearth of data, as well as the outdated status of available data, two suggestions are put forward:

1. Continuous research, both by public and private institutes, should be conducted to generate most up-to-date data; and
2. Research studies should be conducted to obtain nationally representative and comparable data (with minimum time variation). It should not be on a case-to-case basis, small-scale, or a spatial sample-sized research.


Almost all of the indicators lack the most ideal normative value. Hence, the expected ideal situation/normative scenario for each indicator by time deadline needs to be worked out through ongoing consultations

with grassroots activists, researchers, and community and policy actors.

Perhaps a new set of indicators may be considered. From the presentations made in this Regional Workshop, it is clear that land administration has a greater role in land reform issues. For example, counterproductive functions of local land administration affect both land tenure and access to land. For instance, indicators reflecting bottlenecks faced by marginalized people in accessing local land offices can be incorporated into the Outcome block of LRMF.

What can HDRC do?

- HDRC can conduct nationally representative, comparable studies to fill up the research gaps which are



prevalent in the indicators used in the 2011 LRMF. Out of 13 indicators, more than 2/3 are suffering from this research gap.

- It can also continue more research on the LRMF and LRDI for further refinement and consensus building.
- It can encourage ALRD and other committed land rights-based organizations to conduct advocacy activities so that the value of each indicator is more likely to reach the ideal or normative value swiftly, on the basis of the altered ground reality.
- It can facilitate extensive, structured training sessions for capacity building of grass root 'land reform' monitors, as monitoring land reform could be difficult using the current framework for those without extensive or even previous research background.

SMALL GROUP RECOMMENDATIONS

Before the close of the Regional Workshop, the participants were divided into three groups: i) Southeast Asia, ii) Mekong and iii) South Asia. Below are the highlights of the presentations of the three groups:

On improving the land reform monitoring framework

- Build capacities of CSOs in evidence-based research and advocacy which the land monitoring framework aims to achieve.
- Consider the policy and legal environment per country in defining the objective of advocacy, and consequently the indicators to be monitored.
- Conduct more processes and exchanges to arrive at common understanding of framework at national level, particularly in expansion areas (Lao PDR, Myanmar and Vietnam).
- View the land monitoring framework as a work-in-progress that needs to be reviewed and updated from time to time.
- Develop tools to aide CSOs in monitoring specific indicators.



On linking the monitoring initiative with post-2015 discussions

- Work towards government's openness to continue/extend the process of disseminating and discussing post-2015.
- Encourage interest among CSOs to get involved in the process.
- Partner with international partners (GLTN) to link in the process.
- Monitor implementation of post-SDG indicators.
- *Note on Mekong sub-region* – The SDG processes are not currently discussed by the governments with CSOs.

On fostering knowledge and information exchange, increasing solidarity and strengthening policy work at the regional and national level

- Continue to share information (electronic, face-to-face meetings both at country and regional levels).
- Engage other stakeholders in the process (data gathering, validation and dialogue).
- Link with journalists, media.
- Disseminate monitoring reports to journalists, surveyors, academics.
- Share information with like-minded people who can strengthen monitoring information.
- Address challenges such as technical knowledge, financial resources.

SYNTHESIS OF PLENARY

DISCUSSION

By Roel Ravanera

Challenges

Surveying all the presentations at this Regional Workshop, the challenges confronting land reform monitoring and governance in Asia may be viewed in two aspects: (i) the **context of the land reform efforts** in each country and (ii) the realities of the **actual monitoring activities** undertaken.

In terms of **context**, security of land tenure and the land rights of women and marginalized peoples were seen as common challenges across the LWA member countries. These lead to the related challenges of land reform administration and titling—where moves towards digital techniques still run the risk of being countervailed by continuing bureaucracy and corruption in land administration systems in the various countries—and the human rights violations related to land issues (conflicts, disputes, court litigation; land grabbing; harassment, evictions, even killings).

Conceptual differences regarding land reform were also cited, where even those working in the same institutions often have different understandings of tenure security and other land issues. How much more when other stakeholders, such as the government or research institutions, are involved? Another challenge was the oversimplification of complex realities—

especially by the government bureaucracy which would tend to arrive at land redistribution targets and announce highly ambitious programs which, at the end of the day, could not actually be implemented. Adding to this situation is the reality of bureaucratic limitations (staffing, facilities, funding) and even fragmented state entities and contradictory policies that pose the risk of ultimately ‘silencing’ or cancelling each other out.

In terms of the realities of **actual land reform monitoring**, all the speakers pointed to similar challenges. Availability and quality of data was a grave concern shared by all—with accuracy, consistency and even credibility being often in question. In some instances, data was totally unavailable or found to be ‘non-comparable.’ Limitations of research staff in terms of data-gathering know-how—both through secondary sources and actual cases in the field—proved to be a common stumbling block.

Recommendations

Recognizing the above challenges, the following recommendations were put forth.

- **Use of Land Tools** – Organizations such as GLTN can provide training for researchers to adapt relevant technologies (e.g., the STDM module).
- **Continuing research** by academe and research institutions) – With the aim of generating relevant, appropriate, even alternative data that is representative and comparative.

○ Revisiting the LRMF indicators

1. possible formulation of new indicators (as some of the current indicators have proven to have no available data)
2. arriving at a ‘value’ or ‘standard’ for each indicator to allow for assessment of ‘above standard’ or ‘below standard’ situations.
3. inclusion of ‘access by marginalized people’ in the outcome block of the LRMF

○ Adoption of digital technology (e.g., spatial mapping)

- **Ensuring community participation** – Involving the communities in a more participatory way.

Possible Contributions

Certain organizations/institutions identified areas that they contribute to, whether in their respective countries or to LWA partners the Asian region:

LIPI

- Alternative sources of data (in cooperation with KPA)
- Mainstreaming land rights in the government
- Knowledge management (especially for baseline data)

HDRC

- Conduct researches
- Advocacy campaign
- Capacity building

GLTN

- Land Tools
- Capacity building

UP CSWCD

- Spatial mapping - (perhaps sharing the technology as well)
- Indicators crafted by local communities

LWA Land Reform Monitoring Initiative: An Expanded Framework

One of the objectives of this forum is for us to enhance the Land Monitoring Framework. We have gotten off to a good start. But we have to continue moving, to keep up with current developments.

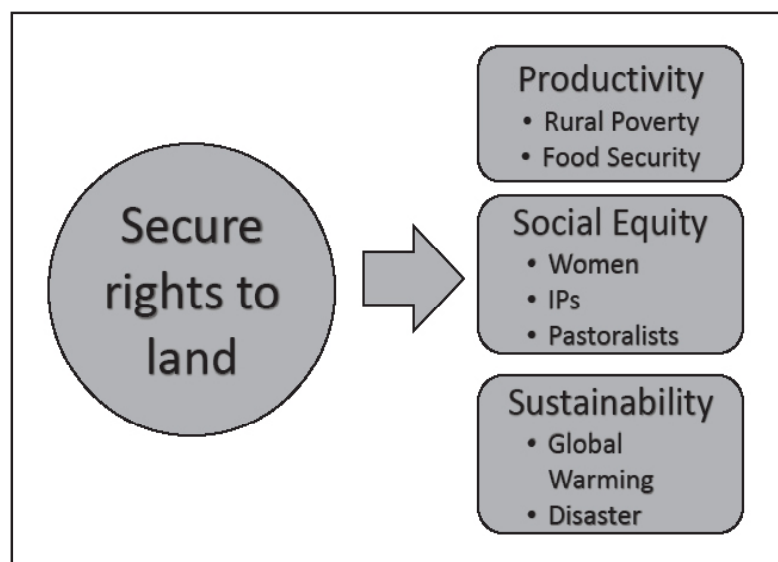


Figure 11: Goals of the LWA reform monitoring initiatives.

Source: Ravanera, R. (2015). *LWA land reforms monitoring initiative: an expanded framework*. ANGOC. [Powerpoint slides].

Initially, we just wanted to put the issue of land on the regional and global agenda. Now we realize there is so much more we have to do. We are now talking of SDGs beyond 2015 and land will be an important indicator in several goals that the UN and our governments are crafting—especially with regard to poverty reduction, food security, equality, and even sustainability as it relates to natural disasters, global warming and the like. Therefore, it is important to put all these things in context in our land monitoring work. Majority of us work with the grassroots, local communities. Yet we need to address all these issues which are connected to global processes, especially policies of governments and inter-governmental organizations. So that is the direction in which Land Watch Asia is headed as well.

We want to secure rights to land for the communities that we work with. This

could be a title, a continuum of titles, property rights, or even some claim to the resources or properties that are there. It varies from country to country but that is our common goal: that farmers, fisherfolk, and indigenous peoples would have rights to the land that they till or the resources that they manage.

This is this important for several reasons. I will cite three major ones:

1. Productivity /Rural Poverty/Food Security

As we heard in the presentation of Teo Chee Hai (GLTN), 75% of the world's farming households are in Asia and 80% of them are small-scale farmers and producers. So if we increase the productivity of these small family farms, we address issues on food security globally. When we talk about alleviating poverty, these are the people that should be liberated from poverty. That's why it is important to ensure their rights to the land, because, simply put, if the land is yours, you invest more in that land and you increase productivity. Beyond that, as explained in the book of Pradeep Priyadarshi (Ekta Parishad), the importance of land is more than the economic significance of owning land per se. It is also a source of self-esteem, of self-worth for the farmers.

2. Social Equity -Women/IPs/Pastoralists

The global reality today is that many are poor and very few are rich. Therefore, if we want to be sustainable in the long run, we need to address the problem of inequity in all its varied shades. But the general parameter would be the equitable distribution of wealth, which is also addressed in the SDGs beyond 2015.

3. Sustainability/Global Warming/ Disasters

In terms of the physical, the environmental, we are saying this is a new world today. We have problems like global warming – where the island

groups of countries face possible sinking in the future, so we need to protect them as well. We have to secure rights to land in ways that would address issues of disaster preparedness or resiliency of farmers in areas subject to physical risk or threat.

Scope of the LWA Campaign: Taking the Ecosystem Approach

Initially, the campaign was focused on agricultural lands, as our concern was 'agrarian reform.' However, in the reports that are emerging, we see that it is also important to address aquatic resources. In truth, in many countries, the definition of agriculture does not only involve land but also includes bodies of water, marine and all. Therefore, LWA needs to look into aquatic resources for aquatic reform as well. Then finally, there are the forest areas and public domain. The scope now spans the whole 'reefs to reef' landscape—or what could be termed as the 'ecosystem approach.' In such an approach we take the perspective that whatever happens in the uplands would likewise affect those in the lowlands and in the shorelands as well.

Outputs

- **Monitoring reports** – These are vital in convincing our partners, governments and other institutions in terms of formulating good policies.
- **Policy proposals/studies** – These can emerge from the data that we gather in the course of monitoring.



- **Tools, manuals** – We are fortunate to have with us GLTN which has extensive experience in developing land tools in general, and land tenure tools in particular.
- **Spatial maps** – Another very important tool for convincing policy makers on land issues. LWA can organize capacity building activities on this, together with groups that are already doing participatory GIS-based mapping in communities.
- **Reduction in poverty** – One of the main indicators is land, particularly securing rights to land properties and resources.
- **Gender equity** - Land is again another major indicator, specifically the perception on tenure or right to land.
- **Another 5 SDGs** cite land as an important factor.
- **Climate change adaptation** – We need to raise the issue that climate change also relates to land.

Outcomes

- Pro-poor policies
- Resolution of conflicts – at the local level
- Enhanced CSO capacities
- Disaster resiliency
- Human rights protection – Many situations have been described relating land and human rights. Unfortunately, at present, land rights violations are not considered human rights violations. Thus, there is a need for LWA to advocate for that.

Significance

Post-2015 SDGs – The outcomes of the LWA campaign can serve as inputs to the Post-2015 SDGs, and thus become a very important instrument for us in terms of having dialogues with governments. There is a heightened openness and sensitivity to the Post-2015 SDGs as these would be an agreement among the world's governments.

- **Global economic integration** – The nature of the problem is changing. With today's economic integration, investments, capital, big businesses are coming in, resulting in farmers being eased out of their lands. It is the new form of land grabbing, and we need to take that into consideration as well.

Linkages

Faced with such a complex situation on land, we need alliances, we need partners.

- **Academic institutions** – several have already joined in to support the LWA campaign
- **Advocacy groups**
- **Human rights advocates**
- **Media**
- **Government agencies**



NEXT STEPS

After two days of deliberations, the Regional Workshop participants modified the land monitoring framework based on the recommendations presented. They likewise agreed to (i) continue the process of sharing information, both through electronic and face-to-face meetings; (ii) partner with GLTN in linking the ANGOC/LWA land monitoring initiative to the post-2015 SDG processes; and (iii) develop tools to enhance capacities of CSOs in evidence-based research and advocacy.

For its part, the LWA campaign shall continue to strive to add value to the work of its members at the country level, contributing to facilitating increased access to and control of land by Asian rural communities through a common platform aimed at ensuring food security and sustainable livelihoods, upholding cultural identity and gender equity, and building social security and lasting peace. ●



Founded in 1979, ANGOC is a regional association of national and regional networks of non-government organizations (NGOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance and rural development. ANGOC network members and partners work in 14 Asian countries with an effective reach of some 3,000 NGOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy debates with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

ANGOC ANGOC is the convenor of the Land Watch Asia (LWA) campaign and the Asian Alliance Against Hunger and Malnutrition (AAHM-Asia). ANGOC is also a member of the International Land Coalition (ILC), Global Land Tool Network (GLTN), and the Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium.

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Land Watch Asia (LWA) is a regional campaign to ensure that access to land, agrarian reform and sustainable development for the rural poor are addressed in national and regional development agenda. The campaign involves civil society organizations in seven (7) countries—Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, and the Philippines. LWA aims to take stock of significant changes in the policy and legal environments; undertake strategic national and regional advocacy activities on access to land; jointly develop approaches and tools; and encourage the sharing of experiences on coalition-building and actions on land rights issues.



**INTERNATIONAL
LAND
COALITION**

ILC is a global alliance of intergovernmental, governmental, and civil society organizations working together with the rural poor to increase their secure access to natural resources, especially land. Know more about ILC at www.landcoalition.org



As the overseas development agency of the Catholic Church in Germany, MISEREOR works in partnership with all people of goodwill to promote development, fight worldwide poverty, liberate people from injustice, exercise solidarity within the poor and persecuted, and help create "One World". MISEREOR supports projects and promotes local initiatives in Africa, Asia and Latin America, irrespective of nationality, religion or gender. Know more about MISEREOR at www.misereor.org.



GLTN
GLOBAL LAND TOOL NETWORK

The Global Land Tool Network (GLTN) is an alliance of global regional and national partners contributing to poverty alleviation through land reform, improved land management and security of tenure particularly through the development and dissemination of pro-poor and gender-sensitive land tools. Know more about GLTN at <http://www.glt.net>.

This publication contains the major highlights of Land Watch Asia's "**Regional Workshop on Land Monitoring Initiatives: Towards an Accountable Governance on Land**" held in Manila, Philippines on 21-22 April 2015. These include the land monitoring country reports (Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan and Philippines) prepared by Land Watch Asia (LWA) campaign using the Land Reform Monitoring Framework, which was its landmark contribution towards assessing land issues across the region.

Also presented are country updates in Lao PDR, Myanmar and Vietnam. Collaborative efforts with global and regional organizations dealing with land issues are likewise summarized here, as well as the perspective of professionals from research and academic institutions in different Asian countries.

As a result of these candid country reports and the valuable inputs from partners in government and the academe, the Regional Workshop succeeded in recommending modifications and additions to the land monitoring framework in pursuit of the monitoring of the post-2015 SDGs.

