

The Prolonged Struggle for Land Rights in Asia

**A Regional Overview
Land Watch Asia**





Abbreviations

ADB	Asian Development Bank	LANGO	Law on Associations and NGOs
ADHOC	Cambodian Human Rights and Development Association	LAP	Land Administration Project
AGRA	Alliance of Agrarian Reform Movement	LDT	land development tax
API	Aliansi Petani Indonesia	LGU	local government unit
ALRD	Association for Land Reform and Development	LICADHO	Cambodian League for the Promotion and Defense of Human Rights
AVARD	Association of Voluntary Agencies for Rural Development	LWA	Land Watch Asia
BAL	Basic Agrarian Law	MPR	People's Consultative Assembly
SCs	Scheduled Castes	MQM	Muttahida Qaumi Movement
CADCs	Certificate of Ancestral Domain Claims	NALDR	National Authority of Land Dispute Resolution
CADT	Certificate of Ancestral Domain Title	NAP	National Agriculture Policy
CAF	Corporate agriculture farming	NCIP	National Commission on Indigenous Peoples
CARL	Comprehensive Agrarian Reform Law	NCLL	National Campaign for Land and Livelihood
CARP	Comprehensive Agrarian Reform Program	NCS	National Conservation Strategy
CARPER	Comprehensive Agrarian Reform Program Extension with Reforms	NGO	non-governmental organization
CCA	climate change adaptation	NLRC	National Land Reforms Council
CHT	Chittagong Hill Tracts	NLRCC	National Land Rights Concern Group
CSO	civil society organization	NLRF	National Land Rights Forum
CSRC	Community Self-Reliance Centre	NLUA	National Land Use Act
DAR	Department of Agrarian Reform	NPC	National Planning Commission
DDC	district development committee	NPCP	National Peasants Coalition of Pakistan
DENR	Department of Environment and Natural Resources	ODA	official development assistance
DLRO	District Land Reform Office	PML-N	Pakistani Muslim League–Nawaz Government Regulation
DRR	disaster risk reduction	PP	<i>(Peraturan Pemerintah)</i>
EBSATA	East Bengal State Acquisition and Tenancy Act	PPP	Pakistan Peoples Party
ELCs	Economic Land Concessions	RA	Republic Act
EPA	Enemy Property Act	REDD	Reducing Emissions from Deforestation and Forest Degradation
FLA	fishpond lease agreement	RPPK	Revitalization of Agriculture, Fisheries and Forestry Policies
FPIC	free, prior and informed consent		<i>(Revitalisasi Pertanian Perikanan Kehutanan)</i>
ICCs	indigenous cultural communities	SEZs	special economic zones
IDPs	internally displaced persons	SLCs	Social Land Concessions
IFI	international financial institution	STN	Serikat Tani Nasional
IGO	intergovernmental organization	STs	Scheduled Tribes
IP	indigenous people	TNC	transnational corporations
IPRA	Indigenous Peoples Rights Act	UDHA	Urban Development and Housing Act
ISF	integrated social forestry	UUPA	Basic Agrarian Law
LAND	Land and Agrarian Network for Development		<i>(Undang-Undang Pokok Agraria)</i>
		UUPBH	Law No. 2 on Sharecrop Agreement
			<i>(Undang-Undang Pokok Bagi Hasil)</i>

VANI	Voluntary Action Network of India
VDC	village development committee
VPA	Vested Property Act
WALHI	<i>Wahana Lingkungan Hidup Indonesia</i>
YLBHI	<i>Yayasan Lembaga Bantuan Hukum Indonesia</i>



Glossary

<i>Adivasis</i>	Indigenous peoples
<i>Bhoodan</i>	“Land gift”
<i>Char</i>	Accreted land; alluvial land or land deposits from the river silt on the riverbed created by flood or sedimentation
<i>Charuwa</i>	Cattleherder
<i>Haruwa</i>	Plowman (a kind of bonded system mostly practiced in Terai)
<i>Daibhag</i>	Book of law followed by Hindus
<i>Dalits</i>	Scheduled Caste
<i>Haliya</i>	Agricultural laborer
<i>Hari</i>	Sharecropper
<i>Jagir</i>	Arable lands assigned to government employees and functionaries in lieu of their emoluments
<i>Khas</i>	Government-owned land
<i>Muqarraridars</i>	Tenant
<i>Mushakar</i>	A caste under the Dalit group who are discriminated and humiliated
<i>Shari ‘a law</i>	Moral code and religious law of Islam
<i>Tanazul</i>	Islamic practice whereby women renounce their inheritance rights
<i>Terai</i>	The plain land of the southern part of Nepal
<i>Thesavalamai</i>	The traditional law of the Malabar or Sri Lankan Tamil inhabitants
<i>Zamindari</i>	A system of land management with <i>zamindars</i> (landlords) as intermediaries between the state and the tenants (tillers)
<i>Zamindar</i>	Landlord



A Regional Overview of Access to Land¹

This article aims to provide a regional synthesis of the Land Watch Asia country studies from Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, the Philippines and Sri Lanka, which were originally written as strategy papers for the campaign. They allow readers to understand the context for access to land, and the challenges and opportunities for land rights advocacy in the region. It begins by providing an overview of the situation of rural poverty and landlessness in the eight countries, and proceeds with a discussion of policy and legal initiatives for land reform and access to land, and the issues and challenges each country has to face in the struggle for land rights. A section summarizes the various actors that either facilitate or impede access to land. It outlines the recommendations to give agrarian and land reforms the necessary push.

This is an updated article, based on the revisions from the country papers themselves and supplemented by material from other sources. It is also expanded to include two new country papers from Pakistan and Sri Lanka.

A Sketch of Rural Poverty AND Agrarian Issues in Eight Asian Countries

Asia is home to 75% of the world's farming households, and about 80% of these are small-scale farmers and producers. An estimated 87% of the world's 500 million small farms—less than 2 hectares (ha) in size—are found in Asia and the Pacific.² Even with figures that vary from country to country, the general trend indicates that most of these rural poor do not have their own land or have too little of it to be able to eke out a decent living. The poorest of the poor have practically no land, while those who have more are only slightly better off. In terms of sub-groups, those who bear the brunt of poverty the most are the landless, marginal farmers and tenants, *adivasis* or indigenous peoples, minority castes and internally

displaced persons. Rural women and female-headed households are particularly prone to acute poverty.

Patterns of uneven development and inequality run across all countries. The overall land ownership patterns are heavily skewed: a small fraction of landowners own vast amounts of land, in contrast with the preponderance of small/marginal landowners and landless people. Large landholdings have decreased, but this has been offset by growth in the number of marginal holdings, as is the case in Bangladesh and India. The average size of landholdings in countries is generally shrinking. In the Philippines, it has fallen from 2.2 ha in 1991 to 2 ha in 2002.³ Likewise, in Indonesia, from 0.83 ha in 1993, the average landholding of marginal farmers decreased to 0.5 ha in 2003.⁴ The increase in landholdings can be partly due to population growth and reliance on agriculture for livelihoods. More than two-thirds of peasants in Nepal own less than a hectare of land, while in India a little less than half of the population owns less than 0.2 ha of land. The number of landless or near landless persons is also growing in the region.

That rural poverty persists in many Asian countries is troubling, especially amidst increasing wealth. Poverty and landlessness are inextricably connected, especially in rural areas where land strongly remains a source of wealth and power. Genuine land reform offers the best chance for the poor to break away from the shackles of hunger and poverty.⁵ It has been shown that small farmholders are more productive, since they will invest more in land that is theirs. Another compelling reason to support land reform is that it promotes biodiversity conservation.⁶

The summary in Table 1 provides an introduction to the state of rural poverty, land ownership distribution patterns, and landlessness in the eight countries that are part of the Land Watch Asia campaign: Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, the Philippines, and Sri Lanka.

Table 1. Rural Poverty and Patterns of Land Ownership Distribution in Eight Asian Countries

Rural poverty and land ownership distribution patterns	
Bangladesh	<ul style="list-style-type: none"> • In 1960, 10% of rural households owned 37% of the country's largest parcels of land (>3 ha). In 1996, the percentage of owners of large landholdings had dwindled to 2.1%, owning 17.3% of all agricultural land. However, the percentage of landless households (owning less than 0.19 ha) rose from 19% in 1960 to 56% in 1996.ⁱ • 13% of households own more than half (58%) of the country's farmland, whereas majority of households (70%) are landless and marginal farmers owning 15% of total agricultural land. • Households own an average of 0.3 ha. • Around 57.1% and 70.6% of households living below the lower and higher poverty lines respectively are absolutely landless. In contrast, 4.1% and 8.1% of households living below the lower and higher poverty lines respectively owned more than 3 ha. • In 2008, the Bangladesh Agriculture Census reported a total of 8 million sharecroppers. Sharecropping is observed to be rising. According to one estimate, there were some 12.1 million sharecroppers in 2009.
Cambodia	<ul style="list-style-type: none"> • In 2004, 91% of the poor lived in rural areas. • 40% of households whose heads are engaged in agriculture are poor. • Landlessness has been rising since 1997. 21% of rural people are landless (2008). • Farming households own an average of 1.5 ha of land. • In 2004, 26% of households in rural Cambodia owned less than half a hectare. Another survey claims that 45% of rural households owned than 1 ha (2008). • The rate of landlessness among female-headed households is 21.2%. • The top 5% of landowners are gaining more control of private lands at a rate of 2% per year. In 1999, they held close to 60% of all privately held land. By 2003, their share had risen to 70%. • 89% of the poorest quintile in Cambodia owns or operates agricultural lands. • In the period 2004–2007, the access of the richest quintile to agricultural lands dropped from 48% to 39%. The poorest quintile, on the other hand, experienced a 6–percentage point increase in access to land.ⁱⁱ • 8% of lands are operated through tenancy, sharecropping, or other means.ⁱⁱⁱ • Only 20% of landowners hold secure titles to their land. • Between 1991 and 2004, there have been 1,551 land disputes covering over 380,000 ha and more than 160,000 farming families. As of 2006, two-thirds of these cases remain unsolved.
India	<ul style="list-style-type: none"> • In 1971–1972, large and medium-size holdings were owned by the top 10% of landowners and covered 54% of the total land area. By 2005–2006, the proportion of owners of large and medium-size holdings had declined to 5.78%, and their combined area had been reduced to 35% of all land. • The proportion of marginal holdings has increased in all states: from 63% in 1971–1972 to 64.77% more than three decades later.

ⁱ Landless households have 0–59 decimals. A decimal is approximately 1/100 acre or 40.46 square meters.

ⁱⁱ World Bank. Cambodia: *Halving Poverty by 2015? Poverty Assessment 2006* (2006), as cited in STAR Kampuchea, *Land Monitoring Report: Cambodia*.

ⁱⁱⁱ Ibid.



Table 1. (con't.)

Rural poverty and land ownership distribution patterns	
India	<ul style="list-style-type: none"> • The number of marginal and small landholdings represents 83.29% of the total in India. They make up an area of 41.14% of total agricultural land. • 43% of the population is still absolutely and near landless, owning less than 0.2 ha. • An estimated 87% of landholders among Scheduled Castes (SCs) and 65% of landholders among Scheduled Tribes (STs) in the country are classified as small and marginal farmers. Some 64% of SCs and 36% of STs are primarily agricultural workers. • About 47.5% of households possess land below 0.5 ha.^{iv}
Indonesia	<ul style="list-style-type: none"> • In 1993, about 30% of all farming households were landless. Another 34% of 10.8 million farming households owned less than a hectare of land. By 2003, this number had increased to 13.7 million, or an increase of 2.6% a year. In 1993, over half (52.7%) of the country's farming households were considered poor. By 2003, the proportion was 56.5%. • The number of families that make their living from agricultural activities increased from 20.8 million in 1993 to 25.4 million in 2003, or an increase of 2.2% a year. • Of the 25.4 million farming families recorded in 2003, 54.4% lived in Java, and the rest (45.6%) in outer Java. Poverty among Javanese farming families rose from 69.8% to 74.9% during the period 1993–2003. In outer Java, the number of poor farming families increased from 30.6% to 33.9% during the same period, representing an increase of 3.3% a year.
Nepal	<ul style="list-style-type: none"> • Out of a total of 4.2 million households, 1.3 million households or about 30% of the population are landless. • In rural areas, almost 29% of households, or over 5.5 million rural-based Nepalis do not own any farmland. • 1.4% of landowners own 14% of arable land. • 47% of landowning households own 15% of total agricultural land. The top 5% of landholders own more than 37% of the land.^v • The average landholding size is 0.6 ha (2009).^{vi} • Less than 1% of landowners hold more than 5 ha. • Only 8% of landholders are female, though this proportion is gradually improving. • Marginalized groups include freed bonded laborers (about 26,000 families), landless peasants, squatter settlers, indigenous peoples, <i>Haliya</i> (300,000 persons), <i>Haruwa/Charuwa</i>, <i>Dalit</i>, <i>Badi/Badini</i> (4,442 persons), indigenous and minority groups, <i>Mushakar</i>, and internally displaced people. • Some 287,100 families do not have enough land on which to build a house—these are considered the agricultural landless (2006).^{vii} • Landlessness is highest in the Terai districts compared to the hilly ones.

^{iv} Association of Voluntary Agencies for Rural Development (2012). *Country land reforms monitoring report*. Report submitted to ANGOC.

^v Community Self-Reliance Centre. (2012). *Land reform monitoring indicators, Nepal*. Kathmandu: Author.

^{vi} Central Bureau of Statistics (CBS), 2009, as cited in CSRC, *Land reform monitoring indicators, Nepal* (2012).

^{vii} Central Bureau of Statistics (2009), as cited in CSRC, *Land reform monitoring indicators, Nepal* (2012).



Table 1. (con't.)

Rural poverty and land ownership distribution patterns	
Pakistan	<ul style="list-style-type: none"> • An estimated 30% of the population is considered “income-poor”. • About half of the workforce is engaged in agriculture. • Majority of the poor lives in rural areas. • 10.36% of the rural population is landless; 32.67% owns land under 1 ha; whereas 0.03% owns 5 or more ha. • Land distribution remains highly skewed in Pakistan.
Philippines	<ul style="list-style-type: none"> • The Philippine agrarian structure is made up of small peasant farms and large plantations. • Around 50% of 88.7 million Filipinos live in rural areas.^{viii} • 60% of Filipinos derive their livelihood from forestry or agriculture. • Over 31 million poor Filipinos are found in rural areas. Poverty incidence remains highest among farming and fishing families. Within agriculture, farm workers in sugarcane, small farmers in coconut, rice and corn, fishermen and forester households are among the poorest, accounting for 70% of the country’s subsistence households. • About 1 million ha of farmlands remain undistributed to farmers. More than 650,000 farmers are deprived of the chance to benefit from agrarian reform. • Only 55% of the targeted area of 7.7 million ha has been awarded to indigenous communities as ancestral domains. • Community-managed forests only cover 22% of total forest cover. • Barely half of coastal towns have effectively delineated municipal waters for small fishers. • Almost 85% of fishers are threatened by eviction.
Sri Lanka	<ul style="list-style-type: none"> • An estimated 85% of the land in Sri Lanka, comes under the ultimate ownership of the state, leaving only about 15% for private ownership • One in every three Sri Lankan families lives on land alienated by the government under long-term leases or other forms of tenure.

^{viii} National Statistics Office (2007). *Census of the Philippine Population*.



Laws AND Policies FOR Land Rights

In all eight countries, laws have been passed, and policies formulated, in regard to reforming land ownership and agrarian structures. Such reform initiatives can be grouped into two “generations” of reforms: the first, which go back to the 1950s; and the second, which started in the 1990s.

“FIRST GENERATION” REFORMS

One of the most common “first generation” reforms was the establishment of ceilings for landholdings. Between 1950 and 1984, Bangladesh vacillated about the maximum size of landholdings that families could legally possess, raising it to 50 ha, at its highest, and eventually lowering it to 8 ha. Nevertheless, the government failed to recover “surplus” land, estimated at 1 million ha, because of lack of political will. Similarly, India’s states individually imposed landholding ceilings between 1955 and 1985, with mixed success. About a million hectares of “surplus” land was recovered by the government in 1970, half of which reverted to the states, while the remaining half was distributed to the landless. However, between 1972 and 1985, and despite the lowering of the ceiling, the size of the “surplus” land recovered by the government had increased by just 10% over the 1970 figure.

Pakistan has had three waves of land reform efforts, which progressively lowered land ceilings. It began with the 1959 Martial Law Regulation 64 that sought to “boost agricultural output, promote social justice, and ensure security of tenure”. The Land Reforms Regulation of 1972 allowed lands to be confiscated from landowners without compensation and given to beneficiaries for free. Meanwhile, the Land Reform Act of 1977, meanwhile, was an attempt to go further in tackling land tenure insecurity and land inequality; redressing gaps in prior legislation; and implementing tenancy, land ceiling and land distribution reforms. Sri Lanka was an early starter, with the Land Development Ordinance of 1935 serving as an instrument for lands to be provided to the landless. Moreover, its Paddy Lands Act of 1957 began to

introduce tenurial reform, while the land reform laws of 1972 and 1975 established land ceilings resulting in more than 1 million ha of private land coming under government ownership.

A second type of reform was the abolition of, or the efforts to eliminate, the practice of absentee land ownership. The 1950 law passed by the Indian state of Uttar Pradesh abolishing the *zamindari*, or absentee landlord system, was one of the first laws of this kind. Bangladesh sought to put an end to absentee land ownership by prohibiting the subletting of land. Indonesia proscribed the practice because it resulted in the exploitation of tenants, usury, and unjust sharecropping arrangements.

But perhaps the most important type of reforms in this group had to do with transforming the relationship between landlord and tenant, and in some cases, the abolition of tenancy. Nepal’s six types of tenurial arrangements, which date back to 1946 and persisted well into the 1970s, are infamous for their exploitative nature, as exemplified by such practices as bonded labor, arbitrary eviction of tenants, and collection of unreasonably high land taxes and rents. The Nepali government sought to improve the lot of tenants, through the Land Reform Act of 1964, by abolishing dual ownership of land or rented tenure arrangements, and by fixing the rent on agricultural land. In 1960, Indonesia passed the Basic Agrarian Law (BAL) to protect sharecroppers from exploitation by landowners, particularly by requiring that sharecropping agreements be put in writing and signed by the parties before the village head, and have a fixed duration, thus precluding arbitrary changes imposed by the landowner. Bangladesh made provisions to restore the rights of tenants to lands that are rendered temporarily non-existent by submergence in water during seasonal floods. The Philippine Constitution unequivocally promotes the redistribution of lands to their actual tillers, based on the principle that property ownership and use should further the state’s program of redistributing wealth.

“SECOND GENERATION” REFORMS

Cambodia is a late reformer. It instituted a private property rights regime only in 1989, pursuant to an amendment to its Constitution. Its Land Law of 2001

provides for the grant of private property rights, specifically through the awarding of Social Land Concessions (SLCs) and Economic Land Concessions (ELCs). The government has also formulated laws promoting community management of forest resources, laws against unlawful eviction and expropriation of land by the state, and laws providing for just compensation of displaced persons, but these have yet to come into effect.

Bangladesh's "second generation" reforms centered on resettling landless families on state land, including newly resurfaced lands (or lands that were formerly submerged in floodwaters), and the distribution of land titles in certain cases.

In Indonesia, the People's Consultative Assembly (MPR) issued a decree in 2001 mandating specific government entities to correct the errors in the implementation of agrarian reform under the 1960 Basic Agrarian Law. Notwithstanding the good intentions of this law, the government's active promotion of mining, extractive forestry activities, and the expansion of plantations is expected to negate whatever gains may be had as a result of the 2001 MPR decree.

India's Eleventh Five-Year Plan (2007–2012) Approach Paper incorporates a land reform component. Specifically, the Plan recommends: (1) making land distribution more equitable and improving land tenure security; (2) providing support services to women farmers and issuing joint titles to husband and wife, to enable women to gain access to credit; (3) restricting the diversion of prime agricultural land for non-farm purposes; (4) legalizing tenancy to allow tenants to apply for credit from formal sources and to provide them with enough incentive to develop the land; and (5) facilitating the lease of cultivable land, whose owners reside in urban areas, so that the land would not lie fallow for too long.

Nepal's Interim Constitution of 2007 is committed to the pursuit of "scientific land reform" that entails the abolition of "capitalistic land ownership practices". The drafting of Nepal's new Constitution, which would serve as the cornerstone of the country, has reached an impasse as its Constituent Assembly has failed to meet

its deadline. The new Constitution would also represent a significant opportunity for the fledgling republic to put an end to feudalism and power on more decisively towards land reforms, while it has the momentum to effect change. As yet, land reform commissions in 2009 and 2010 provided recommendations, but these have not been translated into action.

A major development in Pakistan was the Punjab Assembly's passage of the Punjab Conferment of Proprietary Rights on Occupancy Tenants and Muqarraridars in December 2011. This bill grants proprietary rights to tenants "in possession of their land and cultivating it without paying the landlord rent for 20 years before the promulgation of the Punjab Tenancy Act, 1887." The law will come into force when the Punjab governor has signed it, with around 200,000 tenants standing to gain some 0.4 million acres of land.

The Philippines has produced some of the most progressive reform legislation. In 1988, it passed the Comprehensive Agrarian Reform Law, which is broad in scope and guarantees equal land ownership rights to men and women. Funding for the Comprehensive Agrarian Reform Program (CARP) expired in 2008, and CARP Extension with Reforms (CARPER) was enacted by the Philippine Congress in 2009, thereby extending the land acquisition and distribution component of the program, introducing major changes and infusing additional funding for its implementation until 2014.

In Sri Lanka, the 13th Amendment to the Constitution in 1987 devolved powers to the provincial councils, which included land, irrigation and agriculture. It also addresses land issues in the context of ethnic reconciliation, which was significant since by 1985, according to the Land Commission, there were none less than 39 major pieces of legislation on land management. In the last two decades, the number of laws has only grown.

PENDING LEGISLATION

CSOs are lobbying for the passage of several bills in Congress or in Parliament deemed critical to achieve objectives and protect previous gains on land tenure security. Some of the urgent legislation has been a long



time coming. For instance, India's Lok Sabha (Parliament) is expected to enact a new land acquisition act. This law would inevitably replace the antiquated 1894 Land Acquisition Act, which has facilitated land grabbing and sought "public purpose" at the expense of the poor: without proper compensation, and rehabilitation and resettlement.

The formulation of national land policies (including land use) is being pursued in a number of countries. India's Committee on State Agrarian Relations and the Unfinished Task of Land Reforms submitted a draft national land reform policy in 2009, which is yet to be heeded by the National Land Reforms Council. Similarly, in Sri Lanka, a National Land Coalition should be established to put in place a national land policy to guide the country. Attempts on the part of agencies and ministries to formulate such a policy have only met with opposition as regards their constitutionality.

A land use policy for Bangladesh is also being reviewed in Parliament.⁷ Discussions are also underway for a land law for the country's indigenous peoples, the *adivasis*. As well, a national land use act has sat in the Philippine Congress for six sessions. But CSO advocates are hoping that the next session will yield a law to harmonize all conflicting land-related laws in the Philippines and determine priorities for land use.

DISCRIMINATORY LAWS and PRACTICES

Women

Women's right to possess and inherit land is guaranteed by law in a number of Asian countries, but such laws offer no protection to women against sexual discrimination rooted in tradition and religion. For example, Shari 'a law grants Muslim women limited rights to inherit property. In practice, however, the patriarchal nature of Muslim society prevents women from claiming this limited entitlement. A woman, being a "good sister", is expected to surrender her claim to paternal property to her brother/s. India's Eighth Five-Year Plan (1992–1997) stipulated that to improve the status of women, inheritance laws should be changed for women to receive an equal share of parental property, whether inherited or self-acquired. Unfortunately, there are no

government directives to ensure this is enforced. Moreover, while the subject of women and land is cited in subsequent Five-Year Plans, women's rights to land still receive little attention.

Aside from inheritance laws, a number of policies in land distribution programs also reflect biases against women.⁸ (See next page, "Women's Access to Land in Asia".)

Indigenous Peoples

Asia has 70% of 370 million indigenous people. Customary land rights of indigenous peoples are customarily ignored, as in the case of Bangladesh's *adivasis*, who are prey to continual eviction from their land in the Chittagong Hill Tracts. As yet, indigenous peoples are among the poorest in society, untouched by agrarian reforms. Too often, national economic development comes at their expense. These are divested of their landholdings or denied access to natural resources. Sometimes, programs that are, on their face, well-intentioned, such as the setting up of conservation parks and reserves, have the same effect of keeping not only indigenous peoples, but also other forest and upland communities, out of their traditional source of livelihood.

Nonetheless, there have been legal and policy initiatives to uphold indigenous peoples' rights. The Philippines passed law the Indigenous Peoples Rights Act of 1997 (IPRA), which marked a watershed for the recognition, promotion and protection of the rights of indigenous peoples, including their right to ancestral domain and lands, self-governance, and cultural integrity.

India's Constitution requires its states to ensure the total prohibition of immovable property to any person other than a tribal group. Its Forest Rights Act of 2006 seeks to recognize and strengthen the land rights of forest-dwelling communities, including Scheduled Tribes and traditional forest dwellers. There are, however, several aspects of the law that leave room for doubt as to how effective it would be in rectifying what the Indian government has conceded to be "historical injustices" to the forest-dwelling STs and other traditional forest dwellers.



Table 2 is a compilation of laws, policies and programs introduced to improve the poor's access to land and tenurial security, as well as essential principles as enshrined in national constitutions. They are by no means comprehensive; but they provide an overview of the legal and policy framework defining ownership, control and access to land in the respective countries.

Women's Access to Land in Asia

In the Asian region, women's access to land is limited; ownership of land even more so. Women continue to suffer from sexual discrimination despite the presence of laws and policies promoting women's rights. Yet their role in agriculture is significant. Amidst the feminization of agriculture that is sweeping some parts of the Asian region, notably South Asia, pushing forward women's rights to land is an urgent agenda.

Women may own land merely to evade taxes or circumventing land ceilings, as is the case in Nepal and Pakistan. These women are wives and relatives of rich landowners from the middle and upper classes, and are not actual farmers. On the other hand, women farmers have no land to call their own. In Nepal, women can inherit, purchase and lease land, but they actually only own 8% of registered landholdings, mostly in urban areas.

In Cambodia, whose Land Law stipulates that land titles be under both husband and wife, 70% of titles are, with women's property comprising 20% of registered land. Sri Lankan women enjoy the same inheritance rights as their male counterparts. Filipino women

can own land, but biases still prevail, especially in rural areas. Men are still recognized as the primary property owners, and they enjoy better access to credit. Women in Pakistan can legally own land under statutory, religious and customary law, but this is mainly an urban phenomenon, with land ownership among rural women a rare occurrence.

In terms of land distribution policies, in Bangladesh, the government's *Khas* Land Management and Distribution Policy allows for joint ownership of *khas* land of husband and wife. In the Philippines, women beneficiaries are guaranteed equal rights to land ownership, as well as equal shares of the produce. In India, land reform laws have not addressed the gender imbalances in land ownership. According to the Land Ceiling Act, a family comprises husband, wife and three minor children; adult sons are separate units, while unmarried adult daughters are left out.

In the event that women may have land in their names, ownership is merely nominal. For instance, despite legal provisions in Cambodia requiring land sales to be approved by both spouses, husbands still sell jointly-owned property

without their wives' knowledge or consent.

In some countries in South Asia, inheritance laws are guided by religious personal law or customary law, most of which are discriminatory against women. For example, Sharia law grants Muslim women limited rights to inherit property: generally half that of a male in a similar position.

Hindu women in Bangladesh, as per *Daibhag*, the book of law followed by Hindus, generally do not have inheritance rights. An unmarried Hindu woman can only benefit from the land if the males in her family take care of her; married, only through her husband. Whereas in India, through the Hindu Succession (Amendment) Act, 2005, Hindu women, have equal land rights.

In reality, however, women have yet to receive equal rights to land. For example, in Bangladesh and Pakistan, the Islamic practice of *tanazul* (renouncing inheritance rights) prevents women from claiming their limited entitlement. Women are expected to be "good sisters" and surrender their claim to property to their brother/s. Enforcement of the Hindu Succession Act remains weak. ■



Table 2. Legal and Policy Environment on Access to Land in 8 Countries

Bangladesh	
East Bengal State Acquisition and Tenancy Act (EBSATA) of 1950	<ul style="list-style-type: none"> • Aims to make peasants direct tenants of the government, with rights to transfer, inherit and cultivate their land as they see fit • Prohibits the subletting of land with the aim of eliminating rent-seeking behavior and absentee landownership • The 1994 amendment mandated that in the case of landholdings lost to erosion, the right, title and interest of the tenant or his/her successor in interest are retained during the period of loss through erosion, but not exceeding 30 years.
Land Reform Policy of 1972	<ul style="list-style-type: none"> • Gives government the mandate to acquire surplus land and to distribute it to landless peasants • Authorizes the government to acquire flooded and accreted land and to treat these as <i>khas</i> land • Exempted landowners holding less than 3.33 ha from paying land tax
Land Reform Ordinance of 1984	<ul style="list-style-type: none"> • Reduced the ceiling for landholdings from 13.3 ha to 8 ha • Prohibits the purchase or transfer of land in the name of another person to conceal identity of the true landowner • Fixes the minimum wage of agricultural laborers at the equivalent value of 3 kilograms of rice • Prohibits the eviction of peasants from their <i>paternal</i> homestead • Instituted a three-way sharing of farm produce: $\frac{1}{3}$ to the landowner; $\frac{1}{3}$ to the sharecropper; and the remaining third to be divided proportionately between the landowner and the sharecropper on the basis of expenses incurred by each one
Khas Land Management and Distribution Policy	<ul style="list-style-type: none"> • Grants joint ownership of <i>khas</i> land to husband and wife
Vested Property Restoration Act of 2001	<ul style="list-style-type: none"> • Abolishes the Vested Property Act (VPA)—formerly the Enemy Property Act (EPA)—that dispossessed Hindus of their ancestral land during the war between Pakistan (of which Bangladesh used to be part) and India in 1965. Even after Bangladesh's independence from Pakistan in 1971, the EPA was retained and renamed as VPA, and resulted in the confiscation of some 800,000 ha of Hindu property, reportedly victimizing around 0.75 million Hindu households.
Cambodia	
Cambodian Constitution (1993)	<ul style="list-style-type: none"> • Provides that “all persons, individually or collectively, shall have the right to ownership. Legal private ownership shall be protected by Law. The right to confiscate properties from any person shall be exercised only in the public interest as provided for under the law, and shall require fair and just compensation in advance.”
Land Law, 2001	<ul style="list-style-type: none"> • Outlines concepts of land classification including state public land, state private land, private and collectively owned land. • Guarantees the inalienability of land, as recognized by the Constitution

Table 2. (con't.)

Cambodia	
Land Law, 2001	<ul style="list-style-type: none"> • Creates a status of registerable ownership of land, which specifically puts women on an equal footing with men • Establishes the legal framework for a collective ownership arrangement specifically designed for the protection of indigenous land and traditional ways of life • Provides for a land distribution policy to benefit the rural poor, specifically through the grant of Social Land Concessions (SLCs) Provides for the establishment of land dispute resolution mechanisms
Forest Law, 2002	<ul style="list-style-type: none"> • Provides the framework for forest classification • Provides for the creation and management of community forests, such that communities are granted an area within the Permanent Forest Reserve to manage and derive benefit from • Guarantees the entry rights of local communities into forest concessions • Prohibits logging of certain trees valuable to local communities as well as trees and areas of cultural or religious significance, such as spirit forests • Mandates the sustainable logging of natural and plantation forests
Sub-Decree on Economic Land Concessions, 2005	<ul style="list-style-type: none"> • Outlines the scope and criteria for awards of economic land concessions, establishing a ceiling of 10,000 ha • Requires the concessionaire to conduct prior public consultation with the local community and comply with safety measures
Sub-Decree on State Land Management, 2005	<ul style="list-style-type: none"> • Gives the principles and mechanisms for the identification, registration, and classification of state land
Sub-Decree on Social Land Concessions, 2003	<ul style="list-style-type: none"> • Provides the mechanism for transferring private or state lands to the landless poor for residential and/or family farming purposes to meet their basic needs
Sub-Decree on Community Forestry, 2003	<ul style="list-style-type: none"> • Establishes the procedures by which forest-dependent communities could have temporary control of forest resources
Sub-Decree on Land and Property Acquisition	<ul style="list-style-type: none"> • Outlines the legal procedure for state acquisition of land for development projects • Includes information on procedures for environmental and social impact assessments and mechanisms for compensating displaced persons
India	
Indian Constitution	<ul style="list-style-type: none"> • Basic tenets of the Constitution are equity and social justice • Provides that ownership and control of the material resources of the community should be distributed in such way that the common good is best served and that the economic system does not result in the concentration of wealth and the means of production to the common detriment • Stipulates that “states [must] direct policies to ensure that all citizens have the right to adequate means of livelihood and that all community resources be distributed so as to serve the common good.”



Table 2. (con't.)

India	
Indian Constitution	<ul style="list-style-type: none"> • Constitutional framers gave each state, rather than the central government, exclusive power to make laws with respect to land, including land reform laws
State Land Reform Laws	<ul style="list-style-type: none"> • Every state has enacted its own land reform laws on subjects such as: <ul style="list-style-type: none"> ➔ abolition of the <i>Zamindari</i> system to eliminate intermediaries; ➔ ceiling on landholdings to address uneven land distribution and redistribute ceiling-surplus land among the landless; ➔ tenancy reforms to ensure tenure security, regularization of rent/revenue, and ownership for tenants; ➔ regulation of sharecropping to safeguard the interest of sharecroppers; ➔ protection against alienation of land belonging weaker sections such as Scheduled Castes (SCs) and Scheduled Tribes (STs); ➔ consolidation of fragmented landholdings; ➔ provision of homestead to landless households; ➔ provision of government land to the landless on long-term lease including tree-lease; and ➔ minimum wages to agricultural laborers.
Forest Rights Act, 2006	<ul style="list-style-type: none"> • Recognizes and gives forest rights, including rights to occupy forestland, to Scheduled Tribes and traditional forest dwellers • Provides the framework for recording forest rights
Indonesia	
Decree of the People's Consultative Assembly (MPR) No. IX/MPR/2001 on Agrarian Reform and Natural Resources Management, or TAP MPR No. IX/2001	<ul style="list-style-type: none"> • Seeks to correct errors of agrarian reform implementation (under the Basic Agrarian Law) • Mandates the government to: <ul style="list-style-type: none"> ➔ conduct a study of various laws and regulations related to agrarian matters in order to harmonize the policies of sectors ➔ implement a land reform program based on the "land to the tiller" principle ➔ conduct a land registration program through a comprehensive and systematic survey of the control, use, ownership and exploitation of the land ➔ resolve all agrarian disputes, and forestall future conflicts by strictly implementing the law ➔ strengthen the institution responsible for implementing agrarian reform ➔ seek out funding for agrarian reform implementation
Basic Agrarian Law of 1960 (UUPA) or Law No. 5 of 1960	<ul style="list-style-type: none"> • Devolves power to exercise state rights to control land to the province, regency, district and village levels. The same rights could be exercised by communities practicing customary law • Provides that the exercise of rights conferred by this law must serve the public interest

Table 2. (con't.)

Indonesia	
Basic Agrarian Law of 1960 (UUPA) or Law No. 5 of 1960	<ul style="list-style-type: none"> • Authorizes the State to grant ownership/property rights to Indonesian citizens; prohibits/limits foreign ownership of the country's land, and provides safeguards against foreign expropriation of the country's natural resources • Prohibits absentee land ownership in agricultural land, because of its tendency to promote exploitative practices, such as bonded labor, unpaid labor, usury and inequitable sharecropping • Sets the minimum size for landholdings to ensure that the land owner has enough land to provide for his/her family
Law No. 56 Prp/1960	<ul style="list-style-type: none"> • Creates different kinds of rights that may be awarded to persons, groups, or legal entities: Property Rights, Lease Rights, Right to Build, User Rights, Right to Rent, Right to Open the Land and to Collect Forest Products, and Water Use Rights • Sets the ceiling for landholdings of families and legal entities to prevent monopoly ownership of land. Land in excess of the ceiling must be turned over to the State upon compensation.
Government Regulation (PP) No. 224 of 1961	<ul style="list-style-type: none"> • Sets the criteria for land to be subject to land reform • Identifies land reform beneficiaries
Presidential Decision No. 30 of 1990	<ul style="list-style-type: none"> • Prohibits the conversion of irrigated agricultural lands to non-agricultural use
Law No. 2 of 1960 on Sharecrop Agreement (UUPBH)	<ul style="list-style-type: none"> • Seeks to protect sharecroppers from exploitation by landowners • Provides that the share of the tiller and the landowner would be decided by the regent, according to type of crop and land density. • Specifies a ceiling of 3 hectares for landholdings • Requires that sharecrop agreements between landowner and tiller be put in writing before the head of the village, and witnessed by one representative from each of the contracting parties.
Revitalization of Agriculture, Fisheries and Forestry Policies (RPPK)	<ul style="list-style-type: none"> • Aims to revive the agriculture, forestry and fisheries sectors, and thereby promote national economic recovery • Targeted the achievement of self-sufficiency by 2010
Nepal	
Land Reform Act, 1964	<ul style="list-style-type: none"> • Establishes a ceiling on the size of agricultural landholdings (16.4 ha in the Terai, 4.07 ha in the hilly regions, and 2.4 ha in Kathmandu valley) • Seeks to protect the rights of tenants by including their names in the owner's land title • Fixes the rent on agricultural land and reduced interest on rural loans • Allows tenants to apply for tenancy rights at the District Land Reform Office (DLRO) provided that they had tilled the land the previous year and could present proof of this fact, such as a grain payment receipt



Table 2. (con't.)

Nepal	
Land Reform Act, 1964	<ul style="list-style-type: none"> • Has been amended 6 times <ul style="list-style-type: none"> ➔ The Fourth Amendment (1996) provided that the land cultivated by the tenant be divided equally between landlord and tenant to ensure that tenants would become landowners themselves, and that a credit facility would be made available to the tenant who wished to buy the landlord's half. It sought to abolish dual ownership of land. ➔ The Fifth Amendment (2001) attempts to lower the land ceiling
Interim Constitution of 2007	<ul style="list-style-type: none"> • Committed to "pursue [a] policy of scientific land reform programs by gradually ending capitalistic land ownership practices." • Mandates the State to pursue a policy of providing adequate land and livelihood to freed bonded laborers
Pakistan	
Martial Law Regulation 64 (West Pakistan Land Reforms Regulation, 1959)	<ul style="list-style-type: none"> • Established land ceilings on individual landholdings: 500 acres (202.34 ha) of irrigated land and 1,000 acres (404.69 ha) of non-irrigated land • Abolished all <i>jagirs</i> (large lands given by the British Government to loyal persons for revenue collection)
Land Reforms Regulation, 1972	<ul style="list-style-type: none"> • Repealed Martial Law Regulation 64 and lowered the land ownership ceiling established by to 150 acres (60.70 ha) of irrigated land and 300 acres (121.41 ha) of non-irrigated land • Provided no compensation for owners' confiscated land and did not charge beneficiaries for land received • Required landlords to pay taxes, water charges, seed costs and half the costs of fertilizers and other inputs • Gave tenants rights of purchased, increased security of tenure and lower rent rates
Land Reforms Act, 1977	<ul style="list-style-type: none"> • Further reduced ceilings on private ownership of land to 100 acres (40.47 ha) for irrigated land and 200 acres (80.94 ha) for non-irrigated land • Imposed taxes on agricultural income, except for small farmers owning 10 ha or less
Pakistani Constitution	<ul style="list-style-type: none"> • Article 3 allows citizens equal rights to acquire, hold, own, and dispose of property; but provides the state with the right to intervene should these rights conflict with the public interest. • Article 24 allows the state to intervene in property rights to protect the ownership rights of the disadvantaged i.e., women and children. • Article 38 declares the state shall "secure the well-being of people... by preventing the concentration of wealth ... by ensuring equitable adjustment of rights between employers and employees, landlords and tenants."
Sindh Tenancy Act, 1950; Punjab Tenancy Act, 1887	<ul style="list-style-type: none"> • Recognize customary rights of farmers such as tenants' right to land occupancy; landlords' and tenants' rights for production; and succession to right of occupancy

Table 2. (con't.)

Pakistan	
Sindh Tenancy Act, 1950; Punjab Tenancy Act, 1887	<ul style="list-style-type: none"> • Outline duties of landlords and tenants as well as provisions concerning debt • Amendments are being proposed to the Sindh Tenancy Act to reform the age-old relationship between the <i>haris</i> and <i>zamindars</i>. Under the Sindh Tenancy Act, the <i>hari</i> is a partner or co-sharer in the produce with the <i>zamindar</i> and as agricultural laborer, is entitled to the same government safeguards provided for industrial labor.
Corporate Farming Ordinance, 2001	<ul style="list-style-type: none"> • Allows stock-listed corporations to lease land in Pakistan for a period of 99 years, broken into two periods of 50 and 49 years • Allows transnational corporations to take lease of unlimited land with a minimum size of 1,500 (roughly 607 ha), with promises of 100% equity, many tax incentives, and full repatriation of profits
Philippines	
1987 Constitution	<ul style="list-style-type: none"> • Lays down the principles that serve as the overall framework for the issue of access to land: protection of property (although property can be taken away for public use with due process and just compensation); promotion of social justice and human rights; promotion of rural development and agrarian reform; and promotion of the rights of indigenous communities to their ancestral lands
Comprehensive Agrarian Reform Law (CARL) of 1988 or Republic Act (RA) 6657	<ul style="list-style-type: none"> • Expands agrarian reform to all agricultural lands regardless of crop planted under the Comprehensive Agrarian Reform Program (CARP). It targeted to redistribute around 8.1 million ha of agricultural land and integrated social forestry areas (ISF) to 3.9 million landless tenant farmers and farm workers over an initial 10-year period. • Provides for different tenurial instruments based on land classification: tenurial security for forestry areas, and tenancy reforms and land redistribution for private and alienable lands. Land redistribution is to be complemented by the delivery of support services like extension, credit, infrastructure facilities and livelihood assistance. • Imposes a 5 ha retention limit for the landowner and provides three hectares for each heir actually tilling the land.
CARP Extension with Reforms (CARPER) (RA 9700)	<ul style="list-style-type: none"> • Extends the acquisition and distribution of all agricultural lands, infusing new funding for CARP implementation • Emphasizes that CARP's land acquisition and distribution component has to be completed by 2014 and that support services and agrarian justice will continue to be provided by the Department of Agrarian Reform • Creates a Joint Congressional Oversight Committee on Agrarian Reform to monitor CARP implementation • Outlines a clear policy on food security and prohibits the conversion of irrigated and irrigable agricultural lands for non-agricultural use
Indigenous Peoples Rights Act (IPRA) or RA 8371	<ul style="list-style-type: none"> • Recognizes, promotes and protects the rights of indigenous cultural communities/ indigenous peoples (ICCs/IPs). Serves as the basis for IP land rights, which are recognized through the issuance of a Certificate of Ancestral Domain Claim (CADC) or a Certificate of Ancestral Domain Title (CADT).



Table 2. (con't.)

Philippines	
Fisheries Code of 1998 or RA 8550	<ul style="list-style-type: none"> • Seeks to protect the rights of small fisherfolk over municipal waters and provides for the establishment of fisherfolk settlement areas • Emphasizes stewardship and protection
Urban Development and Housing Act (UDHA) of 1992 or RA 7279	<ul style="list-style-type: none"> • Lays down the groundwork for a comprehensive and continuing urban development and housing program by prioritizing the provision of decent shelter to the poorest of the poor • Provides the framework for the development and use of urban lands
Sri Lanka	
13th Amendment to the [Sri Lankan] Constitution	<ul style="list-style-type: none"> • Addresses land issues in the context of ethnic reconciliation • Through the 8th and 9th Schedules of the Amendment, granted devolved powers—to include land, irrigation, and agriculture—to the provincial councils
Land Development Ordinance of 1935	<ul style="list-style-type: none"> • Sought to “preserve the peasantry,” alleviate landlessness, and develop available state lands • Designed to address the historical injustices and impacts of the Crown Lands Encroachment Ordinance of 1840, and related colonial legislations that disenfranchised local populations
Crown Land Ordinance No. 8 of 1947	<ul style="list-style-type: none"> • Provided the terms for the grant and disposition of Crown lands, the management and control of such lands and the foreshore, and the regulation and use of water bodies • Provided for vesting land in naval, military and local authorities • Provided the legal basis for government to allocate land for non-farm activities in the Mahaweli development areas and to provide long-term leases of land to private enterprises
Land Reform Laws of 1972 and 1975	<ul style="list-style-type: none"> • Encompasses private estates and imposes land ceilings on private ownership, giving government access to land in excess of one million hectares • Limits the maximum land that could be owned privately to 50 acres (22 ha) and paddy land to 25 acres (10 ha)
Agrarian Development Act No. 46, 2000	<ul style="list-style-type: none"> • Sought the establishment of agricultural tribunals, farmer organizations, and agrarian development councils that promote the interest of the farming community

Issues AND Challenges

Although the case for agrarian reform is strong, it has earned little support. Notwithstanding two generations of reform initiatives, agrarian relations in the eight countries have changed little.

- Bangladesh tried, and repeatedly failed to impose a ceiling on land ownership and to redistribute *khas* (state-owned) lands and water bodies.
- Cambodia sought to end decades of state monopoly ownership of land by enacting the Land Law of 2001, but ended up creating a thriving land market that was quickly taken over by local elites.
- Nepal had tried, as early as the 1960s, to abolish unjust tenurial arrangements in the country, yet to this day, Nepal's tenant farmers continue to work under unconscionably exploitative conditions.
- India implemented various land ceiling laws starting in 1955, but made little headway: much of the “surplus” land reverted to the states, while the proportion that was redistributed did not go to their intended beneficiaries, the landless poor.
- Indonesia has abandoned its early attempts at agrarian reform and even its land administration program is rendered inutile by corruption in the land registration system and by political leaders that are not only indifferent but outrightly hostile to anything that smacks of agrarian reform.
- Land reform in Pakistan has lost its momentum, despite three efforts at land reform (1959, 1972, and 1977). The Land Reform Act of 1977 was the most recent yet antiquated effort and failed to address policy constraints to redistributive land reform. Now, the country is opening swathes of prime farmlands to foreign commercial investors.
- The Comprehensive Agrarian Reform Law (CARL) of the Philippines held out the promise of genuine agrarian reform when it was enacted in 1986. It received a new lease of life—but time is fast running out for redistribution, and landowner resistance is strong for private agricultural lands remaining to be redistributed.
- The “open economic policies” introduced by Sri Lanka in the 1970s led to the opening up for land markets.

Beyond ill-fitting national land policies or the lack of implementation of pro-poor land policies and programs, the broader socioeconomic and environmental context in which land rights are situated is changing. Access to land is influenced by a host of dynamic pressures—such as political space, migration, climate change, and urbanization.

SHRINKING POLITICAL SPACE

The political space for civil society is shrinking, as governments retaliate from criticisms by CSOs. This is manifested in several ways. Human rights defenders and activists are harassed and killed; CSOs are silenced by fear of government.

CSOs need an enabling environment to be able to do advocacy work on land. Without such a democratic space, advocacy work is significantly curtailed, and with that, the hope for advancing land rights. As it were, local CSOs in Cambodia have a well-developed advocacy agenda, yet continue to rely on international NGOs and donor agencies working in the country to pressure the government to address land issues. The country's draft law on associations and NGOs (LANGO) or the NGO law perfectly demonstrates government's antipathy towards civil society: if passed, the government would have the broad authority to make arbitrary decisions about which groups are allowed to operate in the country, and which cannot.⁹ When Bangladesh was under a caretaker government, possible reforms were limited. Nepal's stalled Constitution has also hindered the push for reforms.

NEOLIBERAL ECONOMIC POLICIES and PROGRAMS AGAINST LAND REFORMS

Governments have lost interest in enforcing redistributive land and resource policies. The politically sensitive task of land redistribution has been shelved in favor of resource-extractive and export-oriented activities, which are easier, instantly gratifying, and lucrative. National land policies are instead biased toward promoting agribusiness or extractive ventures and urbanization. Land and forests are valued for the profit they bring, rather than for the food security they ensure or the healthy environment they promote.



National governments, espousing neoliberal economics, set development agendas that promote land concessions, plantations, joint venture agreements, mining operations, and the establishment of special economic zones (SEZs). In other cases, the government itself forcibly takes land from their owners for “public purpose”. More often than not, such incidents of state expropriation of land are not motivated by the public interest, but rather are the inevitable result of government’s indiscriminate awarding of land concessions for logging, mining and plantations, among others.

For example, Indonesia, and the Philippines are putting more and more of their land under plantation crops; aggressively promoting large-scale mining operations; and stiffening their investment laws to entice foreign capital into the country and head off local opposition

to investment projects. Corporate farming, including of agrofuel crops, has become all the rage in India, Indonesia, Pakistan, and the Philippines, because of growing worldwide demand for agrofuels. Poor and landless farmers lose out in the competition for land brought about by such schemes. SEZs are mushrooming all over India, while the Cambodian government has been regularly granting land concessions to business interests.

As it were, the proportion of the poor and landless is high, and the demand for land is increasing. Most lands in the region are already used or occupied. Which lands should be distributed to the landless poor is the hanging question amidst such economic development agendas, which threaten to reverse the gains of land reform.

The Rush for Asia’s Farmland

The past few years have witnessed a surge in the number of agricultural investments in the region, marked by a scramble for agricultural land. One driver of this phenomenon is the food price crisis of 2008, characterized by spiraling prices of food and worsening hunger. For food-importing countries, the food crisis served as a gross reminder of agriculture’s prolonged neglect, and highlighted the need to protect domestic food security by acquiring agricultural lands for production.

Another driver is the rising demand for biofuels, owing in large part to the European Union’s policy of sourcing 10% of transport fuels from biofuels by 2012, never mind the policy’s ironic impact of causing massive deforestation and increasing carbon emissions.

Asia’s host countries are usually developing countries, where food insecurity levels are high and small

farmers are struggling: in the desire to provide a quick-fix to the problems of food insecurity and rural poverty, innumerable hectares of farmlands in the region are “up for grabs”. Investors are now coming from within the region—China, Japan, South Korea, and even Vietnam—and from the Gulf countries. These investments represent an influx of capital and technology transfers, and offer employment opportunities; hence, host governments receive these investments warmly. The foreign sources of these land acquisitions have helped them earn the labels “new colonialism” and “international land grabs”.

But several factors set the current wave of land investments apart from others. These investments are taking place at a rapid and unprecedented large scale, involving more than a million hectares of agricultural land across the region. In addition, these

new investments seek resources—land and water—as opposed to commodities and markets. These investors are increasingly engaged in actual production, rather than joint ventures and contract farming; agricultural products are for repatriation, not commercial export.

The new land investments are mostly government-led, rather than private-sector driven. As a matter of fact, host governments’ neoliberal policies often create an enabling environment for foreign companies and governments alike to acquire or lease land on a large scale. For example, the Indonesian government has pursued the expansion of plantation areas, providing private corporations with concessions to large tracts of state-owned land. Pakistan’s Corporate Agriculture Farming Policy allows for 100% repatriation of profits, the purchase or lease of land for up to

LAND GRABBING

A fairly recent trend is the rise in agricultural investments in the region, as manifested in large-scale leases or acquisitions of land—called “land grabbing”. Transnational companies are seeking large swathes of agricultural land for commercial production of food crops and biofuels, while foreign governments are exploring overseas farmlands to meet their own food security needs. Such investments are predominantly from within the region (China, Japan, South Korea, and Vietnam) and the Gulf countries. Cambodia, India and the Philippines, for instance, have entered into a growing number of bilateral agreements with China, giving the latter access to their natural resources. Pakistan is a hotbed of agricultural investments from Saudi Arabia and the United Arab Emirates, among other Gulf countries.

Host governments have welcomed and even encouraged such agricultural investments, since they promise to bring needed capital and technology. However, these investments have intensified competition for land, displacing communities, aggravating land conflicts, reversing gains from land reform programs, degrading natural resources, and threatening domestic food security. The complex issue raises concerns about who ultimately benefits from land investments, and government transparency and accountability (*see below, “The Rush for Asia’s Farmland”*).

POOR IMPLEMENTATION of EXISTING LAWS

Although the legal and institutional frameworks exist for land and agrarian reform, the reality across countries is that laws meant to enhance access to land are poorly implemented. This is in large part due to the lack of



99 years, and exemption from existing labor laws, among other enticing benefits. The Philippines has established the Philippine Agricultural Development and Commercial Corporation within its agricultural ministry, to scope out lands for investors.

Opposition to land grabbing stems from various reasons. Investments in agriculture are really investments in land, and land is a precious resource over which there are many competing claims. In many cases, governments tarry in land redistribution, but are quick on the draw to lease out farmland to TNCs and other governments. And in countries with land reform programs, foreign land deals threaten to reverse the gains of land reform. In the Philippines, for example, farmers are lured into leasing out their lands for long periods, spend all the money quickly, to eventually end up in debt

and forced to sell their lands. Re-concentration of land ownership also often occurs as a result of large-scale leases.

Land remains a major source of conflict in most of Asia’s countries that depend on agriculture; investments only increase—not decrease—the number of conflicts. Many rural communities have been displaced and evicted to make way for plantations, as is the bitter experience in Indonesia. Or small landowners are intimidated into leasing or selling their lands. Human rights violations are not uncommon where high-stake agricultural investments are concerned. Most always—land deals push through at the expense of the poor and marginalized. It is another issue that how land deals are transacted is often dubious and lacks transparency; public access to information is limited. The environmental impacts of these large-

scale land investments, which often entail mono-cropping—curtailing biodiversity—and the rampant use of chemical pesticides and fertilizers, are enormous.

Finally, the land grabbing phenomenon certainly provokes the question of whose food security these investments enhance, and in a broader sense, who actually benefits. As is often the case, poor rural communities stand to lose. Therefore, any consideration of large-scale land investments must strive to de-commodify land, and recognize it for what it is—inextricably tied to the lives and livelihoods of most of Asia’s rural poor. In this way, profits do not make the bottom line. ■

Source: Antonio Quizon. (2012). “The rush for Asia’s farmland: Its impact on land rights and security of the rural poor”. *Lok Niti: Journal of the Asian NGO Coalition*. Vol. 18/1, 2012.



political will, but also because of various competing pressures. The lack of governments' support for land reform is also reflected in inadequate (if any) budgets, which constrain implementation.

For example, according to the Land Watch Asia's initiatives to monitor land reform, most governments have shown dismal performances in land reform distribution. Only about 20% of Bangladesh's *khas* land has been distributed; whereas in the Philippines, the remaining balance for land distribution—some 1 million ha—comprises private agricultural lands, the very lands that are most difficult to overcome. Indonesian CSOs speak of the non-existence of agrarian reform, and the constant flouting of the 1960 Basic Agrarian Law by other succeeding laws.

OVERLAPPING POLICIES, CONFLICTING MANDATES of GOVERNMENT ENTITIES

Conflicts arising from competing land claims result from overlaps in scope between or among any number of laws or policies; varying interpretations of these laws; the lack of clear delineation of authority among government agencies that regulate land resource use; and laws or policies that favor certain sectors over others.

The Philippine government has tried to harmonize conflicting laws by convening dialogues and establishing joint agency mechanisms. To illustrate what the overlap in policy and agency mandates can result in: there have been cases where indigenous peoples have already filed claims for their certificate on ancestral lands, only for lowland farmers to later stake claims on the same piece of land. Sadly, the struggle of these two landless sectors over the same piece of land has sometimes ended up in violence, highlighting the urgency of the issue.

LAND MARKETS and LAND ADMINISTRATION vs. LAND REDISTRIBUTION

National land policies have shifted focus from land redistribution to the development of land markets. In aid of this policy bias, governments have launched their respective land administration programs. Donors have abetted this policy shift by choosing to fund programs that facilitate land administration and management, such as the computerization of land records and land registration.

Sri Lanka launched a Land Title Registration Programme in 2007 to provide secure titles to landowners. The Indian government has turned its attention to land

Climate Change and Natural Disasters: An Emerging Issue

A sign of the changing climate is the intensification of weather events, which the Asian region is experiencing. Rainfall patterns and temperatures are becoming more variable and extreme. Rains do not come as expected; or when they do, it is at extremely high levels. Farmers are noticing changes in water availability, water levels, and temperature, which can have adverse effects on cropping patterns and crop growth. Climate change can also trigger prolonged drought and desertification. Flashfloods ensuing from rain have damaged agricultural production and other assets,

destroying livelihoods in the blink of an eye.

Disasters happen not only because of a natural hazard (e.g., typhoon, landslides, earthquake, or volcanic eruption) has occurred per se, but because people's vulnerability exacerbates their risk to hazards. The poor and marginalized generally have higher levels of vulnerability to hazards, thus they tend to be disproportionately affected when a hazard occurs. Climate change and disasters also threaten land tenure, land use, and access to land. Disasters may **damage or even wipe out land records**, especially if the records

are manual. In Pakistan, people lost their property documents during the 2010 massive floods that inundated almost 70,000 square kilometers of farmland, destroying crops and livestock. The Sri Lankan government provided legal land documents following the 2004 Indian Ocean tsunami.

Climate change and disasters can lead to **loss of livelihoods**. Melting glaciers in Nepal's Himalayas and rising sea levels in archipelagic countries like the Philippines and Indonesia can cause flooding and affect irrigation in plains and coastal areas. As a coping mechanism for failed harvests, farmers

administration programs, sidetracking the agrarian reform effort. The Land Administration, Management, and Distribution Program was implemented in Cambodia, with the aim of strengthening land tenure security and promote land markets. Land reform in Indonesia has been nothing more than asset legalization and limited land redistribution.

Although land administration may facilitate land reform, it is not in itself the solution. In the same vein, asset legalization is not equal to land reform. Rather, needed are support services for land reform beneficiaries, and land to the landless.

At the same time, by commodifying land and promoting a “willing buyer, willing seller” approach, land markets fail to understand the social and cultural values that communities attach to their land. They do not replace redistributive land reform, and cannot operate effectively without a level playing field.

INFORMATION GAPS

At present, national datasets pertaining to land—land distribution, land tenure, and landlessness are patchy, dated, unavailable, or unreliable in several countries.

This becomes a challenge to monitoring and evaluating the impact of land reform advocacy as well as the impact of the reform programs themselves.¹⁰

CLIMATE CHANGE and NATURAL DISASTERS

Climate change and natural disasters have serious ramifications on land tenure in the region. Their impacts on agriculture—on soil quality, water availability, crop patterns, can deal especially heavy blows to smallholders. Land can also be lost due to inundation and coastal and soil erosion; or it can cease to be fertile, in the process displacing communities and requiring new land for resettlement. The boxed article below tackles a few key ideas on the nexus between climate change and land. Reactive ways of dealing with natural hazards and climate change will no longer work: it is imperative for communities to develop resilience in terms of climate change adaptation and disaster risk reduction.

LAND FRAGMENTATION and LAND RECONCENTRATION

Particularly in South Asia, in Bangladesh, India, and Nepal, land fragmentation is a concern. Parcels that are already small to begin with are sub-divided into



often have little recourse but to sell or lease their lands.

When the land can no longer support livelihoods like farming, when it is marginal and highly exposed to hazards, or when it has been affected by a disaster, what results is the **displacement** of communities, or waves of environmental refugees or migrants. Displacement requires the challenging task of **resettlement**. In the aftermath of disasters, governments try to provide land to affected families, but efforts are always inadequate.

Climate change and hazards demands new ways of approaching land rights. It

will continue to bring to bear on agriculture, influencing migration and affecting land use. Many CSO and government initiatives provide instructive lessons in dealing with climate change and hazards, from passing legislation to redistributing land for resettlement. In Bangladesh, a country that experiences seasonal flooding, legislation guarantees tenants' land rights for *char* lands or lands lost due to erosion during flooding.

The best examples are those of communities enhancing their resilience by choosing to understand and live with risks. In view of this, climate change adaptation (CCA) and disaster risk

reduction (DRR) are critical for building resilience, but they must be implemented with meaningful community participation. More attention should be given to land use policies, given they determine judicious use of land, and can integrate sound CCA/DRR principles. Forests should also be protected; carbon sequestration in forests can be made through replanting. In trading carbon emission rights under the Reducing Emissions from Deforestation and Forest Degradation (REDD) initiative, communities are asked to exercise caution lest they encourage “selling” forests to polluting governments. ■



smaller parcels. In Nepal, for instance, plots of land, due to inheritance and housing, shrink to average parcel sizes of 0.24 ha (in 2001), and some landowners have disparate lands.

Meanwhile, land reconcentration is also taking place. The large-scale acquisitions of land lead to the concentration of landholdings: setbacks in enhancing access to land for the poor; and where agrarian reforms have been made, an utter reversal. This is the case in Cambodia and the Philippines.

Table 3. Issues in Access to Land in 8 Asian Countries

Bangladesh	
Access to and distribution of <i>khas</i> land	Agricultural <i>khas</i> (state-owned) land covers about 321,323 ha, 43.47% of which has reportedly been distributed to landless households. <i>Khas</i> lands are for landless peasants whose livelihoods derive from agriculture, but leakage has been as much as 17.2%. <i>Khas</i> recipients are supposed to pay government a minimal fee but in practice, have to pay exorbitant bribes even to low-ranking officials.
Access to and distribution of non-agricultural land	Influential and well-connected persons were able to claim ownership of non-agricultural land, usually based on forged documents, in the absence of guidelines for the management of non-agricultural lands. When the government in 1995 issued guidelines for the management and settlement of state land in urban areas, most of such lands had already been awarded to the rich and powerful.
Absentee landownership	About 13% of households own 58% of the country's land. Many of these do not engage in agriculture, but reside and make their living in urban areas. Such absentee land ownership encourages rent-seeking behavior.
Commercialization of agriculture and forestry	Because of shrimp farming's profitability over crop farming, various coastal lands, including rice farms and mangroves, have been converted into shrimp farms, leading to serious environmental problems like water quality decline and biodiversity loss. At the same time, rubber and fuel wood plantations have destroyed forests and displaced forest-dwelling communities, causing conflict between forest-dependent groups and the government's forestry department.
Displacement of indigenous peoples	The Chittagong Hill Tracts, which is home to many of Bangladesh's indigenous peoples, have been turned into a militarized zone. In 1997, a Peace Accord was signed between both groups, but conditions have not been fully met. The hill tribe population has dwindled from 75% in the 1950s to less than 40% today. Moreover, dams and hydropower projects have submerged about 40% of all cultivable land in the CHT under water, displacing over 85,000 people, while thousands of acres of cultivable land were distributed to settlers from the plains. Three-fourths of minority groups in the plains are landless; they are losing their access to land, because of widespread land grabbing.
Land conversion	Agricultural land has been considerably reduced due to forcible land acquisition for export processing zones, residential development, infrastructure development and other government projects. Much of the converted land is <i>khas</i> land, which the government ought to be distributing to landless peasants.
Cambodia	
Rising demand for land as an economic asset	Economic growth has spurred the privatization of public lands, mega-development projects, and the establishment of special economic zones (SEZs). Land is being grabbed for tourism purposes, allocation to the military, speculation and unregulated

Table 3. (con't.)

Cambodia	
Rising demand for land as an economic asset	granting of economic land concessions. The increasing demand for land has also led to skyrocketing land values.
Poor land governance	The Cadastral Commission set up in 2002 as a dispute resolution mechanism is plagued with bureaucracy and corruption, and has only been able to address small conflicts. Land registration has proceeded too slowly, and has tended to concentrate on non-disputed areas. Also, parallel and overlapping operations in the Cadastral Commission, the court, and the National Authority of Land Dispute Resolution (NALDR) have resulted in many legal ambiguities.
Poor implementation of the Land Law of 2001	According to NGOs in Cambodia, only 10%–20% of the Land Law has been enforced. In several cases, government itself has violated Land Law decrees, particularly regarding protection against eviction, fair compensation for eviction, and ceilings for economic concessions. Also, a sub-decree of the Land Law yet to be adopted by the government is that which recognizes and provides for the registration of indigenous peoples' land rights.
India	
Forest Act and Wildlife Protection Act	These acts emphasize conservation of forestlands and the establishment of “human free” wilderness sanctuaries and national parks. However, no survey was conducted prior to delineating these as protected areas; current occupants (about four million) and their land rights were not considered. Thousands of communities have consequently been displaced.
Special Economic Zones (SEZs)	Land expropriation for establishing SEZs is covered by the “public purpose” clause of the 1894 Land Acquisition Act. Seen as the necessity of the moment, SEZs are being actively promoted by the Indian government. However, much of the land set aside for SEZs is either tribal or prime agricultural land, and has resulted in the displacement of tribal communities and other rural communities.
Corporate/contract farming	Several Indian states are promoting contract/corporate farming, as emphasized by the National Agriculture Policy (NAP). However, corporate farming threatens the food security of India's farmers, who are mostly landless or own very small landholdings, because it has pushed farmers and peasants from the land. In addition, the increasing cultivation of biofuels on scarce agricultural land is another threat to food security.
Indonesia	
Expansion of plantations	Plantations, notably for oil palm production, are rapidly expanding in Indonesia, clearing swathes of forests and grabbing land from peasants. The government is promoting a “partnership model” of contract farming, to defuse tension between plantation companies and peasants. However, the model has benefitted only plantation owners and foreign investors; the conditions of the poor have barely improved.
Indiscriminate awarding of forest and timber concessions	The exploitative practices of forest and timber concessions have contributed to the rapid rate of deforestation in the country. Through the Basic Forestry Law (Law No. 5) of 1967 and Government Regulation No. 21 of 1970, large-scale investments in the forestry sector have been facilitated and all commercial forestry has become the preserve of private investors with forest concessions. Forest communities are prohibited from logging within concession areas, and can do so only if they have a permit from the concessionaire. Conflicts between communities and forest concession holders have thus ensued.



Table 3. (con't.)

Indonesia	
Mining on indigenous peoples' lands	Article 33 of the Indonesian Constitution grants the state exclusive rights to the country's mineral resources. The Law on Mining provides that all mineral deposits are state-controlled assets. These two laws have given the state blanket authority to conduct its own mining operations and grant mining concessions, which encroach on IP lands and have had injurious effects on IP communities.
Nepal	
Centralized land governance	Decisions related to land management are made at ministry level: people in remote areas have to bring their case all the way to Kathmandu, or wait for the ministry's decision to be handed down to district offices. Local government agencies usually do not have authority to settle issues and are frequently biased against the poor. Land administration is procedurally complex, deterring the poor from dealing with it.
Abolition of collective rights	Indigenous and ethnic groups are rapidly being displaced from their land, as a result of state-supported lucrative activities such as oil exploitation, mining, construction of dams, logging, cash crop cultivation, cattle ranches, and development of tourism infrastructure.
Absence of a national land policy	The lack of a national land policy constrains efforts to push land and agrarian reform.
Pakistan	
Corporate agriculture farming (CAF)	The CAF policy is a neoliberal policy allowing corporations to lease huge tracts of land for corporate farming. Corporate agriculture endangers national sovereignty and threatens agrarian reform: government leases surplus land instead of redistributing it to landless peasants. CAF is usually between Pakistan's feudal elites and corporations in other countries. The government has identified state lands to lease for export processing zones. In addition, the country's seed sector has been privatized, and extensive measures are in place to promote agriculture export processing zones in various parts of the country.
Land grabbing by the military	The military is the biggest land grabbing entity in Pakistan, notorious for acquiring millions of acres of land for distribution to serving and retired armed forces personnel as reward. During British colonial rule, the military acquired large tracts of land in both urban and rural areas as military farms. Post-independence (1947), these lands were taken over by the Pakistan armed forces, who now control some 12 million acres or 12% of state land, seven million acres of which is agricultural land valued at Rs700 billion. Most of the land was given as rewards to army personnel (at highly subsidized rates); only 100,000 acres are directly owned by the armed forces. To this day, many cases exist of the military wielding absolute authority to suppress landless peasants in areas where they control the land directly.
Poor governance	Because of the lack of political will, policy and action plans including land reform proposals remain unimplemented. Regardless of who is in power, decisions are influenced by powerful elements in the civilian bureaucracy, secret service agencies and other countries
Philippines	
Implementing CARP with reforms	Providing more funds for the implementation of CARPER, particularly for acquiring the remaining private agricultural lands, is critical for the completion of the program's land acquisition and distribution component. However, support services like credit and post-harvest facilities are poorly targeted.

Table 3. (con't.)

Philippines	
Lack of political will	The government has not shown enough political will to implement CARP and other land-related laws (Forestry Code, IPRA, Fisheries Code, and UDDHA). Its agencies lack the capacity as well as the funding for effectively fulfilling their mandates and implementing the laws.
Lack of a national land use plan	The lack of a national land use plan to establish national priorities and harmonize all existing land-related laws has resulted in: land conflicts over differing land uses among stakeholder; environmental degradation; and the conversion of prime agricultural lands for non-agricultural purposes.
Overlapping tenurial instruments, overlapping land claims	IP claims over their ancestral lands are being contested by the agrarian reform claims of lowland farmers (with the support of the Department of Agrarian Reform). In more and more areas, this has led to conflicts between indigenous communities and farmers. To complicate matters, LGUs represent another group of competitors to indigenous peoples' community land claims.
Snail-paced ancestral domain titling	Fifteen years after IPRA was passed, only 20% of the targeted area has been awarded to indigenous communities, while government support has been limited. Meanwhile, the NCIP has been inefficient in fighting for indigenous peoples' rights.
Development strategy based on resource extraction and Public-Private Partnerships	On one hand, the previous administration aggressively promoted timber and mining to propel the country's economy forward, which increased the pressure on the natural resources. These extractive operations often take place on lands inhabited by forest communities and indigenous peoples. On the other, the present administration has emphasized public-private partnerships, encouraging big agribusiness to make large land leases.
Mixed roles and policy reversals among agencies implementing land programs	Similar to the overlap in policies and tenure instruments, many land-related laws require joint implementation and coordination among government agencies. However, this has resulted in backlogs, confusion regarding accountability, conflicting implementation, problems with funding and human resources, and conflicts on land reclassification and land conversion.
Sri Lanka	
Centralized administration/ non-implementation of 13th Amendment	The provisions of the 13 th amendment to the Constitution have only been partially implemented, as the provincial council in Northern Province has not yet been established. The central government fears devolving powers will loosen its grip on the provinces: powers between provinces and the central government on agrarian development and internal security are not clearly defined. The government has also failed to establish the National Land Commission which would formulate the national land policy; attempts to formulate a national land policy by any other ministry or agency have been confronted with questions on constitutionality.
Civil war/internally displaced persons	The civil war (1983–2009) resulted in about 300,000 internally displaced persons (IDPs). Although the government initiated the post-war resettlement process in 2010, many IDPs have returned only to find their homes damaged or destroyed. Most of the returnees' economic assets were lost, and they have thus had to rely on external support, including temporary shelter. The war destroyed land demarcations and landmarks, making it difficult for returnees to identify their land boundaries. Many have also lost legal documents (e.g., birth certificates, land deeds, and identity cards). The process of retrieving land deeds from registration offices is tedious and complicated.



Table 3. (con't.)

Sri Lanka	
Confusion on Customary Laws	Sri Lanka's three main customary laws (<i>Kandyan</i> ; <i>Thesavalamai</i> ; and the Muslim law of Intestate Succession), did not provide for a unitary form of inheritance in the case of intestate succession. These customary laws conflict with the Land Development Ordinance that accords equal inheritance rights for men and women. <i>Thesavalamai</i> was enacted to give force to the customs of the <i>Malabar</i> residents (Tamils) and preserve the caste hierarchy. The law obliges a landowner to concur with adjoining landowners before selling or transferring his/her land. This has inadvertently inhibited other ethnic groups from acquiring land. However, ethnic sensitivities prevent proposals to repeal the <i>Thesavalamai</i> .

Actors IN THE Land Sector

STATE ACTORS

The onus of implementing agrarian reform rests on the shoulders of governments. In the eight Land Watch Asia countries, government support for access to land and agrarian reform has waxed and waned according to political expediency. However, the one thing that has remained true in the various country contexts and under changing circumstances, is that governments have consistently failed the test of will to undertake the task of agrarian reform.

- Cambodia's Prime Minister Hun Sen has owned up to his government's failure to put an end to land grabbing, land speculation, and illegal logging and fishing, and acknowledged that these problems could spark a revolt against his government. Although the government has progressed significantly toward developing legal frameworks required for land reform, majority of rural farmers have yet to benefit from the country's economic growth. The government has acknowledged that building tenurial security is the first step toward improving the poor's conditions.
- The Indian government has long been riven by agrarian unrest—instigated by the Naxalites in earlier years, and highlighted in 2007, though much more peacefully, by the Janadesh Campaign—and survives each time by promising reform, which it conveniently sets aside once the protesters have gone

home. Janadesh forced government's hand and led to the establishment of a National Land Reform Commission (NLRC) mandated to recommend measures to address the grievances of landless groups, such as tribal peoples and Dalits (untouchables). The Committee on State Agrarian Relations and the Unfinished Task of Land Reforms was created to draft a national land reform policy, but the NLRC has never met to discuss this.

- Though it passed comprehensive reforms on land access, the landlord-dominated Philippine government has always been half-hearted in implementing these reforms, to the detriment of the landless and poor majority.
- Indonesia's present government—which is determined to make the country a model for infrastructure development—is unapologetic about its indifference to agrarian reform, and will no doubt confirm an Indonesian economist's declaration that “in Indonesia's history, no government has succeeded in undertaking land reform”.¹¹ The Indonesian government abandoned the agrarian reform effort when Sukarno took over its reins, and its leaders (with the exception of Wahid) have not since taken it up again. Instead, Pres. Yudhoyono has passed Presidential Regulation No. 36 of 2005 to relax regulations concerning land leases and concessions. Also, the government's agrarian and agricultural policies are enshrined in the Revitalization of Agriculture, Fisheries and Forestry (RPPK).

- Despite the mention of land issues in the electoral manifesto of Bangladesh's governing party, the Awami League, *khas* land distribution is still wanting.
- Nepal recognizes land reform as an integral part of the Constitution, but the failure of the Constituent Assembly to deliver a new Constitution in May 2012 has inevitably stalled any land reform from being implemented.
- Pakistan has not made serious efforts to address land reform. The Corporate Agriculture Farming (CAF) policy under President Musharraf's government runs counter to land reforms, opening the country's farmlands to investments from multinationals and Gulf countries. In addition to the lack of support from politicians, the events of 11 September 2001 meant that Musharraf could not implement the promised massive land reforms, given that he needed the support of feudal lords to face Islamic extremists.
- In Sri Lanka, the state owns more than 80% of land. The government has failed to establish the National Land Coalition, meaning that its national land policy is yet to be formulated. At the same time, government agencies play a vital role in land administration and management, but this has been marked with inefficiencies and malpractices, and even corruption.

POLITICAL PARTIES

Political parties are a fundamental part of the political landscape, where they exist and where ideological lines are clearly defined. Some of them maintain conservative positions on land reform, like India's Bharatiya Janata Party, with others focusing instead on modernizing agriculture.

A few parties' electoral manifestos state land reform as a clear objective. Bangladesh's Awami League, its ruling party, mentions land reform in its electoral manifesto. The socialist and pro-poor Pakistan Peoples Party, also the ruling party, unequivocally talks about putting an end to feudalism.

Yet others are actively involved in pushing for pro-land reform legislation. The Indian National Congress has formulated laws on land reform, directing state

governments to pass laws to enhance access to land for the landless. The Muttahida Qaumi Movement (MQM) in Pakistan is pushing for the Land Reform Bill, proposing for lower land ceilings.

Nepal is currently struggling with its Constitution, but most political parties state land reform as a priority concern.

CIVIL SOCIETY

Civil society—encompassing NGOs, farmers' groups, indigenous peoples' groups, community-based organizations, and social movements—have sustained land rights advocacy throughout the decades. These groups have employed various strategies, and adapted these in response to the needs of their partner communities, their readiness to make demands on government, and the prevailing policy and legal environment. Most NGOs working on land have devoted their efforts into heightening awareness of communities on their land rights, and empowering them to secure their land.

The Land Watch Asia (LWA) campaign is a coming together of NGOs actively engaged in access to land and agrarian reform initiatives from eight countries (*see page xii for the list of LWA partners and see page 57 for the list of major accomplishments of the campaign*). Campaign partners, like the Community Self-Reliance Centre (CSRC) in Nepal, focuses on land rights advocacy, helping smallholders and the landless poor lobby for land reform. Indian and Philippine NGOs have followed parallel tracks in advancing the agrarian reform agenda, including networking at multiple levels, mobilizing farmers to launch nationwide campaigns, participation in policy-making bodies, and lobbying for the enactment of enabling laws. Ekta Parishad is at the forefront of efforts to demand the Indian government to address land reform, organizing Jan Satyagraha, a month-long non-violent march in 2012. Finally, recent years have seen the formation of coalitions of peasant organizations such as the National Land Rights Forum (NLR) of Nepal and the National Peasants Coalition of Pakistan (NPCP).



Table 4. Actors Affecting Access to Land in 8 Asian Countries

Bangladesh	
Government	<ul style="list-style-type: none"> • The Ministry of Land (land management and administration, collection of Land Development Taxes (LDTs), land records maintenance, policy formulation on land management, land use planning, and land reform implementation). It comprises the following: <ul style="list-style-type: none"> → Land Reform Board; → Land Appeal Board; and → Directorate of Land Records and Surveys. • The Office of the Inspector General of Registration under the Ministry of Law, Justice and Parliamentary Affairs registers ownership arising from the sale and other forms of land transfer, reports changes to the Ministry of Land, and collects the Immovable Property Transfer Tax.
Civil society	<ul style="list-style-type: none"> • Around 200 NGOs are working to promote the land rights of landless people: <ul style="list-style-type: none"> → The Association for Land Reform and Development (ALRD) has 260 local and national NGO partners which mobilize policy makers, public representatives, politicians and media, to initiate positive pro-poor policy formulation and effective implementation initiatives. → Nijera Kori works on issues related to land tenure, agricultural wages, khas land distribution, lobbying with government, grassroots mobilization, capacity-building and awareness building. → Samata works to assist landless people gain access to khas land and water bodies. → The Land and Agrarian Network for Development (LAND) engages in social mobilization around land rights and related local administrative reform.
Cambodia	
Government	<ul style="list-style-type: none"> • The Ministry of Land Management, Urban Planning and Construction oversees land management, including the development of the policy and regulatory framework, and coordination of land use planning, and land registration and administration. • The Ministry of Agriculture, Forestry and Fisheries organizes and operates development policies in the agriculture sector. • The Ministry of Rural Development integrates all rural development work at household, village and commune levels with a focus on poverty alleviation.
CSOs	<ul style="list-style-type: none"> • National NGOs include Adhoc, Licadho, and Legal Aid of Cambodia; network organizations are the NGO Forum on Cambodia, STAR Kampuchea, and the Cambodian Human Rights Action Committee. The Pagoda (monks) is also involved in political affairs. • These groups are concerned with: forced resettlement to make way for commercial interests; the allocation of economic land concessions without regard for regulatory standards that are intended to protect local communities including indigenous peoples; the insecurity of land tenure of rural dwellers, their loss of access to natural resources and the lack of alternative income sources.
Private sector	<ul style="list-style-type: none"> • Groups from the private sector are concerned with resolving land disputes only to protect their own investments. • Public and private sector interests are frequently at odds with each other.

Table 4. (con't.)

Cambodia	
Private sector	<ul style="list-style-type: none"> Private sector groups are also disinclined to negotiate directly with affected communities and leave the task of conflict resolution to public authorities.
Development partners (donors/IFIs)	<ul style="list-style-type: none"> The international donor community issued guidelines to be complied with by the government to receive funding support, but these have yet to be implemented. Donors have resisted calls by national CSOs to use their influence to keep government in check. They work in technical working groups (TWGs) with relevant government ministries, but in general pay little attention to local CSOs.
India	
Government	<ul style="list-style-type: none"> The central government directs state governments to enact ceiling surplus laws and redistribute these lands among marginal and landless farmers. It has amended Constitution 13 times to remove legal obstacles to land reforms. The Department of Land Resources of the Ministry of Rural Development promotes land reforms. The National Land Reform Commission (NLRC) is mandated to recommend measures to address the grievances of landless groups, such as tribal peoples and Dalits (untouchables), and review the draft of the national land reform policy; but so far it has not met to discuss the policy draft. The Committee on State Agrarian Relations and the Unfinished Task of Land Reforms was formed after Janadesh 2007 to draft a national land reform policy.
Political parties	<ul style="list-style-type: none"> The two main parties in India: <ul style="list-style-type: none"> → The Indian National Congress (informally referred to as the Congress Party) has formulated laws on land reform and has directed state governments to enact laws that would enhance land access for the landless, including tribals. Its Economic Agenda stipulates that land reforms must receive high priority alongside the consolidation of fragmented landholdings. → The Bharatiya Janata Party (BJP) in its electoral manifesto in 2004 worked out specific steps to implement land reforms and decried that fertile land was being lost to development; but it remains a conservative party with a conservative position on land.
Civil society	<ul style="list-style-type: none"> NGO networks in India operate at the national and regional level: Association of Voluntary Agencies for Rural Development (AVARD) and the Voluntary Action Network of India (VANI) POs working on land issues and supporting the land rights movement generally have a non-formal structure: Wada No Todo Abhiyan, Ekta Parishad the Campaign for Survival and Dignity, and the National Campaign for Land and Livelihood (NCLL).
Private sector	<ul style="list-style-type: none"> The private sector is increasingly involved in corporate farming, prompting a land buying spree. It has already acquired vast tracts of land and has entered into agreements with farmers with major investments to tap the potential of Indian agriculture.
Development partners	<ul style="list-style-type: none"> Donor agencies like the Ford Foundation, ActionAid and Christian Aid have played an important part in supporting India's land reform movement. International financial institutions (IFIs) and other donor agencies under the neo-liberal framework have pushed for market-assisted land reform models.



Table 4. (con't.)

Indonesia	
Government	<ul style="list-style-type: none"> • The National Land Agency (BPN) is responsible for land reform. • Since 2007, the government has been preparing approximately 9.25 million ha of land for agrarian reform.^{ix} But land distribution has not materialized, and has been limited mostly to asset legalization. • The government has encouraged through its policies the expansion of plantations.
Civil society	<ul style="list-style-type: none"> • CSOs conduct advocacy work in response to their analysis of Indonesia’s agrarian crisis. • Since the 1990s, NGO networks and progressive intellectuals have promoted land rights: <ul style="list-style-type: none"> → Bina Desa → KPA → Wahana Lingkungan Hidup Indonesia (WALHI) → Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI) • Some CSOs are demanding the cancellation of debt and infrastructure projects, such as: <ul style="list-style-type: none"> → Alliance of Agrarian Reform Movement (AGRA) → Serikat Tani Nasional (STN) → Aliansi Petani Indonesia (API) → Petani Mandiri → Other social movements • The peasant movement is demanding an end to state violence directed at their sector and the release of peasant leaders jailed due to anti-peasant laws.
Private sector	<ul style="list-style-type: none"> • The private sector is partly responsible for the unprecedented clearing of forests and displacement of communities to make way for more oil palm plantations, timber and mining operations.
Development partners	<ul style="list-style-type: none"> • These groups are increasingly involved in integrating free trade and the allocation of agrarian resources in the country, as exemplified by the Land Administration Project (LAP) that seeks to establish land markets. • Big infrastructure projects funded by the World Bank and ADB have resulted in human rights violations.
Nepal	
Government	<ul style="list-style-type: none"> • National Planning Commission (NPC) has overall responsibility for setting up development policy and strategies. • Ministry of Land Reform and Management implements the agreed policies on the ground.
Political parties	<ul style="list-style-type: none"> • All major political parties have the following common points in their electoral manifestos: land reform is a priority concern; land reform is a vital aspect of overall agricultural development, and not only in regard to the management of land ownership; and the abolition of dual land ownership.

^{ix} ANGOC. (2011). *Highlights of the Proceedings. Monitoring land reform in Asia: Status check. A regional workshop + dialogue under the CSO land reform monitoring initiative. Jakarta, Indonesia. 13–14 July 2011.*

Table 4. (con't.)

Nepal	
Civil society	<ul style="list-style-type: none"> • Community Self-Reliance Centre (CSRC) is one of the NGOs at the forefront of advocacy for the land rights of the poor. • National Land Rights Concern Group (NLRCG) was established as a broader civil society alliance including media groups, human rights advocates and social activists. • National Land Rights Forum (NLRG) is a membership based national people's organization of land deprived people including marginalized groups.
Development partners	<ul style="list-style-type: none"> • Development partners are key actors in establishing the policy framework for development in Nepal. • A number of agencies have shown interest in a certain type of land reform and have been trying to steer government in that direction, but Nepali land rights advocates are debating the pros and cons of such approaches. • There are only a few international agencies supporting the land rights movement undertaken by the tillers, peasants and CSOs.
Pakistan	
Government	<ul style="list-style-type: none"> • The government has not made serious efforts to undertake land reform. • President Musharraf announced in 2000 to carry out massive land reform, even issuing a report entitled <i>Decentralization and the Devolution of Power</i> calling for rapid land distribution for the empowerment of landless peasants. However, he has not been serious about its implementation, as this would cause conflict with the country's "most astute politicians". • The "fight against terrorism" implied that Musharraf could not antagonize feudal lords, as he needed their support to counter Islamic extremists. • Policy and action plans, such as land reform proposals in the National Conservation Strategy (NCS). • The Federal Land Commission (created under the Land Reforms Regulation, 1972), has not implemented land reforms.
Political parties	<ul style="list-style-type: none"> • The Pakistan Peoples Party (PPP), the ruling party, has a socialist and pro-poor outlook. Its election manifestos are clear about ending feudalism, and a few have addressed agricultural modernization. • The Pakistani Muslim League–Nawaz (PML–N) commits to reclaim and irrigate land for allotment to landless <i>haris</i> and tenants, as well as undertake a land consolidation program to create viable units for modern agriculture. • The Muttahida Qaumi Movement (MQM) has been moving the Land Reform Bill, proposing lower limits on landholdings: 36 acres (15 ha) on irrigated land and 54 acres (22 ha) on rainfed areas.
Civil society	<ul style="list-style-type: none"> • CSOs in Pakistan are engaged in various advocacy areas relating to land: women's empowerment, food security, tenure security, farmers' rights, globalization, sustainable land management, bonded labor, to name a few. CSOs have renewed their interest in land rights advocacy. • CSOs still lack a collective voice, access to information, research capacity, and financial resources needed to address land issues



Table 4. (con't.)

Pakistan	
Development partners	<ul style="list-style-type: none"> • The Asian Development Bank (ADB) and the World Bank have indicated the importance of land reform as a poverty reduction strategy.
Philippines	
Government	<ul style="list-style-type: none"> • The Department of Agrarian Reform (DAR) implements the agrarian reform program with regulatory powers in the ownership of agricultural lands and the conversion of agricultural lands to non-agricultural uses. • The National Commission on Indigenous Peoples (NCIP) implements the IPRA and has the mandate to process and approve IP claims over their ancestral domains, coordinates with the Department of Environment and Natural Resources (DENR) in surveying the subject lands. • Local government units (LGUs) implement the Urban Development Housing Act (UDHA), regulate the use of their municipal waters, prepare their Comprehensive Land Use Plan, and impose land taxes among others.
Civil society	<ul style="list-style-type: none"> • Civil society and social movements are actively involved in land rights advocacy. • Agrarian reform has received strong civil society and even Catholic Church support. • Civil society groups provide support for indigenous peoples' Certificate of Ancestral Domain Claims (CADCs), as well as legal assistance and awareness-raising on resource rights as support for the fisherfolk sector.
Private sector	<ul style="list-style-type: none"> • Private commercial interests have generally been a major obstacle to basic sectors' access to land or tenurial security. • Private investments in the form of mining, timber production, pasture lease agreements, plantations and orchards, and other large-scale commercial enterprises are being implemented, affecting forest dwellers and indigenous communities. • As an effect of tourism and countryside industrialization, fishers are also being stripped of tenure rights over the lands they have lived in for many years. • Although not primarily driven by commercial interests, landlord resistance is one of the greatest bottlenecks to agrarian reform implementation.
Development partners	<ul style="list-style-type: none"> • Japan, ADB and the World Bank are the Philippines' major donors that have provided significant funding to land access programs. • Overseas development assistance (ODA) for CARP has been limited to support services delivery; donors have shied away from land acquisition.
Sri Lanka	
Government	<ul style="list-style-type: none"> • Departments of the Land Commissioner General's Survey, and Agrarian Development • Several state-owned enterprises deal with land: <ul style="list-style-type: none"> → Sri Lanka Land Reclamation and Development Corporation → Urban Development Authority → Land Reform Commission → State Plantations Corporation → National Water Supply and Drainage Board

Table 4. (con't.)

Sri Lanka	
Government	<ul style="list-style-type: none"> • Provincial authorities established in accordance with the 13th Amendment to the Constitution: provincial commissioners and provincial directors
Civil society	<ul style="list-style-type: none"> • Plays a limited role in land administration and management, managing a small extent of lands in helping the poor and under-privileged • NGOs may take leasehold rights on state lands, as in the case of Sarvodaya and Seva Lanka. • International NGOs assumed a prominent role after the tsunami.
Private sector	<ul style="list-style-type: none"> • Like civil society, has a limited role in land management • Highly active in real estate land transactions, particularly in urban areas • Private sector agencies acquire large blocks of land and sub-divide these into smaller parcels for sale; sometimes they come into conflict with encroachers with whom various deals are devised.

Powering Ahead

Advancing the agenda of access to land for the poor in Asia is fraught with formidable challenges, requiring a set of specific and concrete measures at the national level. Land Watch Asia members and partners in Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, the Philippines and Sri Lanka have put forward recommendations, encompassing the following areas: policy advocacy and dialogue; implementation and monitoring; facilitating an enabling legal environment for land and agrarian reforms; strategic networking; and strengthening civil society capacities.

The LWA campaign is calling for a series of policy reforms that are critical to enhancing access to and ownership of land for the poor in all eight countries. In terms of policy recommendations, national land use policies to maximize and rationalize use of land and other natural resources in the case of Bangladesh, India, and the Philippines, and a national land policy or common land law in Sri Lanka, are in order.

Further, land policies should be rights-based and inclusive. India proposes a people's land policy that will overhaul discriminatory land laws to accord equal rights to women, castes and indigenous groups. Indonesia

is calling for revocation of anti-peasant land laws, whereas Bangladesh is asking for amendment to the law of inheritance to grant women equal rights to land.

At the same time, the LWA network should seize the opportunities for policy advocacy and dialogue that are presented by existing legislation (e.g., Indonesia's RPPK policy) and mechanisms (India's Committee on State of Agrarian Relations and the Unfinished Task of Land Reforms).

Other recommendations are the creation of legal frameworks and support systems such as high-level land authorities (e.g., national land commissions in Bangladesh, Nepal and Sri Lanka), and provision of legal aid for the poor.

In addition to formulation and implementation of policies in support of land reforms, corresponding monitoring and accountability mechanisms stand out as topmost priorities. To name a few such laws that need to be closely monitored: Cambodia's Land Law, Bangladesh's Peace Accord and the Vested Properties Return Act, and the Philippines' CARPER.

Because increased civil society participation in governance is needed to push forward reforms, CSOs



need to strengthen their capacities in policy advocacy, monitoring, and knowledge management. CSOs have come to recognize the need for evidence-based advocacy through monitoring. They also need to continually build understanding of access to land interventions, cases and strategies; scale-up their research to inform their advocacy; and find effective ways to share knowledge and lessons with others.

A recurring theme was recognizing the value of coming together. At the national level, this means building CSO/NGO coalitions or alliances in support of land reform and the land rights struggle, as well as organizing strong

social movements among peasants, indigenous peoples, fishers, forest dwellers, minority castes, and other landless groups. CSOs should aid in the development of strong peasant-based organizations, empowering them to raise their own voices in various forums concerning land.

Partnerships with other development partners, the private sector and government can be explored, through mechanisms like technical working groups and platforms for inter-sectoral dialogue. The LWA campaign serves as venue for strategic networking of CSOs active in land rights advocacy, and elevates national land issues to the regional and global levels.

Table 5. Proposed Actions to Address Access to Land Issues in 8 Asian Countries

ACTIONS NEEDED	
Bangladesh	<p>1. Institutionalize policy reforms for the land rights of rural poor sectors.</p> <ul style="list-style-type: none"> a. Comprehensively implement the Peace Accord, with special attention to critical yet neglected provisions, such as the activation of the Land Commission. b. Formulate a National Land Use Policy to maximize and rationalize the equitable use of natural resources. c. Institutionalize a legal support system to ensure the speedy resolution of problems on land ownership rights of the poor, and strengthen existing legal aid support from NGOs and other institutions. d. Enforce the Vested Property Repeal Act to protect the land rights of religious minorities and to release vested property under the government’s custody to the real owners or their legal heirs who are permanent residents of Bangladesh, pending the final settlement of individual cases; e. Amend the law on inheritance to make provisions for women’s equal right to own land. f. Enact separate laws to promote and protect the customary land rights of indigenous peoples. g. Improve the land rights and living conditions of tea plantation workers. <p>2. Enhance CSOs’ capacity to advance land rights.</p> <ul style="list-style-type: none"> a. Encourage greater/more effective representation of peasants and landless groups in the national Khas Land Management Committee. b. Create a social land watch platform to campaign against land-related corruption and the non-implementation of pro-poor and pro-women laws and policies regarding land rights and agrarian reform. c. Scale-up research and customization of knowledge on access to land interventions, cases and strategies.
Cambodia	<p>1. Form equal and effective land reform partnerships.</p> <ul style="list-style-type: none"> a. Land partnerships with government and other stakeholders are important to improve people’s access to land: the Land Action Network for Development, cited as a successful partnership model of Cambodian NGOs, should have more regular meetings to gain support from international NGOs and government representatives.

Table 5. Proposed Actions to Address Access to Land Issues in 8 Asian Countries

	ACTIONS NEEDED
Cambodia	<ul style="list-style-type: none"> b. Include the private sector, given its increasingly influential role in land concerns, in the Technical Working Group on Land. c. Increase civil society participation. d. Partnerships should have clear goals. e. Form regional or local partnerships that prioritize project implementation and specific cases. <p>2. Launch a national campaign on Land Law implementation.</p> <ul style="list-style-type: none"> a. Strengthen NGO networks' capacity to analyze and strategize on critical land issues, such as land titling and land management, applications on land concessions, encroachment on forest communities, and land conflicts. b. Engage development partners and relevant public institutions that can encourage implementation of land laws and resolution of conflicts, and enhance the voice of civil society. <p>3. Build/strengthen alliances on land reform.</p> <ul style="list-style-type: none"> a. Establish strong networks and linkages among NGOs that cooperate rather than compete, understand the benefits of networking, find ways for mutual support, and recognize which among them is best able to represent their sector in dealing with government.
India	<p>1. Pursue reforms in land laws and implementation across India.</p> <ul style="list-style-type: none"> a. Create a "People's Land Policy" that overhauls land laws and the administrative system to accord equal rights to women, castes and indigenous groups and uphold sustainable use and management of common natural resources like land and water. b. Draw up a long-term national land use policy which involves all stakeholders and considers national food and water security, food and livelihood needs of the poor, protection and expansion of the country's forest cover. c. Push for the enactment of the Land Acquisition, Rehabilitation and Resettlement Bill to replace the antiquated Land Acquisition Act of 1894. d. Formulate policies on land ceilings, prevention of absentee landlordism, confiscation of fallow land, joint issuance of entitlements, land registration and tenancy (i.e., to establish fair terms between landowners and tenants), and prevention of agricultural land conversion. e. Restore all alienated tribal land and regularize all agricultural land held by tribals in forest areas. f. Provide support services (i.e., infrastructure, credit, inputs, marketing and agro-processing facilities, etc.) <p>2. Create Participatory Spaces for Land Advocacy</p> <ul style="list-style-type: none"> a. Maximize policy level spaces such as the Committee on State of Agrarian Relations and the Unfinished Task of Land Reforms. b. Set up Land Tribunals in all States to facilitate land-related cases. c. Enhance CSO awareness of events happening at the national and international levels that could provide impetus for the resurgence of the land agenda. d. Pursue non-violent, multi-level and multi-pronged mass actions and increase public awareness activities through mass media and electronic media. e. Develop a systematic information system on land with relevant details of all holdings.



Table 5. Proposed Actions to Address Access to Land Issues in 8 Asian Countries

	ACTIONS NEEDED
Indonesia	<ol style="list-style-type: none"> 1. Revoke anti-peasant land laws. <ol style="list-style-type: none"> a. Push for the enactment of TAP MPR No. IX/2001 (which gives government the mandate to implement land reform) to resolve conflicts, in response to the passage of laws that contravene the intent of TAP MPR No. IX/2001, such as the law on plantations and on capital investments that have worsened the conditions of Indonesian peasants. 2. Develop a strong and democratic peasant-based organization. <ol style="list-style-type: none"> a. Undertake advocacy to promote the agrarian reform agenda, especially among the peasantry. Peasant protests and struggles have significantly influenced the dynamics of Indonesian social movements. 3. Build a coalition to support the land rights struggle. <ol style="list-style-type: none"> a. Progressive NGOs and committed international organizations can become catalysts in helping grassroots peasant and landless movements organize and press their demands for land. They can advance land reforms advocacy at all levels. 4. Maximize opportunities created by RPPK policy. <ol style="list-style-type: none"> a. The RPPK defines the government's strategy to address challenges affecting farmers, farm workers, fishers, forest dwellers and other poor communities; it can move forward more fundamental reforms in the agrarian sector, but needs various government departments to work in tandem.
Nepal	<ol style="list-style-type: none"> 1. Formulate inclusive policies and implement them. <ol style="list-style-type: none"> a. Repeal current land-related acts and policies and formulate new ones on behalf of landless, poor tenant farmers. b. Ensure the new Constitution will guarantee and support land reform implementation. 2. Restructure land administration. <ol style="list-style-type: none"> a. Simplify and decentralize land administration, delegating the authority over land reform to district development committees (DDC) and village development committees (VDC), with the District Land Reform Office (DLRO) serving as secretariat to these units. b. Establish a separate land court at the DDC and VDC levels to expedite settlement of land issues concerning the poor. 3. Establish a high-level land authority. <ol style="list-style-type: none"> a. Establish a high-level land authority to look into: claims of the state, land-related problems of the people; and ways to address these problems. b. Such an authority should have representatives from the poor and marginalized groups. 4. Educate and organize the poor and landless. <ol style="list-style-type: none"> a. Raise awareness of the poor and landless on their deprivation and oppression. b. Organize them to make the fight constructive and logical, and mobilize them in peaceful resistance. 5. Allocate a budget for comprehensive land reform and agriculture. <ol style="list-style-type: none"> a. Invest in comprehensive land reform; and invest revenues from land taxes in land management i.e., land productivity. (Efforts to enhance agricultural productivity will only be meaningful following a progressive land reform program). 6. Make land reform a common concern. <ol style="list-style-type: none"> a. Transform national perception of land reform, by letting the public understand that land reform reduces social unrest and is a condition for enhancing agricultural productivity. b. Forge a broader alliance among political parties, the private sector and civil society to reach a mutually acceptable position on this issue.

Table 5. Proposed Actions to Address Access to Land Issues in 8 Asian Countries

	ACTIONS NEEDED
Pakistan	<ol style="list-style-type: none"> 1. Continue with land rights advocacy and maximize opportunities to pursue land rights. <ol style="list-style-type: none"> a. Sustain the campaign on land rights with the active involvement of grassroots groups. b. Maximize opportunity from the growing concern on food security and poverty alleviation, to call policy experts' and opinion-makers' attention to land reform and agricultural development. 2. Pursue strategic linkages to influence policy and implementation on land issues. <ol style="list-style-type: none"> a. CSOs must build a common platform and pursue strategic alliances with various stakeholders (tenants, landless agricultural laborers, media, political parties, academe, and international partners) to effectively influence policy development and implementation on land issues. b. Promote dialogue, using effective tools to mobilize public opinion in favor of agrarian reforms such as: conferences at the district, provincial and national levels; rallies, seminars and demonstrations; field days; and walks.
Philippines	<ol style="list-style-type: none"> 1. Pass critical legislation to enhance tenurial rights of farmers, fishers, indigenous peoples and forest communities. <ol style="list-style-type: none"> a. Pass: the National Land Use Act (NLUA) to regulate the interests of various stakeholders; the Forest Resources Bill to protect forests and ensure wise use of forest resources; and the Minerals Management Bill to repeal the Mining Act and promote conservation and effective use of non-renewable mineral resources. 2. Monitor CARPER implementation. <ol style="list-style-type: none"> a. Closely monitor the implementation of the land acquisition and distribution targets. b. Enhance farmers' knowledge on CARPER and strengthen their capacities to resolve agrarian reform-related issues in their local communities. 3. Safeguard indigenous peoples' rights to land. <ol style="list-style-type: none"> a. Strictly enforce IPRA by strengthening the capacities of the National Commission on Indigenous Peoples, the IPRA's agency. b. Revise free, prior, and informed consent (FPIC) procedures to conform to traditional decision-making processes of the respective groups, and ensure the strict implementation of tribal decisions based on FPIC process. c. Establish conflict resolution mechanisms. 4. Preserve and protect the forests through collaborative forest management. <ol style="list-style-type: none"> a. Promote collaborative forest management (local government units and other sectors) and strong people's participation. b. Clarify the DENR's primary mandate: whether it is to protect the environment or promote the utilization of natural resources. c. Map forest lands to determine extent and location of forest areas and document overlapping claims; adopt an environment and natural resources accounting in national income accounts. 5. Implement the Fisheries Code. <ol style="list-style-type: none"> a. Speedily implement the Fisheries Code and amend Section 108. Revise guidelines on fishpond lease agreements (FLA) to prioritize applications of small fisherfolk, and make FLAs more affordable. 6. Engage in cross-sectoral actions. <ol style="list-style-type: none"> a. Organize inter-sectoral dialogues for CSOs to build consensus and learn from each other. b. Participate as a coalition in education initiatives towards electoral and political reforms. c. Monitor and disseminate information on cases on land-related human rights violations. d. Document, consolidate and disseminate alternative reports assessing implementation and effectiveness of land and water tenure reform legislations and programs.



Table 5. Proposed Actions to Address Access to Land Issues in 8 Asian Countries

	ACTIONS NEEDED
Sri Lanka	<ol style="list-style-type: none"> 1. Push for a National Land Commission and a National Land Policy. <ol style="list-style-type: none"> a. Establish the long overdue National Land Commission. b. Put in place an effective and clean land administration system. c. Undertake land development, striking a balance between state and private land ownership. d. Draft a common land law; however, in the north it may be best to respect ethnic sensitivities. 2. Develop Land Information Database for Land Development. <ol style="list-style-type: none"> a. Equip agencies (Land Commissioner's Department, Survey department, and Bim Saviya [Land Title Registration Programme]) with technical capacity to develop a sound land information system or database to facilitate decision-making on land policy. 3. Streamline land administration. <ol style="list-style-type: none"> a. Devolve powers to provincial councils to prevent highly politicized decisions on land, and to avoid corruption. 4. Secure land rights for peasants. <ol style="list-style-type: none"> a. Confer freehold rights to peasants under leasehold or tenancy arrangements. 5. Maximize benefits from the peace dividend. <ol style="list-style-type: none"> a. Address specific needs of war-affected families (including widows and the disabled), including gender-related land issues. b. Pursue definitive plans on land allocation, land use and agriculture.

Conclusion

The next phase of the Land Watch Asia Campaign aims to intensify policy dialogues with national governments and regional institutions by strengthening and building consensus among its constituency. Specifically, the campaign objectives are:

- At the regional level, to increase platforms, dialogue and common action on land-related issues among CSOs, governments and intergovernmental organizations linked at national and regional levels; and
- At the national level, to develop improved mechanisms and conducive policy environment for policy dialogue and partnerships among CSOs, governments and IGOs/donors on land issues.

In this context, LWA reaffirms its commitment to advance the land rights of farmers, indigenous peoples, women, forest dwellers, fishers, pastoralists, Dalits, and other impoverished sectors in the rural areas.

Endnotes

- ¹ Updated and edited by Catherine Liamzon, and reviewed by Nathaniel Don Marquez. The original regional summary was written by Teresa Lingán-Debuque and Catherine Liamzon in 2008.
- ² IFPRI (2007), as cited by G. Thapa & R. Gaiha. (2011). *Smallholder farming in Asia and the Pacific: Challenges and opportunities. Conference on new directions for smallholder agriculture. 24–25 January 2011. Rome, IFAD HQ.* International Fund for Agricultural Development. Rome: Author.
- ³ Philippine Partnership for the Development of Human Resources in Rural Areas. (2010). *Systematizing Access to Land Monitoring in the Philippines.* Monograph submitted to ANGOC.
- ⁴ Sajoygyo Institute & Konsorsium Pembaruan Agraria Consortium for Agrarian Reform]. (2011). *Land issue and policy monitoring initiative: Indonesia report.* Report submitted to ANGOC.
- ⁵ Conceptual differences may exist between “land reform” and

agrarian reform”—with the latter regarded as broader in scope, entailing structural changes in land ownership, including fisheries and forestry, and encompassing social services. Nonetheless, for the purposes of this paper, we use these terms indistinctly.

- ⁶ See G. Thapa & R. Gaiha. (2011). *Smallholder farming in Asia and the Pacific: Challenges and opportunities. Conference on new directions for smallholder agriculture. 24–25 January 2011. Rome, IFAD HQ.* International Fund for Agricultural Development. Rome: Author.
- ⁷ Barkat, A. (2011). *Land reform monitoring report: Bangladesh.* Report submitted to ALRD and ANGOC.
- ⁸ See ANGOC and ALRD. *Asian Regional Workshop on Women and Land Rights. Workshop Proceedings. 25–26 October 2010. Dhaka. Quezon City: ANGOC.*
- ⁹ Human Rights Watch. 2011. *Cambodia: Revise or abandon draft NGO law.* 23 December 2011.
- ¹⁰ ANGOC and the Land Watch Asia campaign have spearheaded the CSO Land Reform Monitoring Initiative, which seeks to strengthen the capacities of CSOs in monitoring the implementation of land reform—focusing on land tenure and access to land—in seven Asian countries.
- ¹¹ Ahmad Erani.

In other cases it also draws from other studies and reports published by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and its members and partners.

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- Society for Conservation and Protection of Environment. (2011). *CSOs land monitoring in Pakistan.* Report submitted to ANGOC.
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References

This paper, as a regional synthesis, draws primarily from the Land Watch Asia country studies contained in this book:

Country	Abridged title (as contained in book)	Unabridged title
Bangladesh	The Backpedalling Stops	Land Watch Asia campaign: Bangladesh status report
Cambodia	Overcoming a Failure of Law and Political Will	Country paper Cambodia on land issues
India	Riding the Crest of People’s Movements	Access to land and tenurial security in India; land and tenure security in India
Indonesia	The Persistence of Popular Will	
Nepal	Asserting Freedom from Central Control	The inequality of agrarian structures and its impact to the rural poor livelihoods
Pakistan	Fighting the Pyramid of Power	Land tenure study of Pakistan
Philippines	Defending the Gains of Tenurial Reform	Taking common action for access to land
Sri Lanka	Land Ownership and the Journey To Self-Determination	



Land Watch Asia Campaign Declaration 2008



OUR ALLIANCE

The Land Watch Asia Campaign comprises 17 Social Movements and Civil Society Organizations (CSOs) from Bangladesh, Cambodia, India, Indonesia, Nepal and the Philippines, which work to increase access to land of poor women and men in the rural areas and to empower these communities to realize their own development.

OUR URGENT CONCERNS

Asia has 75% of the world's farming households, 80% of whom are resource poor small-scale farmers and producers. Yet, today, the region accounts for 505 million hungry people or two-thirds of the 800 million severely undernourished people in the world.

The majority of Asia's rural poor are landless or lack access to productive land. These landless poor are marginalized farmers and tenants, *adivasis* or indigenous peoples, women, *dalits* and minority castes, pastoralists and herders, fisherfolk, and internally-displaced persons.

For nearly two decades, small farmers and producers in Asia have been heavily affected by the adverse impact of trade liberalization policies that skewed commodity prices, escalated acquisition of productive lands by commercial interests, and privatized common property resources (i.e., forests, minerals, water, etc.).

Growth-led and market-driven policies that neglect smallholder agriculture and land rights of the poor, have been promoted by governments and multilateral organizations, leading to food insecurity, loss of livelihoods, rising social tensions, and degradation of natural resources. In many cases, competition for land has erupted into open conflict between sectors and communities, causing insecurity and socio-political instability.

Many governments still need to deliver on their past land reform programs and targets. Meanwhile, market-assisted land reform (MALR), under the principle of "willing buyer, willing seller" has not been effective in redistributing land in favor of the poor, who cannot afford high land prices. Also, in a number of Asian countries, "land administration" projects are conducted to ensure a more efficient titling system. While important, such projects run the risk of "legitimizing" historical injustices, including land grabbing and eviction of tenants and occupants.

The global food crisis has renewed attention to the disastrous effects of continued land conversion favoring commercial and industrial interests (e.g., large plantations, golf courses, mining, special economic zones, real estate speculation) as well as the declining investments for agriculture. Rising fuel prices have increased competition for land and diverted raw materials (wheat, soybean, maize, sugarcane, and palm oil) for bio-fuel production, to the disadvantage of poor farmers and consumers.

OUR COMMON CONVICTION

Agrarian reform and land tenure security should be an integral part of national development strategies. Sustained food self-sufficiency and development in rural Asia will only be achieved with more equitable land redistribution, together with support services, sustainable resource management and community empowerment.

Food self-sufficiency requires access to land by small food producers. Studies show that smallholder farms have greater yield per hectare than large farms due to greater labor intensity, more efficient use of land and inputs, and greater incentive for enhancing farm productivity and practicing conservation and sustainable management. Other studies also confirm that access to land is linked to better food sufficiency, improved health and the overall well-being of farming households.

Land is more than an economic asset or commodity. Access to land not only brings a source of survival but also increases one's sense of human dignity and security and the opportunity to break out of poverty. More

equitable access to land reduces resource conflicts and rural outmigration, and improves overall peace for greater economic and political stability.

OUR COMMON ACTION

Given this backdrop, the Land Watch Asia (LWA) campaign from July 2008 to July 2011 commits itself to advance the land rights of farmers, indigenous peoples, women, forest dwellers, fisherfolk, pastoralists, *dalits* and other impoverished sectors in the rural areas by:

- Protecting and promoting the gains of progressive legislation and initiatives on access to land;
- Working for the passage of laws for national land use;
- Upholding smallholder agriculture, promoting community-based resource management, and establishing protected areas for sources of food (agriculture, forests and waters);
- Empowering communities and civil society organizations (CSOs) for common action towards food sovereignty and sustainable livelihoods.

To achieve this goal, LWA shall enhance the capacities of civil society organizations to:

- Engage national governments, intergovernmental (IGOs) and regional organizations and international financial institutions (IFIs) in constructive policy dialogue to uphold the rights of communities to land and food, especially on policies and programs that affect the equitable distribution of land to Asia's rural poor;
- Monitor the status and processes of landlessness, resolve/mediate land conflicts, conduct land use planning and mapping, facilitate post-distribution services;
- Build solidarity and alliances with social movements, community-based organizations, and other sectors towards common action on these issues, and develop a new generation of land rights advocates.

Table 1. Gains of Land Watch Country Campaigns

Country	Campaign issues	Gains of the campaign
Bangladesh	<ul style="list-style-type: none"> • Implementation of the Chittagong Hill Tracts Peace Accord • Reform of the Vested Property Return Act of 2011 • Proposed land law for indigenous peoples 	<ul style="list-style-type: none"> • Expanded networking and alliance building beyond CSOs and NGOs (IWGA, CHT commission) • Interest to reactivate CHT Land Commission within government • Resolution of contentious provisions/clauses in the Vested Property Act
Cambodia	<ul style="list-style-type: none"> • Social and economic land concessions • Addressing land conflicts 	<ul style="list-style-type: none"> • Increased awareness of communities on land rights • Opening space for dialogue with government and international organizations
India	<ul style="list-style-type: none"> • Implementation of the Forest Rights Act of 2006 • Implementation of the recommendations of the Bihar Land Reforms Commission • Engaging the National Land Reforms Council and Committee on State Agrarian Relations and the Unfinished Task of Land Reforms 	<ul style="list-style-type: none"> • National Land Reforms Council was created as a result of the Janadesh march organized by Ekta Parishad • New impetus on implementation of unfinished land reforms in Bihar (from <i>Bhoodan</i> Land to homestead to sharecropping, and administrative reforms)



Table 1. (con't.)

Country	Campaign issues	Gains of the campaign
Indonesia	<ul style="list-style-type: none"> • Land conflicts and land grabbing, particularly for plantations • Piloting of agrarian reform in selected districts 	<ul style="list-style-type: none"> • Creation of Karam Tanah (People's Coalition Anti Land Grabbing) • Increased public and media awareness on land issues
Nepal	<ul style="list-style-type: none"> • Inclusion of land reform in the Constitution • Passage of a national land law 	<ul style="list-style-type: none"> • Land use policy is being finalized • Initiated the process for formulating a national land policy
Pakistan	<ul style="list-style-type: none"> • Corporate agriculture farming • Implementation of land reforms 	<ul style="list-style-type: none"> • Renewed interest among advocates to pursue land reforms • Initiated the formation of a National Peasant Coalition of Pakistan
Philippines	<ul style="list-style-type: none"> • Monitoring the implementation of the extension of the Comprehensive Agrarian Reform Program • Passage of a national land use act • Addressing land conflicts 	<ul style="list-style-type: none"> • Passage of CARP Extension with Reforms (CARPER) Law • The national land use act is pending in Congress • Establishment of a national platform for cooperation and policy dialogues on IP issues