

# Monitoring Land Reforms in Asia: Status Check

## Launch pad

Monitoring should be a regular feature in the activities of civil society organizations (CSOs) to inform and shape policy advocacy with solid evidence. In 2010, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) came up with the CSO Land Reform Monitoring Initiative to strengthen the land rights campaign in the region. The initiative is essentially an attempt to make the practice of monitoring more systematic and accessible to CSOs, in the process developing their capacities. The land monitoring framework sets the direction for CSOs to more strategically monitor land reform implementation in the seven countries involved in the Land Watch Asia campaign – Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, and the Philippines. The monitoring framework delineates scope, key indicators, and methodology for land monitoring, and suggests institutional mechanisms for its implementation.

CSOs have monitored several dimensions of land, ranging from land-related policies and budgets to land disputes and distribution of ownership. However, efforts have been

patchy thus far. Some CSOs have been able to institutionalize monitoring, whereas most have only monitored intermittently, given time and resource constraints. Our “competitive advantage” as CSOs is our continued engagement with and unflagging support for rural communities, which can lend us the claim that we know what is actually happening on the ground.

This monitoring initiative strives to depict the real situation of the poor and landless, which tends to be glossed over in macroeconomic reports. It is a sincere effort to incite the public to go beyond numbers and understand the story they seek to tell. For instance, how many people have been removed forcibly from their homes to give way to oil palm plantations in Indonesia or socioeconomic concessions in Cambodia? How many peasants are landless? How many are small and marginal landowners? How many landowners are non-tillers? Are governments doing anything at all to enhance not only access to land but also ownership, and not only ownership but control of the land? These are but some of the questions that the monitoring initiative raises and seeks to answer, before they are subjected to analysis.

This article presents a summary of the results of the pilot monitoring initiative, and is peppered with process notes to elaborate on the monitoring framework as tool. It primarily draws information from the pilot monitoring reports submitted by Land Watch

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## Pilot Monitoring Reports

Country	Focal Point	Title of Report
Bangladesh	Association for Land Reform and Development (ALRD)	Land Reform Monitoring Report: Bangladesh
Cambodia	STAR Kampuchea	Land Monitoring Report: Cambodia
India	Association of Voluntary Agencies for Rural Development (AVARD)	Country Land Reforms Monitoring Report
Indonesia	Sajogyo Institute (SAINS) and Consortium for Agrarian Reform (KPA)	Land Issue and Policy Monitoring Initiative: Indonesia Report
Nepal	Community Self-Reliance Centre (CSRC)	Land Reform Monitoring Indicators, Nepal
Pakistan	Society for Conservation and Protection of Environment (SCOPE)	CSO Land Monitoring in Pakistan
Philippines	Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHARRA)	Systematizing Access to Land Monitoring in the Philippines

Asia country focal points. It also gleans data from government sources and NGO sources, as identified throughout the article. In some instances, we have referenced the original sources (as cited in the country reports) in footnotes, for the reader's ease.

Without being overly ambitious in its scope, it serves as an overview on the common threads of land tenure and access to land that compose most of the fabric of today's modern Asian societies.

### Limitations

CSO monitoring suffers from several constraints. First, the issue of land invites a wide range of perspectives. The Asian experience on land ownership and access is so diverse, to say the least, making comparability questionable. Developing a framework for monitoring land reform in the region underwent several consultation processes, including pilot testing, which actively involved members of the Land Watch Asia campaign.

This was not a straightforward undertaking, as we were confronted by many challenges: availability, accessibility, and credibility of data; and relevance and comparability of the proposed indicators, to name a few.

Second, at least for now, another limitation is that monitoring has focused on farmers. Fishers, forest dwellers, indigenous peoples, and other marginalized groups are as yet excluded, though countries have free rein to include these in monitoring.

Third, it seeks to supplement, or in other cases, challenge official data. However, CSOs cannot engage in extensive data gathering, so they cannot do without using government data. CSOs recognize though that official data shy away from saying how government policies and programs have affected communities adversely. Nor do the data readily admit government's poor performance by stating the facts as they are: most governments are guilty of overstating performance and covering up failures.

Finally, because monitoring should also be sustainable – and not just strategic – it should use indicators to which CSOs can remain faithful over the years. This implies the selection of indicators that are relatively inexpensive to monitor, yet relevant and doable. This is why we selected land disputes, land grabbing, and evictions, as some of the indicators to focus on strategically.

### **Monitoring “land reform” – what land reform?**

For instance, monitoring land reform as such is problematic. Since the CSO land reform monitoring initiative was launched, it has been pointed out quite a few times that only programs actually being implemented can be monitored. In Indonesia’s case, land reform, let alone agrarian reform, has never been fully implemented. In the 1960s, the government initiated land reform. However, land reform was stigmatized due to “the war” against communism. Perceived as a subversive act rather than a measure of social justice measure, it was therefore discontinued.<sup>1</sup> They therefore suggest calling it “land management”.

Furthermore, “land reform” connotes mere land distribution to the landless, and therefore becomes a limiting concept that renders an injustice to its genuine spirit. “Agrarian reform”, in contrast, is conceptually seen as broader in scope than land reform, to include fisheries and forestry. Moreover, agrarian reform is not merely about land redistribution, nor access to land. Instead, it encompasses a range of social services like credit, technology, post-harvest facilities, and irrigation.

<sup>1</sup> SAJOGYO and KPA, August 2011. *Land Issue and Policy Monitoring Initiative: Indonesia Report*.

Another important distinction made is that agrarian reform, unlike land reform, implies structural change – restructuring access and ownership of land and water resources. This is nothing short of an overhaul of the existing structures of ownership of agrarian resources – to redress historical injustices and exploitative relationships.

However, for simplicity’s sake, we have decided to use land reform and agrarian reform interchangeably, unless otherwise indicated.

### **Varying contexts of land reform in Asia**

The underlying assumption of the CSO land monitoring initiative is that the contexts vary per country, both in terms of land reform per se and the monitoring of land reform. The countries demonstrate diversity in histories, land use and tenure systems, land policies, and experiences in land reform. Also, the levels of CSO capacities, institutional relationships in land campaigns, levels of access to government, and relationships with state and other institutions, influence the degree of monitoring that country focal points can undertake.<sup>2</sup>

By no means exhaustive, this section presents a simple introduction to the diverse contexts for land reforms in Asia, and in turn, the focus of monitoring as chosen by the country focal points.

### **Bangladesh**

Characterized by rising inequality and landlessness, Bangladesh has to be understood in the context of its political economy. Its

<sup>2</sup> ANGOC. 2011. *CSO Monitoring Land Reform in Asia: Status Check; A Regional Workshop + Dialogue under the CSO Land Reform Monitoring Initiative. Highlights of the Proceedings*. Jakarta, Indonesia, 13 – 14 July.

economy is split between the powerful minority – comprising one million – and the “un-empowered” majority of 149 million. Land reform has progressed at a snail’s pace, while moral support and financial resources for it are lacking. Activists have encountered harassment from government and opposition from land grabbers and powerful people. Longstanding unresolved issues of land reform comprise: acquisition and distribution of *khas* land; limited land rights of ethnic and religious minorities; women’s access to land; and fishers’ access to water bodies. Other issues include land grabbing and commercial shrimp farming.<sup>3</sup>

Monitoring in Bangladesh has adhered generally to the proposed indicators laid out in the CSO land reform monitoring framework. It has looked at policies and the budget; as well as land disputes, evictions, ownership and distribution of land, and landlessness, in the context of the government’s *khas* land distribution program.

### **Cambodia**

Land reform in Cambodia reached a milestone in 2001 with the promulgation of its Land Law. This was followed by laws and programs that improved access to land for the poor. The government’s Land Administration, Management and Distribution Program, aims to strengthen land tenure security and land markets, and prevent or resolve land disputes; manage land and natural resources equitably, sustainably and efficiently; and promote land distribution with equity. The Sub-decree on Social Land Concessions was issued in 2003

to give land to the poor, while the Sub-decree on Economic Land Concessions was issued in 2005 to grant state land for industrial and commercial agriculture use.

In recent years, land has come under intense demand and competition, due to domestic, regional and international economic trends. Cambodia is witnessing urbanization, real estate boom, special economic zones, hydropower projects, and economic corridors.

Monitoring has focused on four main components: inputs (laws and policies, programs, budget, and aid), land tenure (issuance and distribution of titles), access to land (landlessness, land grabbing, tenancy and sharecropping), and land disputes (cases received and resolved, affected households).

### **India**

Land reform is a state subject in federal India. Land reform legislations, implemented in its early post-Independence period, resulted in the abolition of the *zamindari* system; redistribution of ceiling surplus land; tenancy reforms; regulation of sharecropping; and the provision of homestead lands to landless households, among others. However, the “unfinished task of land reforms” is enormous, especially given the large size, diversity, federal structure and uneven progress across states.

Monitoring in India, then, is more practicable when done on a state level. AVARD has chosen to start monitoring in Bihar, based on the recent report and recommendations of the Bihar Land Reforms Commission.

<sup>3</sup> *Khas* land pertains to government land for distribution in Bangladesh.

At the national level, monitoring will check particularly the passage of the national land reforms policy and land use plan, and the implementation of other significant land-related policies such as the Forest Rights Act.

Monitoring would ascertain the status of land reforms to strengthen dialogue by looking at: access to land and homestead; sharecropping; landlessness; protection of land of Scheduled Castes and Scheduled Tribes; land disputes; budget; land records and maps; and the reordering of the governance structure.

### **Indonesia**

The Basic Agrarian Law of 1960 serves as a basis for restructuring land control and ownership. However, taking into account the diverse agrarian systems within the country, it was drafted in broad and generic terms. The Basic Agrarian Law was only in effect from 1961 to 1965; no real agrarian reform has transpired since 1966. The government has a National Program on Agrarian Reform (PPAN), but so far “land reform” has entailed asset legalization and limited redistribution of land. This law needs to be supplemented with regulations specific to the local context, which are being discussed in the wake of the revival of land reform in the country. Indonesian NGOs have thus chosen to focus on monitoring policy, in particular the process of drafting the law.

Rather than the implementation of the agrarian reform program per se, monitoring has involved policy, programs and budget; land problems (landlessness, tenancy, and conflicts); and impacts, or the degree of land-related violence as manifested in evictions, deaths, and arrests.

### **Nepal**

Nepal is a land-scarce country, whose agrarian system remains highly feudal to this day. Efforts at land reform have been unsuccessful thus far. The country, a fairly new democracy, has a window of opportunity for incorporating land reform in the constitutional drafting process, which has been protracted. Land reform commissions in 2009 and 2010 produced land reform reports with recommendations. However laudable they may be, their implementation is still wanting, and needs to be monitored.

CSRC, together with other CSOs, have been lobbying for the formulation and implementation of land-related laws and government programs. Such focus has been a central component of its monitoring as well. Other monitoring variables include land ownership and distribution; disputes and conflicts; land fragmentation; displacements; rural-urban migration; and changes in landholdings.

### **Pakistan**

Pakistan has had three land reform efforts under three different governments (1959, 1972 and 1977). The Land Reform Act of 1977 was an attempt to tackle land tenure insecurity and inequality in access to land, redress gaps in prior legislation and implement tenancy, land ceiling and land distribution reforms. However, land reform has never been able to take off in the country. Some provisions of the 1977 Act have even been regarded as “un-Islamic” by the courts. Further, the country has a highly complex system of land laws and overlapping institutions based on legal customary and Shari’a laws. The Corporate Farming Ordinance of 2000 facilitates transnational

corporations' land leases. This policy is an additional and serious threat to any further attempts at enhancing the poor's access to land in the country. On a more positive note, the vibrant peasant movements in the country can give land reform the impetus it needs to be carried out.

Obtaining updated and reliable data in Pakistan is a real challenge, but monitoring has managed to look at the legal framework, patterns of land distribution, tenancy, land disputes, and corporate farming.

### **Philippines**

The Philippines' experiences in agrarian reform span more than two decades. The country already has a comprehensive legal and policy framework with the purport of enhancing access to land to basic sectors of society: farmers, fishers, indigenous peoples, and forest communities. In view of this, monitoring has extended beyond the traditional confines of agrarian reform implementation for small farmers, and into claiming ancestral lands of indigenous peoples and securing rights of fishers to municipal waters and foreshore lands. It looks at the government's targeted areas for reform under three different laws: agrarian lands, municipal waters, and ancestral domains, vis-à-vis actual accomplishments. This focus on tenure security also includes threats such as disputes, overlapping claims, and encroachment.

Some of the policy issues for land monitoring will include: the completion of the land acquisition and distribution component of CARPER (by 2014); the provision of support services; budget; and the efficiency of the agrarian reform process and dispute resolution.

## **Status Check: Land Tenure**

### **Land disputes**

*Land disputes are "conflicts arising out of competing interests or when different parties have varying interests on the same parcel of land".<sup>4</sup> We use "conflicts" and "disputes" interchangeably.*

### **Land-related killings, detainments and harassment**

*Land disputes may escalate to direct violence. Disputes attributed to land have resulted in killings, detainments, and harassment.*

The estimated total number of deaths in Bangladesh attributed to land litigation in 2002 was 32,073. Likewise, for the same year, an estimated total number of 1.18 million people were detained, while 26.3 million were harassed due to land litigation.

In Indonesia, six people were killed in agrarian disputes in the period 2007–2010. The Consortium for Agrarian Reform (KPA) logged the deaths of at least 19 farmers and activists in the struggle for land in 20 provinces during the Reform Era. In terms of arrests, at least 102 people were arrested from 2006 to 2010 in 14 cases; another source mentions 936 farmers and activists arrested from 1997 to 2000 and 217 for the period 2002–2009.<sup>5</sup> Yet one more source (SPI) cites 18 deaths from 2007 to 2009; and 166 victims of agrarian conflict in 2007, 312 in 2008, and 84 in 2009.<sup>6</sup>

<sup>4</sup> Food and Agriculture Organization. 2002. *Land Tenure and Rural Development*. Land Tenure Studies. Rome.

<sup>5</sup> Excludes 2008. KPA was unable to compile data for the year 2008.

<sup>6</sup> Serikat Petani Indonesia (Indonesian Farmers Union) cited in SAINS and KPA, 2011, *Land Issue and Policy Monitoring Initiative: Indonesia*.

Forty-three criminalization cases and cases of officer violence were recorded in the country from 2004 to 2010. In 2009, there were some 4,000 cases of human rights violations in the country: 62% of which were agrarian and environmental-related issues.<sup>7</sup>

Plantations are the leading cause of mounting agrarian conflicts in Indonesia, making up 38% of the total number of disputes. Some 663 communities in 19 provinces face 172 plantation companies owned by either the government or private sector. Data compiled by KPA from 1998 to 2007 show 184 dispute cases in the country. Twenty-eight percent of disputes were on farms, while 16% were on forestry. Compensation, public facilities, and mining make up the rest of the cases. Furthermore, according to the National Land Agency (BPN), 7,491 cases were reported in the span of 40 years. Agrarian conflicts covering 19 provinces are increasing.

Within the Philippines' legal framework are mechanisms for settling land disputes; but in spite of this, farmers still fall prey to human rights violations.<sup>8</sup> From 2005 to 2010, 16 people were reported killed, while 39 people were harassed and one person was detained. This is most likely understated, as specific data are compiled at the local level. Organizations monitoring and documenting incidents of agrarian-related violence against farmers reported a total of 2,377 cases, but timeframes for recording vary, while there are potential overlaps.<sup>9</sup>

<sup>7</sup> Human Rights Commission, as cited by Gunawan (2011) and SAINS and KPA, 2011, *Land Issue and Policy Monitoring Initiative: Indonesia*.

<sup>8</sup> Philippine Partnership for the Development of Human Resources in Rural Areas (PhilDHRRA). 2011. *Systematizing Access to Land Monitoring in the Philippines*.

<sup>9</sup> Organizations documenting agrarian-related violence are: Asian Human Rights Commission, Task Force Detain-

Landowner resistance in surrendering lands has also been a source of land disputes. One study found that land conflicts between farmers and other farmers are the number one type of conflict (41%), only followed by conflicts with former landowners (at 35%).<sup>10</sup>

### **Land-related cases received, investigated, and adjudicated**

*The word "case" is variably applied to different country contexts. Conventionally, a case would pass through a dispute resolution system, whether formal or informal. But in other instances, a "case" is treated simply as an occurrence or incident recorded by NGOs or government.*

*If a case is filed or received, then it is, or should be, investigated. Adjudication is a formal form of conflict resolution, where a judge pronounces a verdict in clear favor of one party. The monitoring initiative's indicators look at the number of cases that are received – or recorded; how many are investigated and how long does this take; and how many are actually adjudicated.*

A significant part of cases are land-related in the countries covered. It is reasonable to assume that this is because of the high dependence on land in most countries, where agriculture is a primary source of livelihood. In Pakistan for instance, an estimated 60% to 80% of cases brought before lower-level civil courts and the high courts are land-related. Similarly, in Indonesia, data from the Supreme Justice shows that 60% to 70% of processed cases are land-related. Land disputes also comprise the largest category of cases – 31% of

ees of the Philippines, Task Force Mapalad, Partnership for Agrarian Reform and Rural Development Services, and FIAN International.

<sup>10</sup> PhilDHRRA. 2008. Philippine Asset Reform Report Card.

filed – brought in the court system of Nepal.<sup>11</sup> (Landlord-tenant disputes and family law cases that may include property disputes are separately classified and, comprise yet large portions of the total number of court cases.)

In some countries, informal and traditional dispute resolution mechanisms exist; only unresolved land dispute cases end up in court. However, cases in the formal court system can languish for several years. Court cases tend to be complex, requiring knowledge of the intricacies of the system, as well as substantial investments of time and financial resources. The protracted processes of litigation are often “delaying tactics” to preserve the status quo, thereby serving powerful interests.<sup>12</sup> To illustrate, one study in Bangladesh reveals the disastrous effects of the “curse” of [inefficient] land litigation: families in litigation spend inordinate sums of money and time, only to become more destitute in the end– to the point of selling the land to recoup expenses – than when litigation began.<sup>13</sup>

For the abovementioned reasons, the formal court system does not benefit the poor. But even the scales of the judiciary are tipped away from the poor. A suggestion that emerged in this monitoring initiative was to look into whether cases are settled in favor of the rich, or of the poor. In Cambodia, for example, complainants frequently lose even if land dispute cases proceed to the courts.<sup>14</sup>

<sup>11</sup> From 1999–2003, 40,000 cases brought in final courts were land disputes.

<sup>12</sup> USAID Land Tenure and Property Portal and CSRC, 2012, Land Reform Monitoring Indicators, Nepal.

<sup>13</sup> Abul Barkat and Prosanta K. Roy. 2004. *Political Economy of Land Litigation in Bangladesh: A Case of Colossal National Wastage*. Dhaka: Association for Land Reform and Rural Development / Nijera Kori.

<sup>14</sup> ANGOC. 2009. “Overcoming a Failure of Law and Political Will” (Cambodia Country Paper). *Securing the Right to Land: A CSO Overview on Access to Land in Asia*.

In some countries, such as Bangladesh, the formal court system is the only recourse for dispute settlement. The annual number of new land-related cases in the country is 63,158: 206 cases per 100,000 population. Some five million acres (2.02 million ha) of Bangladesh’s privately-owned land are under litigation. The annual number of land-related litigation is 3.2 million. At the local level, settling disputes does not normally work; but at the same time, settling it at the higher levels is not an affordable option for the poor.

A tremendous backlog of 103,000 land cases awaited resolution in Nepal (2007). In 2010, 34,840 cases were registered; 14,583 were solved, based on data from the Department of Land Reform and Management. Because land cases take at least a year to resolve – but often several more – in the formal court system, the country’s poor and marginalized pursue claims in more accessible forums, such as the District Revenue Department Offices. Village development committees can handle 13 types of disputes, including land-related cases involving encroachment and boundary issues; however, not enough is presently known about how effectively the VDC courts are operating.

In Pakistan, where a land recording and registration system is wanting, every party must prove its right to land when any question arises.<sup>15</sup> By one estimate, there are over a million pending land cases across the country. Court caseloads are taken up by land-related cases, by as much as 60% to 80%.<sup>16</sup> It takes anywhere from four to ten years for court cases to be resolved, during which the party in possession of the land delays adjudication to prolong use

<sup>15</sup> United States Agency for International Development. November 2008. *Pakistan Rule of Law Assessment Final Report*.

<sup>16</sup> Ibid.



of the land. People are thus inclined to opt for the informal dispute resolution mechanisms at the *panchayat* level rather than the formal court system.

At any point in time, there are 1.4 million land-related cases in Bangladesh, only 25% of which are investigated – possibly the reason land litigation takes an average of 9.5 years. Civil suits take around 11.4 years, criminal suits 7.9 years, and revenue suits 7.5 years, according to survey results. Based on extrapolation, there are 82 adjudicated land-related cases per 100,000 population.

Attempts have been made in Bangladesh to quantify the impacts of these land disputes.<sup>17</sup> The annual loss of time due to such disputes is staggering: an estimated 1,687 million hours.<sup>18</sup> Furthermore, land disputes have cost the economy an estimated \$3,824.6 million. In terms of loss of assets due to land disputes, the figure is pegged at about \$1,772 million annually.

Each year, the Philippine Department of Agrarian Reform receives an astounding average of 46,000 and 14,000 Agrarian Law Implementation (ALI) and DAR Adjudication Board (DARAB) cases respectively. ALI has an average accomplishment rate of 94% in terms of cases resolved, while for DARAB it is 96%. From 2000 onwards, the mounting DARAB cases filed can generally be due to the shift in focus of land acquisition to private lands. The percentage of resolved cases is high – but in whose favor? Also, the reality is that

the absolute number of cases is high, and that they are pending for several years. For ALI, judicial and quasi judicial cases, some 7,889 cases are still pending as of June 2009.

The average cost for legal assistance is P839/ha, while the average cost for adjudication is P1,049/ha. In terms of time, ALI cases lie in wait for an average of 1 year and 4 months, but this figure is probably understated.

Cambodia's Cadastral Commission claims to have resolved 8,560 cases in 2010, which involve fewer households (about five) and 2 ha of land on average. It received 5,193 dispute cases, resolving 35% of cases: 34% are pending; 25% are rejected due to non-compliance; and 5% are withdrawn.

On the other hand, the NGO Forum on Cambodia recorded 236 land dispute cases in the country: only 17% as of 2009 have been resolved; 67% are pending. The rest (16%) were simply dropped, or information about them was insufficient. Of the 41 resolved cases in the country in 2009, the Cadastral Commission and the NALRD – the institutions primarily mandated to settle land disputes – settled only two, quite a small proportion. In their stead, the local authorities resolved 42%, while the court system resolved 22% of cases.

However, the 236 reported cases of land disputes are far from comprehensive. What they do say is that land disputes, which have been increasing in incidence, have been associated with strong economic growth, historically and geographically. Land disputes are concentrated in provinces where lands are abundant and economic activities are rising. Land disputes peaked in 2008 during the real estate boom, and afterwards declined, coinciding with the

<sup>17</sup> Dr. Abul Barkat, Professor and Chair of the Department of Economics at the University of Dhaka, has made such attempts.

<sup>18</sup> Extrapolated using annual number of land-related pending cases, number of persons involved in each case, and average loss of hours per year per person involved.

country's economic downturn. The average land dispute case involves 201 ha of lands and 125 households. Land disputes have amounted to nearly 30,000 households over 47,500 ha of land. Disputes over lands of larger sizes are usually between forest-dependent communities and grantees of economic land concessions (ELCs).

Only 11% of cases recorded by KPA in Indonesia from 1945 to 2000 were investigated by stakeholders: government, legal aid agencies, and NGOs.<sup>19</sup> Six percent were investigated but not adjudicated, while a meager 5% were investigated and adjudicated. BPN claims the resolution of 1,778 cases, out of 7,491 reported cases, in the past 40 years. Of these, 4,581 were land disputes; 858, land conflicts; and 2,052, land cases on trial.<sup>20</sup>

### **Evictions and Displacements**

*Evictions refer to the forcible removal of people from the land against their will. Because of the nature of evictions, data are not easy to obtain. Macro-level data on evictions are generally unavailable, especially for big countries. Some NGOs monitor specific regions and provinces.*

*Households evicted or displaced from their farms due to loss of land – as caused by environmental hazards such as floods, desertification, tsunamis, typhoons – are excluded from this list, but represent an area that should be studied.*

The annual eviction or displacement rate of households in Bangladesh has been estimated at 1%. This translates to 250,000 households

<sup>19</sup> Based on KPA data (2002). Data set is from 1945 – 2000. 165 out of 1,455 cases were investigated.

<sup>20</sup> National Land Agency (BPN) data, 2008, as cited in Gunawan (2010) and SAINS and KPA, *Land Issue and Policy Monitoring Initiative: Indonesia Report* (2011).

annually displaced, or 200 households per 100,000 population.

The heightened demand for land in Cambodia – manifested in development projects, land disputes, and land grabbing – leaves an estimated 150,000 people at risk of eviction.<sup>21</sup> In fact, in the period 2004 to 2008, some 14,300 families were evicted in the capital of Phnom Penh. In the longer period, from 1990 to 2008, 26,600 families were evicted – approximately a hundred thousand people – almost 10% of the number of Phnom Penh's residents.

In Indonesia, for the period 2007 to 2009, a total of 61,350 households were evicted or displaced from farms.<sup>22</sup>

Over the last six decades, about 60 million people in India have been displaced from their lands to make way for development projects: an estimated 40% of these are Scheduled Tribes (STs), while 20% are Dalits or Scheduled Castes (SCs). Only about a third is estimated to have been resettled.

Although no data are available, in Pakistan, landlords evicting tenants-at-will or changing terms of working relations can only be expected to intensify as the demand for land increases.

### **Land Grabbing**

*Land grabbing means different things to different groups, but it implies one thing – land is taken without the consent or agreement of the other party.<sup>23</sup> The term has come to be associated with*

<sup>21</sup> Amnesty International. 2008. *Rights Razed: Forced Evictions in Cambodia*, AI Index.

<sup>22</sup> Serikat Petani Indonesia (Indonesian Farmers Union), 2010. *Catatan Pembangunan Pertanian dan Pedesaan Korporatisasi Pertanian telah Meminggirkan Pertanian Rakyat*. Jakarta: Dewan Pengurus Pusat Serikat Petani Indonesia.

<sup>23</sup> ANGOC's journal, *Lok Niti*, Vol. 18/1, 2012, "Land

*large-scale acquisitions or leases of land for agriculture, including corporate farming, usually leading to evictions of communities. Unless explicitly stated otherwise, “land grabbing” as used in this article will refer to this general understanding.*

In Bangladesh, land grabbing refers to powerful people occupying *khas* land. In point of fact, the Parliamentary Standing Committee of the land ministry reported that nearly 10,000 acres (4046.86 ha) of *khas* land in Dhaka and its environs are illegally occupied by real estate owners or the land grabbers. The estimated annual number of land grabbing cases exceeds 10,000. Land grabbed comprises approximately 27% of all agricultural land, and 6% of the country’s total land area. As well, agricultural land under contract farming is expanding. Land grabbers illegally occupy 88.5% of *khas* land, at the obvious expense of the landless and poor.

In Indonesia, it is defined as “seizure of land that has been cultivated and settled in by the people.”<sup>24</sup> Although the people possess proof of ownership and pay taxes, their lands are still taken by government institutions and the private sector – often for military or plantation purposes. IHCS reports 43 cases of land grabbing – seven of these involve criminalization and violence.

Cambodia’s economic land concessions number about 139 scattered throughout 18 of the country’s 24 provinces. In 2010 alone, there were 85 large-scale and 47 small-scale

ELCs with less than 1,000 ha. Total ELCs encompass about 1.5 million ha. Presently, there are 61 mining concessions and 21 Special Economic Zones (SEZs).

All over India, SEZs or free trade zones of big businesses and industries are mushrooming. State governments, too eager to generate employment and attract investments, have encouraged the establishment of SEZs; almost 500 approved SEZ projects (2008) cover approximately 60,000 ha of land for this “public purpose”, mostly on agricultural land that affects the livelihood of many poor farm holders.<sup>25</sup>

In Nepal, commercial pressures on land are being felt. The conversion of agricultural lands, especially in the Kathmandu Valley, along with areas in the hill districts and the Terai, for real estate development is increasing alongside land speculation. Overseas remittances fuel the real estate boom and the process of urbanization, leading to escalating prices of land.<sup>26</sup>

### ***The influx of agricultural investments***

Competition for land is increasing, and food security concerns represent one of the major drivers of this. On one hand, foreign governments are leasing or acquiring lands for their own food security. On the other, foreign companies are simply looking for more commercial farmlands. Agriculture export processing zones are being set up in various parts of the region, often in prime agricultural lands.

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Grab: Changing the Terrain of Land Tenure” compiles cases from various countries and situates the land grabbing phenomenon in the Asian context.

<sup>24</sup> Indonesian Human Rights Committee for Social Justice (IHCS), 2010.

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<sup>25</sup> ANGOC. 2009. *Securing the Right to Land: A CSO Overview on Access to Land in Asia.*

<sup>26</sup> Bharat Shrestha. 2011. *The Land Development Boom in Kathmandu Valley.* ILC, CIRAD and College of Development Studies.

China is investing in agricultural lands in countries like Cambodia, Indonesia, Malaysia and the Philippines, while Gulf countries have poured significant investments into Pakistan. The United Arab Emirates bought 324,000 ha of farmland in Punjab and Sindh provinces in 2008, for instance.

Palm plantation areas are constantly expanding in Indonesia, which has overtaken Malaysia as the world's largest producer of palm oil, with some 6.5 million devoted hectares. The country is friendly to investors for oil palm production, providing incentives like tax holidays and subsidies.

The Philippines is considered a lease hotspot. Media reports cite the leasing of farmlands by both foreign governments – Bahrain, China, Korea, Qatar and Saudi Arabia – and transnational companies. The Philippine government welcomes such foreign direct investments, establishing the Philippine Agricultural Development and Commercial Corporation (PADCC) to manage them.

Likewise, in Cambodia, economic land concessions are given to private companies up to 10,000 ha for a maximum of 99 years. Since 2004, an estimated 300,000 Cambodians have been victims of land grabbing – or 1 out of 50 citizens.<sup>27</sup> In an Oxfam sample survey, 13% of the landless reported that their land was taken without compensation. Additionally, some case studies conducted revealed that ELCs overlapped with communities' lands, involving more than 300 families per case over an area from 8% to 25% of the granted ELC.<sup>28</sup>

<sup>27</sup> Cambodian League for the Promotion and Defense of Human Rights (LICADHO). 2010. *Freedom of Expression in Cambodia: The Illusion of Democracy*. Phnom Penh.

<sup>28</sup> Ngo, Sothath and Chan, Sophal, (forthcoming). *Economic Land Concessions and Local Communities*. NGO Forum on Cambodia.

Pakistan, through its Corporate Agriculture Farming (CAF) policy, offers incentives sweet enough to lure investors: 100% foreign equity investment; full repatriation of capital, profits and dividends; and exemption from labor laws. The Corporate Farming Ordinance (CFO) passed in 2001 enables stock-listed corporations to lease land in the country for a period of 99 years, broken into two periods of 50 and 49 years. Furthermore, transnational corporations can lease land with a maximum ceiling of 1500 acres (607.03 ha). The government itself is identifying state lands to lease under the CFO. Clandestine land deals have been made.

### **Status Check: Access to land**

*Indicators on access to land particularly refer to rural, agricultural lands. Definitions of “landlessness” differ from one country to another. It is generally understood as the absolute lack of land, but there are more nuances to the term. How the term “landlessness” is used in specific country contexts is explained below.*

### **Land ownership and landlessness**

Land ownership patterns are highly skewed in Asia. Simply stated, land is concentrated in the hands of a few, rich and powerful landowners; whereas many people own small parcels of land, if at all.

In Bangladesh, large landowners account for 2.1% of rural households yet own 17.3% of all agricultural land. Similarly, 13% of households own more than half (58%) of total agricultural land. In contrast, a disproportionate number of households, comprising 70% of the total, are landless and marginal farmers who own an estimated 15% of total agricultural land (see

**Table 1: Number of households and land area in Bangladesh, as percentage of total (1996)**

	<b>Number of households, as percentage of total (%)</b>	<b>Land area, as percentage of total (%)</b>
<b>Landless (0 – 49 decimals)</b>	56	4.9
<b>Marginal and small (50 – 249 decimals)</b>	30.7	36.5
<b>Medium (250 -749 decimals)</b>	11.2	41.3
<b>Large (Over 750 decimals)</b>	2.1	17.3

Source: *Agriculture Census of 1996*, BBS, Government of Bangladesh

Table 1). In the last four decades, the country has witnessed a threefold rise in the number of landless people. In 1960, 19% of households were landless – owning zero to 49 decimals. This figure had risen to 56% by 1996.<sup>29</sup>

In Cambodia, 89% of the poorest quintile owns or operates agricultural lands. Interestingly, the poorest quintile has experienced improved access to agricultural lands, while for the richest quintile access fell from 48% to 39% from 2004 to 2007. Access to agricultural lands is not the same as land ownership; nonetheless 92% of agricultural lands are actually owned, and that only 8% are operated through tenancy, sharecropping and other means. (see Table 2.)<sup>30</sup>

Landlessness – or the state of possessing no land at all – is estimated at 21% as of 2008. This has increased steadily since 1997. The World Bank (2006) has attributed landlessness to population dynamics (consider, for example, newly married couples who have never owned land), deliberate land sales for investments, Khmer refugees from the Thai borders and

land grabbing. Land transactions are also one factor contributing to landlessness, what with Phnom Penh residents purchasing land in rural areas.<sup>31</sup>

Apart from the “landless”, there are also the “land-poor”, whose land parcels are hardly sufficient to meet household needs. In 2004, it was estimated that 26% of the households in rural Cambodia owned less than 0.5 ha. According to a survey conducted in 2008, 45% of rural households owned less than 1 ha.

In India, most of individual and joint landholdings are marginal and small; 64.77% of holdings are classified as marginal, but only make up 20.42% of the total area of holdings.<sup>32</sup> Additionally, small farms comprise 18.53%, covering 21.10% of the total area (see Table 3). About 47.5% of households possess land below 0.5 ha.

In Indonesia, a mere 1.6% of the total landholders possess lands greater than 5 ha in size. In contrast, 23.1% of landholders own less than 0.02 ha (see Table 4), which would be classified as landless.<sup>33</sup> Landlessness is defined as

<sup>29</sup> A decimal is approximately 1/100 acre or 40.46 sq. m.

<sup>30</sup> World Bank. *Cambodia: Halving Poverty by 2015? Poverty Assessment 2006* (2006), as cited in STAR Kampuchea, *Land Monitoring Report: Cambodia*.

<sup>31</sup> Ibid.

<sup>32</sup> Institutional holdings are excluded.

<sup>33</sup> Agricultural Census, Statistics Indonesia (BPS), 2003.

**Table 2: Access to land in Cambodia by quintiles (2006)**

	Poorest	Next Poorest	Middle	Next Richest	Richest	Cambodia
	2007					
<b>Owens or operates agricultural land (%)</b>	89	85	84	72	39	74
<b>Land owned as % of land owned/operated</b>	94	94	94	88	84	92
	2004					
<b>Owens or operates agricultural land (%)</b>	83	85	81	72	48	74
<b>Land owned as % of land owned/operated</b>	93	93	92	92	88	92
	Change over 2004 - 2007 (percentage point)					
<b>Owens or operates agricultural land (%)</b>	6	0	3	0	-9	0
<b>Land owned as % of land owned/operated</b>	1	1	2	-4	-4	0

Source: *World Bank*, 2006

ownership of absolutely no land or a very small parcel of land (less than 0.2 ha). According to data from the National Development Planning Agency (BAPPENAS), of the total number of farmers, landless farmers comprised 49.5% in Java and 18.7% in the islands outside Java (1999). Based on older data from 1983, 69.29% own land and do not cultivate others' land. Those working on others' land, as well as the landless, comprise 5.41%.<sup>34</sup>

The trend is that marginal farmers are rising in number, while the average land area owned by farmers is shrinking. In 2003, an estimated 13.7 million marginal farmers owned an average 0.5 ha of land.<sup>35</sup> Ten years prior, in 1993, there were 10.94 million marginal farmers working on an average 0.83 ha of land.

<sup>34</sup> BPS data, 1983.

<sup>35</sup> BPS data, 2003.

Of the total landholdings in Nepal, 1.4% of landowners own 14% of arable land. Conversely, 47% of land-owning households own only 15% of total agricultural land. The top 5% occupy more than 37% of the land.

Seventy-six percent of the poor are small and marginal landholders. Table 5 shows the number of households classified according to size.

Although the number of holdings had more than doubled in the last forty years, the average landholding is shrinking: in 2001 it had dwindled to 0.8 ha per family and further declined to 0.6 ha in 2009.<sup>36</sup> The reasons for the rise in number of holdings are population growth and the continued reliance of people on land.

<sup>36</sup> Central Bureau of Statistics (CBS), 2009.

**Table 3: Number and area of individual and joint holdings as percentage of total in India (2005-2006)**

	<b>Number of holdings, as percentage of total (%)</b>	<b>Area of holdings, as percentage of total (%)</b>
<b>Marginal (below 1 ha)</b>	64.77	20.42
<b>Small (1-2 ha)</b>	18.53	21.10
<b>Semi-medium (2-4 ha)</b>	10.93	24.15
<b>Medium (4-10 ha)</b>	4.93	23.27
<b>Large (over 10 ha)</b>	0.83	11.06

Note: Total may not tally due to rounding off

Source: *Agricultural Census, 2005-2006*

Based on data from the Central Bureau of Statistics, about 32.1% of households do not own any land (2002).<sup>37</sup> Landless farmers work about 2% of total farm holdings. An estimated 300,000 *haliya*, *haruwa* and *charuwa* are landless.<sup>38</sup>

Only 37% of Pakistan's rural households own agricultural land. Among its rural population, it is estimated that between 20% and 40% fall under the landless or near-landless category (2000). Seven percent of large farms were greater than 200 ha, accounting for 40% of agricultural land. Of those who have landholdings, 24.02% would be considered landless; 42.27% would have holdings smaller than five acres (2 ha); whereas a tiny minority - 0.86% - hold lands greater than 55 acres (See Table 6).

In the Philippines, as Table 7 shows, farms less than 3 ha comprise 81% of the total number of farms but only 40% of total agricultural land. In contrast, farms more than 25 ha make up 0.2% but occupy 10% of total agricultural

land. Large farms – greater than 10 ha – make up 22% of the total farm size in the country although they only represent 2.2% of the total number of farms. About 83% of farmland is either owned or partly-owned.

The average farm size is 2 ha (2002), decreasing from 2.2 in 1991. The average farm size per beneficiary of the agrarian reform program is smaller, at 1.49 ha. There are now more farms that are less than 3 ha in size. In contrast with other countries, however, large parcels of land (greater than 10 ha) are decreasing in number. Finally, land fragmentation is an issue particularly in South Asia: Bangladesh, India, and Nepal. Landholdings in Bangladesh are fragmenting, as land ownership concentration in a few large landowners is intensifying. Each landholding in Nepal comprises an average 3.3 parcels, with an average parcel size 0.24 ha in 2001. Inheritance and housing have led to this phenomenon, which needs to be addressed.

### **Land redistribution**

*Land reform aims to give land to farmers or tillers, and in some cases, to the landless. It is recognized that land distribution alone is not enough, yet constitutes a fundamental starting*

<sup>37</sup> CBS, 2002.

<sup>38</sup> Different tenancy systems exist in Nepal. The *haliya* (plains) and *haruwa* refer to agricultural workers hired to plough their masters' fields. In the *charuwa* system, poor people are hired to graze cattle of landlords. Nominal wages are paid for these systems.

point to reducing poverty and enhancing the poor's livelihood. Land registration or titling – asset legalization – is not equivalent to land redistribution.

Governments have made some efforts at land reforms, but evidently much work (and advocacy from CSOs) still needs to be done.

The need to secure land rights remains pressing in Asia, but continues to be neglected. In Bangladesh, only 20% of *khas* land has been distributed. But effective ownership of land implies three key conditions: title, right to use and right to harvest. Of the 3.3 million acres (1.34 million ha) of total *khas* land, the landless and poor effectively own only 11.5%. However, among poor farmers receiving *khas* land, only 46% have effective ownership: the non-retention rate stands high at 53.7%.

Social land concessions (SLCs) are given in Cambodia to the poor. The government targeted the distribution of lands to 10,000 landless families under the auspices of the Land Allocation for Social and Economic Development (LASED) project. As of 2010, 3,156 households with a total area of 24,126 ha had received their SLCs. The government has also earmarked more than 36,000 ha in twelve provinces for SLC distribution to targeted landless poor beneficiaries.

Furthermore, the land registration process is presently underway. To date, six to seven million parcels or 25% of land are now secured by land certificates, 75% of which are for rural land parcels. As of 2007, 36% of Cambodian households owning land have government-

**Table 4: Percentage of Category of landholders in Indonesia, 2003**

Category of landholding (ha)	Percentage of total (%)
<0.10	10.9
0.10-0.19	12.4
0.20-0.49	27.9
0.50-0.99	19.7
1.00-1.99	16.1
2.00-5.00	11.4
>5.00	1.6
<b>Total</b>	<b>100.00</b>

Source: BPS Agricultural Census, 2003

issued land titles, signifying a 22% increase in 2004. This 14 percentage point increase can be attributed to the World Bank's LMAP that issued close to one million land titles between 2002 and 2009. Even with the process of obtaining land titles in Cambodia, the poor seem at a disadvantage: 44% of the richest quintile own lands with titles, compared to 30% of the poorest quintile owning land secured by title. The fact of the matter is that still many Cambodians own lands not officially recognized by the state.

In the Philippines, 83% of the total scope for Land Acquisition and Distribution (LAD) has been accomplished.<sup>39</sup> Although the program seems to be nearing its homestretch, with more than a million hectares still awaiting distribution to 640,955 beneficiaries, the harsh reality is that the remaining lands are the most difficult to secure. Sixty-two percent of these are private agricultural lands that are to be acquired compulsorily.<sup>40</sup> These lands are

<sup>39</sup> Scope is 5,153,857 ha and the accomplished area is 4,273,203 ha.

<sup>40</sup> Total private agricultural lands for distribution amount to 1,039,817 ha. Lands to be subjected to compulsory acquisition make up 685,255 ha.



**Table 5: Number of households in Nepal, by size group**

Raking	Ownership (in ha)	Number of households	Number of households as percentage of total (%)
Landless	0–0.1	287,100	10.13
Marginal	0.1–0.3	670,000	23.64
Small	0.3–0.5	648,000	22.86
Medium	0.5–3	1,131,560	39.93
Rich	3–10	93,700	3.31
Richest	More than 10	3,800	0.13

Source: Central Bureau of Statistics, 2006

planted to sugarcane, coconut and other tree crops, and nontraditional export crops.

Landholding inequality is starkest here. As of June 2010, the accomplishment for this mode is a miserable 19%. A careful look at the numbers shows that the rate of accomplishment is compensated for by the excess in distribution on non-private agricultural lands, at 134%, and under the Voluntary Land Transfer scheme at 247%. Recalculating these rates of “over accomplishment” at 100% will result in a drop in the total LAD accomplishment rate at 70%.

India has potential surplus land amounting to an estimated 21 million ha. However, only 2.7 million ha have been declared ceiling surplus land, of which the government has taken possession of 2.3 million ha – roughly 85%, distributing 1.9 ha to 5.5 million households. Of these beneficiaries, 37% are Scheduled Castes and 16% are Scheduled Tribes. The implementation of the country’s ceiling surplus law has stalled. Much of the remaining declared surplus land is stuck in disputes: revenue and judicial court cases.

*Bhoodan* or lands that were donated all over India reached approximately 1.928 million

ha. Although this amount seemed fairly large, in reality, only 446,000 ha were cultivable, and 731,000 ha were unfit for distribution. Thus far, 989,000 ha have been distributed.

Under the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act, a total of 1.2 million titles for 1.6 million ha of forest land were distributed in 2011. This process is ongoing, amid expectations that titles granting rights to additional forest lands will be given.

The allocated land for distribution in Indonesia has increased 60% per year since 2005: from 54,500 ha in the period 1961 to 2004 to 349,519 ha or an average of 87,349 ha per year. Similarly, redistributed land has increased 2.5 times since 2005. Average yearly distribution was 26,220 ha from 1961 to 2004. This number surged to 367,701 ha for the period 2005–2008. During those same periods, land reform beneficiaries also grew by 135% from 34,195 to 72,991 households per year. A remarkable 13 million certificates were produced from 2006–2008, in stark contrast to the number of households that received land titles as land reform beneficiaries in 44 years.<sup>41</sup>

Based on the report of the Land Reform High Commission, there are some 429,851 ha in Nepal identified as available for distribution: degraded forest land public land, *Guthi* land,

<sup>41</sup> BPN data as cited in SAJOGYO and KPA, *Land Issue and Policy Monitoring Initiative: Indonesia Report*. (August 2011).

river basin, and land to be received from ceilings.<sup>42</sup>

Pakistan's Federal Land Commission asserts that to date, the government has expropriated 1.8 million ha – less than 8% of the cultivated area – and redistributed 1.4 million ha to 288,000 beneficiaries. However, it should be noted that two-thirds of the expropriated land, and three-fourths of the distributed land were accomplished under the first land reform effort, in 1959.

### **Gini coefficient**

*Gini coefficients are used to measure inequality. Zero reflects an ideal situation or perfect equality, while 1 represents the “worst” or maximal inequality. Generally, available Gini coefficients measure income inequality. In rare cases, it is available for inequality in land ownership.*

In Bangladesh, from the period 2005 – 2010, the income inequality increased despite a decline in poverty. The Gini is 0.686. Inferences can be drawn that land inequality follows the same trend as income inequality. Nepal's inequality in land distribution, as measured by the Gini coefficient, was 0.544 in 2001.<sup>43</sup>

Based on data from the International Fund for Agricultural Development's Rural Poverty Report, 2001, Pakistan's Gini concentration of holdings from 1981 to 1990 was 0.58.

<sup>42</sup> *Guthi* land refers to land made for religious or philanthropic purposes.

<sup>43</sup> CBS, 2006.

**Table 6: Percent distribution of households in Pakistan, by landholdings**

	Number of agricultural households, as percentage of total (%)
<b>Landless</b>	24.02
<b>Under 5 acres</b>	42.27
<b>5 – 12.5 acres</b>	22.40
<b>12.5 – 35 acres</b>	8.97
<b>35 – 55 acres</b>	1.48
<b>More than 55 acres</b>	0.86

Source: HIES data 2001 – 2002; recalculated.

### **Sharecroppers and tenants**

*Tenancy is the general term employed to describe the arrangement of those farming on land that is not their own. Various forms of tenancy exist in different countries, with sharecropping being the most common. Sharecropping, as the term implies, is the traditional arrangement where the sharecropper gives a pre-agreed share or portion of the agricultural harvest to the landlord as rent. The landlord provides the land, while the sharecropper provides cheap labor. Arrangements vary – for instance, some have 50-50 terms, where half of the produce is given to the landlord.*

*Sharecropping is considered a flexible form of labor that responds to production conditions, hence its popularity.<sup>44</sup> Another advantage of sharecropping is that a minimum of cash is needed.<sup>45</sup>*

<sup>44</sup> Food and Agriculture Organization. 2001. *Good Practice Guidelines for Agricultural Leasing Arrangements*. Rome.

<sup>45</sup> S. Lastarria-Cornhiel and J. Melmed-Sanjak in Land tenancy in Asia, Africa and Latin America: a Look at the Past and a View to the Future. Working Paper No. 27. (Land Tenure Center, University of Wisconsin-Madison, 1999) as cited in Food and Agriculture Organization, *Good Practice Guidelines for Agricultural Leasing Arrangements*. (Rome, 2001).

**Table 7: Number and area of farms in the Philippines as percentage of total**

Farm size (ha)	Number of farms, as percentage of total (%)	Area of farms, as percentage of total (%)
<b>Below 1.00</b>	40	9
<b>1 – 2.99 ha</b>	41	31
<b>3 – 4.99 ha</b>	11	18
<b>5 – 9.99 ha</b>	6	20
<b>10 – 24.99 ha</b>	2	12
<b>Over 25 ha</b>	0.2	10

Note: Total may not tally due to rounding off

Source: National Statistics Office. Census of Agriculture and Fisheries. 2002.

*In some cases, sharecropping is different from tenancy; with the latter defined as leasing land. Leaseholders are lessees: they lease the land and pay the landowner rent. Mortgage and use permits are other forms of tenancy that have been identified.*

*Tenancies may be: long-term or short term; secure or insecure; formal or informal.*

Bangladesh has 7,985,079 tenant farmers (2008).<sup>46</sup> According to estimation from official statistics and large-scale studies, the total number of sharecroppers would be 12.1 million for 2009. Of these, only less than 1% actually have legal documents, because landlords, afraid that they will lose their lands, resist.

The number of sharecroppers is climbing, for three reasons. First, high input costs and low market access make farming unviable for poor farmers. Second, many large landowners have lost interest in cultivating land by themselves. Lastly, small and medium landowners are interested to lease land from relatively poor, as well as relatively large, landowners.

<sup>46</sup> Preliminary report of the Bangladesh Agriculture Census.

In Cambodia, 8% of agricultural lands are operated through tenancy, sharecropping, or other modes.

Roughly 67% of tenant-operated land in Pakistan is sharecropped (2000). Most sharecroppers give the landowners half of the produce. The Tenancy Act stipulates fixed-term tenure of one to three years for sharecroppers. These sharecroppers – *haris* – are also without titles, as most agreements are unwritten. In many cases, sharecroppers do not receive their rightful share of the production; their size of their share can vary, depending on the particular crop. In Sindh, for example, sharecroppers work as agricultural laborers for sunflower, earning daily wages, but in the next season, they cultivate rice and enjoy their fair share. Sharecroppers lack awareness of their rights; they have no legal documents and their services can be terminated by the landlord at any time.

At independence, approximately 50% of farmland was cultivated by tenants. Tenants have contracts that are renewable for a number of years. However, in practice, their situation is insecure and can be evicted at any time,

since their access to legal recourse is limited anyway.

Share-tenancy was abolished in the Philippines and completely replaced by leaseholding, which was seen as a path to land ownership. All sharecroppers have become lessees, whether or not a leasehold agreement has been executed. As of June 2009, there are almost 1.2 million holders of leasehold contracts covering 1.6 million ha or 18% of total farmland.

In Indonesia, the Regulation on Sharecropping has never been implemented. The practice still persists, informally. Data on sharecroppers are not documented by government or NGOs.

Of total agricultural land in Nepal, 9% remains under the tenancy system.<sup>47</sup> According to national estimates, about 30% of the rural population rents agricultural land – almost all of whom enter sharecropping agreements as opposed to monetary payments. Some 541,000 tenants registered with the government to receive grants on half their tenanted land; but surveys suggest the number of tenants is at least thrice as high. Sharecropping, however, is said to be decreasing because of out-migration, and increased leaseholds for commercial farming.

In India, 38.5% of the total rural households leasing land are landless laborers. Seven percent of the total operated area in India (2003) was leased by 11.5% of rural households.<sup>48</sup> Other estimates place tenancy between 15% and 35% – largely informal and therefore insecure. In certain regions, tenancy incidence goes up to as high as 50%. About 90% of the leased area is unrecorded and informal.

<sup>47</sup> Community Self-Reliance Centre. 2005. *Land First*. Vol. 2. Kathmandu.

<sup>48</sup> National Sample Survey Organisation. National Sample Survey, 60<sup>th</sup> round.

It should perhaps be mentioned here that feudal and exploitative practices still endure in some places, with sharecroppers and agricultural laborers facing high rents and insecure tenure, and receiving cruel or unfair treatment.

Bonded labor, particularly debt bondage exists in Nepal, for example. *Haliya* and *haruwa* are plowmen who have an annual contract to work on their landlords' farms. However, the wages they receive are nominal, making it impossible to pay off the principal; they end up paying only the interest. Compounded interests eventually "bond" the whole family to the debt.<sup>49</sup> Freed bonded laborers live in only slightly better conditions, but the government has a program to address their needs, particularly of the *kamaiya*.<sup>50</sup> In certain parts of Pakistan a similar practice – *begari* or forced and free service – continues. Private jails as well as chained *haris* or sharecroppers were discovered. These *haris* were unable to pay their loans or their ancestors'. In both countries, landlords are known to resort to unscrupulous practices to retain these tillers in their service. This has prompted the Sindh High Court of Pakistan proposed amendments to the Sindh Tenancy Act, in order to reform the feudal relationship between landlords and sharecroppers.

## **Budget, laws and policies**

### ***Budgeting for agrarian reform***

*Agrarian reform – or at least enhancing access to land – requires official government allocations*

<sup>49</sup> ANGOC. Asserting Freedom from Central Control (Nepal Country Paper). *Securing the Right to Land: A CSO Overview on Access to Land in Asia*. Quezon City, Philippines.

<sup>50</sup> *Kamaiya* is another bonded labor system in Nepal, widely prevalent in the five districts of the Mid-Western and Far-Western regions.

*for its implementation. This proposed indicator looks specifically at the agrarian reform budget, or lack thereof. It invites analysis based on how the budget is actually spent.*

The budget earmarked specifically for agrarian reform is indicative of the degree of importance governments attach to it. Laws and programs that facilitate improving access to and control over land, but without the corresponding funding, are futile. In fact, infusing more funding is one of the most frequently made recommendations to push the agrarian reform agenda; the others include political will and the establishment of clear targets. Again, funding is certainly not the be-all and end-all of agrarian reform implementation, but it remains a significant avenue to achieve results in agrarian reform.

It is hardly surprising, then, that dismally performing governments in regard to agrarian reform are those same governments with minimal funding for it.

In countries like Bangladesh, no budgetary head or line item such as “agrarian reform budget” exists. For the first time in the country’s history, the national budget of FY 2010-2011 declared that 5,534 acres (2,250 ha) of *khas* land will be distributed among 34,452 landless households for the year – but this is not matched by any figure in the budget.

Nepal’s national budget merely allocates 0.01% to its Ministry of Land Reform and Management. Of this already negligible amount, 70% is spent on human resource and administrative expenses. The remaining 30% leaves very limited scope for actual land reform program implementation.

Such goes to show that it is not so much the budgetary figure or allotment that is important, but rather where the money actually goes and how it is spent. Recognizing the inherent limitations of looking at only budget lines, several CSOs in various countries, as part and parcel of their watchdog role, have launched budget monitoring initiatives. They study the variances between government budget and actual spending, as well as the concrete outputs and outcomes of such expenditures. Close budget monitoring has yielded interesting results. For instance, in the Philippines, PhilDHRRA observed that over-releases from the agrarian reform fund were made – coincidentally or not – during election years (2004 and 2007).

Findings from budget monitoring in Cambodia show that a scant average of 0.45% of its annual total budget (2005-2010) is allotted for the land sector. In absolute terms, the budget for land is increasing, from nearly \$2 million in 2005, to \$6.5 million in 2010, though in relative terms the budget for land as percentage of the total national budget has remained fairly constant.

The Philippine Department of Agrarian Reform’s budget was almost Php20 million in 2010. From 2007 to 2010, more than P63 million was allotted. Land tenure improvement received the lion’s share - 61% - of the budget for agrarian reform. In contrast, 35% was allocated to support services delivery, and a meager 4% to agrarian justice delivery. Given that the average cost for land acquisition and distribution is Php92,600, and that some 1 million ha await redistribution, the government still needs Php96 billion to complete land acquisition and distribution.

Meanwhile, in 2008, the Government of Indonesia only allocated Rp23 billion for the National Program on Agrarian Reform (PPAN). According to the Revised State Plan on Revenue and Expenditure Budget, 2010, the total budget for the National Land Agency (BPN) stood at Rp2,951.6 billion. The amount allocated to agrarian reform implementation forms a small fraction of BPN's budget – a manifestation of government's lack of commitment to agrarian reform. An addition of Rp7 billion was made, part of which would supposedly fund draft acts and government decree on land issues such as the agrarian reform government regulation for the implementation of Land Reform Plus and socialization government regulation on idle land policing.

### **Land-related laws and policies<sup>51</sup>**

Legislation provides a strong basis – though never enough by itself – for enhancing access to land and upholding land rights of the poor. Table 8 provides a list of laws and policies that help make or break land reforms in Asia.

Conflicting laws and policies on land are not uncommon in the region. The national constitutions lay the basic framework enshrining principles of equality and social justice, only to clash with the neoliberal economic framework governments are pursuing. These principles are flouted by laws promoting mining or corporate farming, since these more often than not adversely affect poor and landless communities. Take for example, Indonesia, which has eleven different acts making up a “jungle of regulation”. Such overlapping regulations produce several

<sup>51</sup> A more detailed discussion of the legal and policy framework for access to land and security of tenure in Asia is available in *Securing the Right to Land: An Overview on Access to Land in Asia* (2<sup>nd</sup> ed).

vertical and horizontal conflicts, and contradict the Indonesian Constitution's mandate on using resources for the benefit of the people.

It is crucial to understand that overlapping laws and regulations on land are a principal source of disputes. Their *raison d'être* is to steer government programs and their implementation in a strategic direction. But when legal and policy instruments are at odds with one another, overlapping mandates and conflicts in implementation naturally ensue.

In Pakistan, some provinces have adopted the National Transfer of Property Act, the Registration Act and the Stamp Act. For these, land transfers must be registered with the Provincial Land Registrar, the Provincial Board of Revenue, or certain private housing and development authorities. These parallel systems do not coordinate information. Furthermore, provinces that have not adopted national legislation can adopt their own regulations that may be contrary to national legislation.

The ministries of Bangladesh in charge of keeping land records, registration, and settlement are uncoordinated and inefficient. Likewise, proper coordination between the District Land Revenue Office and Survey Office is lacking in Nepal.

In the Philippines, indigenous peoples and farmers have fought over the same land, which was covered by two different laws – the Comprehensive Agrarian Reform Law versus the Indigenous Peoples Rights Act. Such is the case of the Mangyans in the island of Mindoro, who claimed the land as their ancestral domain. Unfortunately, the Department of Agrarian Reform (DAR) included the area under the

**Table 8: Land-related laws and policies in various countries**

<b>Countries</b>	<b>Land-Related Laws and Policies</b>
<b>Bangladesh</b>	Land Reform Ordinance, 1984 East Bengal State Acquisition and Tenancy Act, 1950 Land Reform Action Program, 1987 Agricultural Khas Land Management and Settlement Policy, 1997 Land Reform Policy, 1972
<b>Cambodia</b>	Land Law, 2001 Sub-decree on Social Land Concessions Sub-decree on Economic Land Concessions Sub-decree on State Land Management Sub-decree on Procedures of the Registration of Indigenous Community Land Sub-decree on Procedures of Commune Land Use Planning Sub-decree on the Management and Use of Co-owned Buildings Circular on Illegal Occupancy of State Land; Joint Prakas on State Land Identification, Classification and Mapping Joint Prakas on Mechanism for the Provision of Agricultural Extension Services to Farmers Using Social Land Concession Joint Guidelines on Strengthening of the Cadastral Commission Performance at all levels
<b>India*</b>	The Land Acquisition Act, 1894 Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act (Forest Rights Act), 2006 Hindu Succession (Amendment) Act, 2005
<b>Indonesia</b>	Basic Agrarian Law, 1960 Decree of the People's Consultative Assembly IX/MPR/2001 on Agrarian Reform and Natural Resources Management Law No. 56 /1960 on Agricultural Land Ceilings Presidential Regulation No. 36 of 2005 Presidential Decision No. 30 of 1990 Government Regulation No. 224 of 1961 Law No. 2 of 1960 on Sharecropping (UUPBH) Revitalization of Agriculture, Fisheries and Forestry (RPPK)
<b>Nepal</b>	Land Act, 1964 Land (Measurement and Inspection) Act, 1963 Agriculture (New Arrangements) Act, 1963 Land Administration Act, 1963 Land Revenue Act, 1978
<b>Pakistan</b>	Land Reform Act, 1977 Martial Law Regulation 64 (West Pakistan Land Reforms Regulation, 1959) Land Reforms Regulation, 1972 Corporate Farming Ordinance, 2001 Sindh and Punjab Tenancy Acts
<b>Philippines</b>	Comprehensive Agrarian Reform Program Extension with Reforms (CARPER), 2009 Comprehensive Agrarian Reform Law, 1988 Indigenous Peoples Rights Act, 1997 National Integrated Protected Areas System Act, 1992 Fisheries Code, 1998 Revised Forestry Code Urban Development and Housing Act, 1992

\*Land reforms regulations and policies in India are drafted at the state level.

land reform program, allowing farmers to till the land. The case highlighted the urgency of coordination between DAR and the National Commission on Indigenous Peoples (NCIP), a constitutional body mandated to promote indigenous peoples' interests.

### **Policies on women, indigenous peoples and other marginalized groups**

*Access to and ownership of land of the rural poor are hardly ever equal. The monitoring initiative seeks to focus on monitoring laws and policies that promote equal rights for women, indigenous peoples and other marginalized groups. These marginalized groups have unique concerns that should be especially addressed. The different monitoring reports presented diverse dimensions of marginalized groups' access to land: policy framework, present status, or specific cases.*

*Whenever possible, disaggregated land-related data by gender, ethnicity or other socio-economic groups for example, should be used. In future, CSOs can advocate for as well as generate disaggregated data on land.*

### **Women**

The importance of enhancing women's access to land cannot be emphasized enough. Especially in South Asia, women are grossly discriminated against and thus severely disadvantaged in terms of land ownership and access, because of cultural mindsets, inheritance laws, and prevailing social practices. In such countries where women's access to land is severely restricted, it can be said that women arguably comprise the single biggest group of marginalized people.

The Islamic practice of *tanazul* – wherein a woman renounces her right to inherit the land – is prevalent in Bangladesh and Pakistan and impedes women's land ownership. Though women in Pakistan can legally own land under statutory, religious and customary law, so far this is an urban phenomenon: rural women rarely own land.

Gender inequity in regard to land rights persists in India. In terms of inheritance, through the Hindu Succession (Amendment) Act, 2005, Hindu women in India, constituting some 80% of the female population, have equal land rights. However, in practice, this is not the case. Also, Muslims are governed by their personal law, which normally grants 62.5% to sons and 37.5% to daughters, regardless of their number.

Furthermore, Indian society is predominantly patriarchal, with a few notable exceptions. In some cases, activists have pushed for fresh land allotments for women or joint allotments of spouses.

Though women can inherit, purchase, lease, and benefit from government land allocations in Nepal, they only own 8% of registered landholdings and about 5% of the land. Their land ownership is concentrated in urban areas in the country's eastern part. A 2006/07 directive waived land registration fees for land registered in the name of women, as well as other disadvantaged groups, which caused land registration in women's names to more than double. In 2008, 33% of landholdings registered in 11 districts were in women's names.

In Cambodia, 70% of titles are issued in the name of both husband and wife; 20% are



registered as women's properties. Philippine laws allow women to own land, yet there are still persisting gender imbalances, especially in rural areas. For example, men have better access to credit, recognized as the primary property owners.

Studies of plantations in Indonesia by Women's Solidarity present the consequent erosion of land ownership, alongside the traditional livelihood of women peasants. It has altered rural women's role – from working their paddy fields or producing local crafts to serving as plantation laborers. Once, they were able to grow enough food to meet their families' needs, but now have to buy food from outside.

### ***Indigenous peoples***

*No formal definition of “indigenous peoples” exists, but the term broadly refers to ethnic groups or minorities, adivasis, Janajati, uplanders, masyarakat adat and Scheduled Tribes, among others. These groups have their own customary law and traditional institutions.*

Indigenous peoples have had a long history of marginalization from their lands, as well as social exclusion and structured discrimination, no matter what country. Indigenous peoples' rights must be seen through a different lens: a point not to be forgotten is that land is a source of cultural identity among indigenous peoples.

Indigenous peoples' lands are usually endowed with natural and mineral resources that make it attractive for socio-economic development projects; but they stand to gain so little from these. Safeguard mechanisms such as free, prior and informed consent (FPIC) notwithstanding, they are continually exploited, threatened,

evicted. Laws and policies passed to protect indigenous peoples' right to self-determination, including land rights, where existent, are feebly enforced.

Compared with its neighbors, the Philippines is more progressive in terms of recognizing the rights of indigenous peoples, with the passage of the landmark Indigenous Peoples Rights Act (IPRA). Ancestral lands of indigenous peoples cover an estimated 7.7 million ha. As of 2010, 286 applications for Certificates of Ancestral Domain Titles (CADTs) were filed, a little over half (55%) of which have been approved, representing half of the total ancestral domain area. A CADT application takes an average of 3.4 years before it is finally approved, and even longer before the lands are awarded to the tribes.

The National Commission on Indigenous Peoples, the agency responsible for facilitating titling of ancestral lands, has established targets for certificates of ancestral domain titles for 2011–2014, which fall below previous levels of accomplishments.

Indigenous peoples in Indonesia are “legally” divested of their land through four government schemes. First, through transmigration or the resettling of people into customary or *adat* lands: people inhabiting densely populated areas like Java were resettled into less densely populated areas, including *adat* lands. Second, through certification or the provision of legal rights of ownership over land to private entities. Third, concessions or the award of user rights and permits are given to companies for mining, logging, and plantations. This has resulted in many clashes, with peasants and indigenous peoples have put up resistance; some have been arrested. Lastly, “spatial

reconstruction” occurs when the state seizes IP lands for development projects like airports, national parks, and tourism facilities.<sup>52</sup>

Similarly, India’s Scheduled Tribes and other traditional forest dwellers inhabit hilly and forested areas, many of which are mineral-rich or ideal for development projects such as irrigation, energy, and industry. But because they do not legally own such land, only having traditional usufruct rights, they are vulnerable to displacement. Government acquires the land without so much as consultation, compensation, and rehabilitation. Some estimated 24 million STs have been displaced from their lands over the past sixty years in the name of development.

The Forest Rights Act, 2006 finally came into force. It has brought a ray of hope for STs and other traditional forest dwellers, but “the sword of land acquisition [or] grabbing would still be hanging over their heads.”<sup>53</sup> At least, it has enabled STs as well as other traditional forest dwellers to receive titles for more than 160,000 ha of forest land. Also, the Provisions of Panchayats (Extension to Scheduled Areas) Act is another legislation that aims to safeguard the rights of IPs, requiring that land acquisitions must undergo prior consultation with the Tribal Gram Sabha or village assembly. However, as is often the case, implementation is lacking.

Meanwhile, vested interest groups grab ethnic minorities’ land in Bangladesh, where 32

different ethnic groups make up 1.2% of total households.

Finally, an estimated 80% of the indigenous population of Nepal comprises small and marginal landowners.

### ***Other minorities***

*Minority groups include religious minorities and Dalits or Scheduled Castes.*

Bangladesh’s Vested Property Act has suppressed the Hindu minority’s land rights, with about one million Hindu households having lost 2.1 million acres of land. Even with the repeal of this law, nothing has changed.

The Dalits or “untouchables” in the Hindu caste system suffer most from discrimination and socio-economic exclusion. They are predominantly landless and poor. Most of Nepal’s Dalits are landless – 44% in the Terai and 22% in the hills. In India, 20% of the estimated 60 million people displaced from development projects in the last six decades belong to SCs.

### **Roadblocks to land reform**

Specific country contexts indeed vary, but the road towards land rights is strewn with challenges common in the region. These issues emerged from the pilot monitoring conducted by the various country focal points.

### **More landless and marginal farmers, but on less land**

Despite land reform laws and programs, landlessness still persists. Over time, the

<sup>52</sup> Quizon, Antonio. “Synthesis Report”. *New Challenges and Increasing Pressures on Customary Land Rights in South-east Asia. Phnom Penh, Cambodia. 19 – 22 October 2009.* ANGOC and Oxfam-Novib.

<sup>53</sup> Association of Voluntary Agencies for Rural Development. 2012. *Country Land Reforms Monitoring Report.*

proportion of rural households with no agricultural land has been growing. Likewise, marginal farmers are increasing in number, whereas the average land area is decreasing. The rise in number of holdings is attributed partly to population growth and dependence on agriculture for livelihood.

Land fragmentation is also happening particularly in South Asia, owing to inheritance practices.

**Threats to land tenure:  
land disputes on the rise**

The rising demand for land has intensified competition over it, especially in areas experiencing strong economic growth. Land disputes in the region are on a rising slope – not only in incidence, but in terms of the number of households and land area involved.

Land conflicts ensue among various actors in different permutations. On one hand, former and present landlords, government officials, multinational corporations, assert their stake on communities' land. On the other hand, there are the relatively “smaller” disputes that take place between farmers and other farmers.

All of these groups are fighting for the same piece of forest or agricultural land – to make way for plantation areas, urban areas, mining, military facilities, tourist facilities, and fishing areas, among others.

Their proximate causes are alike across the various countries covered. Overlapping and conflicting land-related laws are a major reason behind land disputes. Also, as previously explained, when laws and policies are not harmonized or strategically aligned,

they result in confused mandates, roles, and responsibilities among land-related government agencies.

Also, land disputes can be traced at the source to inefficient land administrations and the weak implementation of land distribution programs. This includes poor land records and registries – characterized by inaccurate or fraudulent records – that continue to plague many countries.

Encroachment on public lands on one hand has been a source of tensions between governments and informal settlers or traditional dwellers.

The increasing commercialization of agriculture, the expansion of special economic zones, and thriving economic activity also play a vital role in the rising incidence of land disputes.

Some causes are country-specific. For instance, high incidences of migration in Nepal during the conflict period add to the already complicated situation on land; and land disputes monitored include disagreements within families regarding order of succession and land partition. Landowner resistance to surrender lands in the Philippines is common. Land disputes are widespread in Asia, yet many of these slip under the radar. Those that tend to be noticed are those that erupt in physical violence – and even these are likely to be underreported. To be sure, there are untold stories of land disputes, especially in remote and isolated areas, or places beyond the reach of CSOs or the media. Land rights are human rights: applying a human rights perspective to land is crucial to understanding the gravity of the situation confronting more than a million rural poor people in Asia. Those with insecure

land tenure and access to land are vulnerable to land grabbing, dispossession from their land, and detainments, among others.

Farmers and land rights activists in Asia experience land-related violence, which assumes many forms: molestation, rape, direct terror, intimidation, kidnapping, arrests, detainments, beating, destruction of property, demolition or burning of homes, violent dispersal, evictions, and physical injury. Killings – including attempts – are the extreme manifestation of land-related violence. The figures may vary across the country, yet the fact remains: people are being killed in the name of land. That lives are lost at all points to the glaring absence of the rule of law and the failure of national governments to secure land rights for its people. Any death toll due to land disputes – especially one where farmers are murdered – cannot be condoned.

### **The mad scramble for farmland**

Governments are pursuing the expansion of areas for mining, plantations, contract farming, and special economic development zones. But these areas are often situated on community – including indigenous peoples’ – lands.

A crucial point in land grabbing is that it is often encouraged or facilitated by the host governments – the selfsame governments that have tarried in land distribution for the landless. They may limit foreign ownership of land, but they allow the lease of lands for long periods that can last nearly a century.

Lack of transparency emerges as a critical issue in the land grabbing discussion. Shady deals have been made; and without public

consultation and access to such information, land grabbing only becomes easier.

Too often, those who stand to gain by corporatization of agriculture are the feudal elites, while the benefits reaching the poor, if any, are minimal.

### **Bureaucratic inertia**

Without a land bureaucracy, laws and policies already in place cannot be implemented. As it were, throughout the region, agrarian reform is hampered by bureaucratic inertia. Most government staff lack the commitment and capacity to perform effectively their roles. Many civil servants in land ministries are overburdened and financial resources to implement programs are inadequate.

### **Land administration woes**

An efficient and effective land administration system facilitates land reform.

### **Overlapping policies and conflicting mandates**

Since the concept of land is broad, it is inclined to fall within the purview of not one, but several, government agencies. Worse than overlapping mandates are conflicting responsibilities, which are largely due to overlapping policies. Coordination – and cooperation – among such agencies tends to be poor and chaotic. It is the landless who bear the brunt of this problem.

### **Land records and registries**

Part of land administration, land records and registries are in a dismal state in many countries, not least in Bangladesh, Cambodia,

Nepal and Pakistan. Records are still manual i.e., not digitized, still subject to wear and tear, and therefore unreliable.<sup>54</sup>

Poor land records can also be traced to erroneous and inaccurate mapping and wrong land surveys. Mapping can be riddled with errors, as countries experience in varying degrees: erroneous description and demarcation of parcel boundaries; errors in trace copies of original cadastral maps; errors in file maps prepared in larger scale from original maps; mismatches between existing maps and new maps prepared by cadastral resurveying; and inaccurate subdivisions on cadastral maps.<sup>55</sup> These lead to overlapping land titles, and multiple registrations of the same land by various parties or overlapping land titles.

In Bangladesh, the system is inefficient, non-transparent and corrupt. Multiple copies of documents and records of rights sit in different offices under different ministries, which suffer from a lack of coordination. It is easy to falsify records, hence allowing dual ownership to occur; in turn these lead to disputes and litigations.

Pakistan suffers from a land recording and registration system such that whenever questions arise, each party must prove its ownership of the land.

Many Cambodians do not have land records, as these were destroyed by the Khmer Rouge in the 1970s. Consequently, donors have exerted

efforts to issue land titles to legitimize land ownership.

Nepal has a manual land registration system. Paper forms mean that records can be lost, destroyed, distorted or misinformed. Moreover, its maps are outdated and generally considered unreliable. Initiatives by the Ministry of Land Reform and Management include an electronic land information system and digital mapping.

### **Corruption**

Corruption is unfortunately rampant in all countries, taking on different forms and running to various extents. It exists in the land administration system, and alarmingly, in the judicial system.<sup>56</sup> Ironically, these agencies bear the onus of facilitating access to land as well as justice. Not only does corruption thwart the landless poor from justly obtaining land, it also deprives them of their already limited resources.

Prevalent styles of corruption include bribery. The wealthy and powerful pay bribes to government officials in order to keep their land and to win land dispute cases. For example, in Bangladesh, even if a landless beneficiary technically only needs to shell out Tk1 per acre for fees, almost all agents in the distribution mechanism accept bribes. Poor records form the basis for land-related corruption.

### **Not seeing the wood for the trees**

Governments tend to focus on titling or asset legalization, but this is not tantamount to reform. Titles without the necessary support services only facilitate reconsolidation in some cases. Farmers, receiving little assistance

<sup>56</sup> Sometimes, even the task of gathering data has required grease money. This is the case in Pakistan.

<sup>54</sup> CSRC. 2012. *Land Monitoring Indicators, Nepal*. Kathmandu.

<sup>55</sup> These problems were summarized as experienced in Nepal (from the Nepal country paper), but findings from different countries share a similar fate.

from government in terms of credit, irrigation, technology and post-harvest services, will find it more challenging to make farming lucrative. They may have no recourse but to sell back their land, or simply get a better deal by putting it on the market.

Titles may be issued, but it does not automatically translate to improvements in people's lives. Nor does it even mean that people have their land, have rights to use and harvest, and are in control of it.

### **Transcending figures, pushing more envelopes**

So we have gathered some evidence. We have compiled data. Far be it from this monitoring initiative to undertake "monitoring for monitoring's sake". As we have established, the figures are not enough. Analysis and interpretation of the data must be applied.

The numbers are hints – they signify the struggle for land. They try to tell us about the real stories of human rights violations that take place, of the violence and crimes committed against land rights activists and communities fighting to secure their land rights; of intimidation, kidnapping, murders, arrests, and direct terror.

Beyond the monitoring, there are stories of peasant movements – of people gathering strength in numbers and inspiring hope and courage among thousands of those who are land-deprived. The Land Watch Asia campaign is a mosaic of these stories.

The results of the CSO land reform monitoring initiative have led to two kinds of recommendations. The first set has used the results to guide and inspire policy advocacy.

The second proposes recommendations not only in terms of land reform monitoring per se but also in strengthening capacities of CSOs to propel the land rights campaign forward. CSOs must continue to exert more pressure on governments for legal and administrative reforms, coupled with redistributive land reform.

### **Go for genuine agrarian reform**

Governments should implement a comprehensive and *genuine agrarian reform*, as opposed to commonly shallow and piecemeal efforts at redistributing land. Genuine agrarian reform denotes changing the unjust structures in society, of putting an end to feudal and exploitative relations. CSOs must push for an agrarian reform that goes beyond land redistribution and into the provision of a wide range of social services. Only then can agrarian reform be genuine, in that it is far-reaching and effects tangible improvements in the lives of beneficiaries.

### **Formulate and implement national land use policies**

The neoliberal growth model has spurred demand for agricultural land for infrastructure, industrialization and urbanization, and indigenous peoples' lands in hilly areas and forests for mining and other industries. Given conflicting demands for land, a national land use policy will take on the task of outlining or establishing national priorities for land use, which sectoral laws, e.g., forestry policy or agricultural policy, do not. It will harmonize various conflicting laws. Furthermore, without a land use law, the rural poor are at risk of losing their lands. A land use law will also help ensure food security and sustainable development.

### **Improve the bureaucracy**

Widespread reforms are needed in all nooks and crannies of the land administration and management bureaus. This includes resolving conflicting policies and overlapping institutional mandates. Stamping out corruption in land administration is also needed. Lastly, it entails mustering the political will needed to implement land reform.

### **Resolve disputes more efficiently**

Since land-related cases make up the majority of cases in the courts, the various formal dispute resolution mechanisms – in the court system or within the ministries of land reform – should be more efficient, fair and transparent. Dispute resolution at the grassroots level through local-level courts or traditional mechanisms has been suggested as a means of reducing the caseloads of higher-level courts.

### **Access to information**

Data gaps exist as national data on land distribution, land disputes, and landlessness are outdated, unreliable, or simply unavailable in several countries. With regard to land investments, access to timely and reliable information promotes transparency to these transactions. The general public, not least, communities, should have access to information, especially where land deals are concerned.

### **What next for CSOs?**

The CSO Land Reform Monitoring Initiative is in its incipient stages. It will always be a work in progress. In due time, it hopes to have established baseline data so progress in

agrarian reform implementation can be more evenly measured. The Land Watch Asia campaign commits to continue monitoring land reform and the realization of land rights, and use the results as further basis for engaging national governments as well as intergovernmental organizations in policy discussions. CSOs also have to identify the appropriate mechanisms or avenues where the results can be strategically discussed.

### **Learning how to monitor better – and share better**

In specific regard to the monitoring initiative itself, not only the results, but the *process* has been valuable. CSOs should continue to beef up their capacities in undertaking monitoring and adding more rigor to their research. This can be done through capacity development programs, and continuous sharing of experiences for learning.

The monitoring initiative has shown that CSOs have done well monitoring inputs such as the formulation and implementation of land-related laws as well as budgets or financing for agrarian reform. Land disputes – their incidence, typologies, and sources – represent a promising area for CSOs to monitor. Land grabbing, including the impacts on communities, are also another area which CSOs can choose to concentrate its efforts on. Land ownership and distribution, as well as landlessness, are trickier, but are well worth the investments of time, money and effort, since they expose the gravity of land inequality and land poverty.

CSOs have been researching on various land issues. The CSO land monitoring initiative represents another opportunity for CSOs to

complement the results of existing studies with additional data, and share these findings with a variety of stakeholders.

But beyond sharing of information, CSOs are encouraged to come together and jointly analyze the data available. The different perspectives contribute to the thinking process, thereby enriching data analysis as well as increasing CSOs' ownership of the monitoring initiative.

### **Empowering the landless**

The CSO monitoring initiative aims to contribute to the empowerment process of the poor and landless, through the use of the results and analysis as inputs to education and awareness building and community organizing - in terms of what to demand vis-à-vis the government's land policies or programs. Monitoring may be one part, but the heart of advocacy is poor people's empowerment, mobilizing them to take concerted action for change.

### **Additional Sources**

Amnesty International. 2008. *Rights Razed: Forced Evictions in Cambodia*. AI Index: ASA 23/002/2008.

ANGOC. 2011. *CSO Monitoring Land Reform in Asia: Status check; A Regional Workshop + Dialogue under the CSO Land Reform Monitoring Initiative*. Jakarta, Indonesia, 13 - 14 July 2011. *Highlights of the Proceedings*.

ANGOC. 2009. *Securing the Right to Land: A CSO Overview on Access to Land in Asia*. Quezon City, Philippines.

Barkat, Abul and Roy, Prosanta K. Roy. 2004. *Political Economy of Land Litigation in Bangladesh: A Case of*

*Colossal National Wastage*. Dhaka: Association for Land Reform and Rural Development / Nijera Kori.

Bharat Shrestha. 2011. *The Land Development Boom in Kathmandu Valley*. ILC, CIRAD and College of Development Studies.

Food and Agriculture Organization. 2001. *Good practice guidelines for agricultural leasing arrangements*. Land Tenure Studies. Rome.

Food and Agriculture Organization. 2002. *Land Tenure and Rural Development*. Land Tenure Studies. Rome.

Quizon, Antonio. "Synthesis Report". *New Challenges and Increasing Pressures on Customary Land Rights in Southeast Asia*. Phnom Penh, Cambodia. 19 - 22 October 2009. ANGOC and Oxfam-Novib.

United States Agency for International Development. November 2008. *Pakistan Rule of Law Assessment Final Report*.