

# Advancing the Land Rights Advocacy Agenda in Asia: the CSO Land Reform Monitoring Initiative<sup>1</sup>

## *Highlights of the Proceedings from the Experts' Meeting*

Viengtai Hotel, Bangkok

12-13 May 2010

### Summary

*The Experts' Meeting of the CSO Land Reform Monitoring Initiative was held in Bangkok last 12-13 May 2010. The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) is spearheading this initiative, including organising the meeting. This meeting generally aimed to gather feedback from experts in the region to help push the monitoring initiative for the Land Watch Campaign forward. Specifically, it sought to: provide an overview of the proposed monitoring framework; brainstorm, discuss, and enhance the framework in terms of scope and indicators; explore the possibility of creating an index for land; and identify next steps and country-level interventions.*

*The monitoring framework will focus on land reform and its implementation in various countries in Asia, looking at indicators on budgets, laws and policies and outcomes on land tenure and access to land. The resulting country studies will be consolidated and synthesised into a Land Reform Development Report (LRDR). During the meeting, the proposal to develop a Land Reform Development Index (LRDI) to accompany the LRDR received strong support from the Experts.*

*The report is divided into three main parts. The first section provides an overview of the monitoring initiative, describing the project objectives and expected outputs. The second section discusses in more detail the country studies, which will be geared towards the regional Land Reform Development Report (LRDR). Finally, the third section presents the land reform development index and proposed methodologies for constructing it.*

*There are notes at the end of each section to give a fuller treatment of concepts and experiences in other countries relevant to the monitoring efforts to be undertaken.*

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#### <sup>1</sup> ACKNOWLEDGEMENTS

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## PART I: Overview

*This section provides a succinct explanation of the CSO land reform monitoring initiative spearheaded by ANGOC. It describes the fundamental details of the monitoring framework presently being developed, as well as the expected outputs: national reports and the regional Land Reform Development Report/Index (LRDR/I). The next steps for the project are also outlined.*

### Rationale

The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) launched Land Watch Asia (LWA) in 2008 is a regional campaign that seeks to ensure that access to land, agrarian reform and sustainable development for the rural poor are addressed in national and regional development agenda. To date, the campaign involves civil society organizations (CSOs) in eight countries Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan, the Philippines and Sri Lanka. LWA aims to take stock of significant changes in the policy and legal environments; undertake strategic national and regional advocacy activities on access to land; jointly develop approaches and tools; and encourage the sharing of experiences on coalition-building and actions on land rights issues.

Set against the backdrop of increasing land conflicts due to rising commercial pressures to land, CSOs need to advance their campaigns. However, they often come under criticism for poor data and the lack of analytical rigor in its policy advocacy, which undermines credibility with policy makers. Data gaps need to be filled, in several areas of its advocacy, such as the actual number of landless people in various countries. To convince policy makers of the urgency of secure land rights, CSOs' research must be supported by solid, evidence-based data.

The LWA Campaign has identified the development of CSO monitoring systems (using field indicators developed from years of experience working with small food producers) as one of its key outputs. Hence, monitoring the status and processes of landlessness, land use and food security would entail first the development of a framework for CSO reporting, in order to identify common indicators for the LWA countries.

### Monitoring Framework

The framework being developed will define the *objectives, scope, limitations, methodologies, basic indicators and mechanisms* for the land monitoring initiative. The framework seeks to outline a monitoring system, which is highly practical and practicable, and as participatory as possible, for its CSO users.

#### Purpose

This monitoring initiative specifically hopes to increase CSOs' capacity to monitor access to land implementation, landlessness and land conflicts in selected Asian countries, specifically in the process of preparing the framework. For the present phase, the framework will set the path for CSOs to *build on existing initiatives and campaigns at the country level* – and help provide a solid methodology for CSOs to constructively engage governments to dialogue on land issues and enact reforms to secure land rights, and also examine the experiences of other countries as part of the regional campaign.

This initiative seeks to link with the broader initiative of the International Land Coalition (ILC) to help increase platforms, dialogue and common-action on land-related issues among various stakeholders at national, regional and global levels.

#### Project outputs

The main outputs of the project's first phase are: the monitoring framework; and the manual for the conduct of the country studies. The intended outcomes for this project go beyond the production of one-off reports. For the initiative to be sustained despite project termination and the lack of funding, monitoring should be well integrated into the LWA campaign's and partners' activity cycles. Sustainability also entails maximising the potential of the

reports produced – by finding the appropriate mechanisms or venues through which the results of the monitoring can be regularly communicated.

In the next phase, subject to resources, work on the country reports and the regional **Land Reform Development Report (LRDR)** and **Land Reform Development Index (LRDI)** will proceed. (Exploratory discussion with the International Land Coalition is ongoing regarding the second phase.)

#### *Target users and audience*

Since the report will help further advocacy campaigns, the main users of the report will be CSOs. To clarify – CSOs is the broad term embracing research institutions, NGOs, and basic sectors, among others. Though specifically NGOs have been involved in the Land Watch Asia campaign, the term CSOs will be used throughout to include a wider range of stakeholders in the monitoring process.

Governments and policy makers in involved countries will be the target audience. The regional report aims to be a powerful tool when brought to the attention of governments, since governments may be sensitive to what others say. Across the region, these will include land commissions, parliamentary standing committees on land, and land agencies. Also, the general public can learn more about the real status of land issues in the region, including land policy making and implementation, land conflicts, and landlessness.

#### *Focus and Scope*

The framework for the land monitoring initiative will strategically focus on *land tenure* and *access to land*, as well as the implementation of land reform programs by various governments. The framework will establish a set of common indicators for national focal points to use, which will then be consolidated at the *regional level* to elevate the discussion on land to appropriate regional and international platforms. Looking at common indicators of *outcomes* will make comparing how countries have fared in terms of enhancing land tenure and access to land easier. These indicators can also be evaluated against the backdrop of regional and global trends.

In keeping with its objective to strengthen and advance existing advocacy campaigns, and in recognition that contexts vary from country to country, at the national level, country focal points will have some free rein in preparing their respective reports. They will be encouraged to look at other indicators they deem particularly important. Further, at the national level, country focal points will study relevant *inputs*: laws and policies, and especially the budget. One possibility is creating a separate scorecard for the budget.

Geographically, land monitoring will be biased for *rural* areas. To take into account the rural push, indicating excess labour, contraction of employment opportunities and the lack of public investment in rural areas, urban poor can be used as a sub-indicator. It will particularly look at slums, squatters, and low income settlements, which collectively refer to the “ruralisation of urban life.”

Furthermore, in terms of scope, it will cover both the entire country, while also looking at specific areas, especially where land transactions are rapidly occurring. These particular areas may include: pockets of poverty where land concentration is high; areas receiving many overseas remittances; and areas surrounding commercial business districts for industrial sites.

The reports will generally focus on landless and marginal farmers/peasantry (share croppers, leaseholders, etc.). Their limitation is that they may not adequately capture other marginalized groups (e.g. women, indigenous peoples, fishers, and the urban poor) and their issues, nor accommodate all pertinent variables and indicators on land tenure and access. While concentrating on the LRDR/I, case studies or special reports will be made to address such gaps and assist many of the audiences who wish to understand more about the many facets of land reform. Case studies could feature, as an example, female-headed households and people with low-end occupations.

## Common Indicators

In summary, the key outcome indicators for all country focal points to use for monitoring are shown below. These indicators will be synthesised at the regional level for the LRDR/I.

<i>Land Tenure</i>	<i>Access to Land</i>
<b>Land Disputes</b> <ul style="list-style-type: none"><li># of people killed (per 100,000 population)</li><li># of people detained (per 100,000 population)</li><li># of people harassed (per 100,000 population)</li><li># of cases received (per 100,000 population)</li><li># of cases investigated (per 100,000 population)</li><li># of cases adjudicated (per 100,000 population)</li><li># of cases of land grabbing</li><li>% area of land grabbed</li><li>Average time in years for dispute resolution</li><li>Annual loss of time due to disputes</li><li>Monetary loss</li></ul>	<b>Ownership</b> <ul style="list-style-type: none"><li>Ownership by category according to size of landholdings and according to incomes</li><li>Gini coefficient/bottom-to-top ratio (for analysis)</li></ul> <b>Tenancy Rights</b> <ul style="list-style-type: none"><li># of sharecroppers</li><li>% of sharecroppers with legal documents</li><li>% of contract farmers' area in relation to total agricultural area</li></ul> <b>Landlessness</b> <ul style="list-style-type: none"><li>Gini coefficient/bottom-to-top ratio</li></ul>
<b>Evictions</b> <ul style="list-style-type: none"><li># of households evicted/ displaced from farms per 100,000 population</li><li># of households becoming totally <i>homeless</i> because of eviction</li></ul>	

## National level input indicators

For the country studies, inputs, namely laws and policies and the budget relating to agrarian reform and access to land will be considered.

## Next Steps

*An important point to note is that the present phase is concerned with producing the monitoring framework. Actual monitoring activities will take place during the next phase, generating regular reports at the national and regional levels.*

*Please refer to diagram for the flow of next steps.*

## Framework revisions

After the Experts' Meeting, the framework will be subjected to revision for *three* more iterations.

- Second revision – after the Proceedings of the Experts' Meeting have been finalised
- Third revision – the draft framework containing the proposed set of indicators brainstormed during the Experts' Meeting will be sent to country partners for feedback. Inputs from the e-consultation will be incorporated into this revision
- Fourth revision – inputs from the regional consultation on feedback on the draft manual and results from pilot testing will be used for this fourth revision before yielding the final framework and final manual.

### ***Gathering feedback through e-consultation and regional consultation***

After the framework is revised, efforts will be increased to get the discussion with partners rolling for the e-consultation. The e-consultation aims to gather solid and constructive feedback regarding the practicability, weighting and prioritisation of indicators. The finalised proceedings from the Experts' Meeting will serve as the main document for review, with other information such as potential data sources and discussions.

ANGOC will frame the indicators. During the e-consultation, partners will be asked questions separately for land tenure and for land access, and for importance versus practicability. A survey tool can gather which indicators people believe are duly important – which they can support with a brief explanation. They will be asked to select and rank the three most important sub-indicators for them. The high ranking indicators will help show what the most important indicators are at the regional level. Though this is rather subjective, it will be substantiated by partners' experience and knowledge.

The regional consultation would take place most probably in September, and will involve Land Watch Asia partners. The updated discussion paper will be presented at the regional consultation. When there is agreement on the framework, partners can discuss how they will use the framework, and which instruments and tools they can contribute to it.

#### ***Draft Manual***

A manual is a prerequisite for a high-quality Land Reform Development Report and Index. First, it would explain what the LRDR/I is about, providing the conceptual framework, rationale, scope and limitations, assumptions, and glossary. The glossary would set down the common definitions to be used, or will establish definitions in the lack thereof. It will contain detailed information on the LRDI methodology, including data sources, suggested references, and instructions on extrapolating sources of data. The indicators will be explained. A sample or draft index will also be included. Finally, the manual would contain information on constraints and suggestions.

Preparation on the manual will begin while the e-consultation is ongoing and partners are conducting their pilot studies. The experiences and lessons from documenting the piloting process will serve as inputs to the manual.

#### ***Pilot testing***

There will be an opportunity to pilot the framework in a few countries –Bangladesh, Indonesia, and the Philippines. Partners will be given one to two months to conduct pilot testing. Process documentation will be made, identifying challenges and lessons learned while attempting to obtain and generate the data required and suggested for the monitoring initiative. Piloting aims to ultimately contribute to enhance the draft monitoring framework, and even the draft manual.



### ***Sustaining the monitoring initiative***

To ensure the continuity of monitoring, two mechanisms can be used to keep the network updated and connected – namely blogs and the e-consultation. This blog will be updated regularly to ensure the steady flow of news and information on land reform developments in the various countries. The e-consultation, if it picks up, may also be used on a quarterly basis to gather more news and feedback as the initiative moves forward, and generate discussion on special topics.

### ***Moving to the Next Phase***

After the framework has been finalized, the next phase will see the proposed monitoring mechanisms in place. *National monitoring teams*, comprising CSOs, farmer organisations and the academe, will be established to begin the work of land reform monitoring. Moreover, Land Watch Asia should take the lead in forming a *regional monitoring network* that will synthesise and analyse information at the regional level to make its policy interventions more strategic. Workshops, forums and dialogues will also be convened annually to come up with the Land Reform Development Report and the Land Reform Development Index.

### **ENDNOTES**

1. There is still need to resolve definitional issues, since slight deviations from generally accepted definitions might jeopardise the framework. For example, “land grabbing” has to be clearly defined. If a corporation does the grabbing – but does so applying the so-called responsible agri-investment principles – does it cease to be land grabbing?
2. **Shadow Report.** The land reform initiative will not be a *shadow report* in the sense that its primary objective will be to act as a counterbalance to official government data. Instead, it will seek to generate new data, establishing common definitions. Nonetheless it will still use some official government data for some indicators.

## PART II: National Monitoring Report

*The proposed monitoring framework will focus on the implementation of land reform, in relation to: inputs (budget and policies), and outcomes on land tenure and access to land. The framework asserts that with adequate budget support and the appropriate legal and policy instruments, the status of land tenure and access can be improved – leading to desired impacts of food security, poverty eradication and sustainable development. This section explains in further detail the country reports and their synthesis in the Land Reform Development Report/Index (LRDR/I), presenting the indicators to be used for analysis.*

### Country Reports

The national or country monitoring reports will monitor: inputs, land tenure and access to land. Inputs will be restricted to the national level. Specific country conditions must be factored into the country reports. These may ultimately be more important than the regional synthesis.

For the purposes of the regional report and *index*, for which *comparability* is paramount, common indicators will be used. The country reports will be consolidated at the regional level, to feed into the Land Reform Development Report/Index (LRDR/I).

### Input Indicators

#### **Budget**

Implementation of good national laws and policies needs to be supported by enough resources, as indicated in a country's budget. A government's budget, specifically at the budgets for agrarian reform and rural development (as a percentage of total agricultural budget) will explain the status of land tenure and access to land in a particular country. The budget will speak volumes about how much a government prioritises agrarian reform.

Advocacy wise, CSOs will find it easier to convince supposedly pro-land reform policy makers to reduce the mismatch between their policies and reality (as evidenced by the budget) by channelling more resources into agriculture and agrarian reform. One of the advocacy priorities should be reversing the trend of dwindling agricultural expenses.

- *Agrarian reform budget (where available)*
- *R&D expenditure in agriculture*

One indicator will be research and development (R&D) expenditure in agriculture as a 1) percentage of the total agricultural budget; and 2) percentage of total agricultural GDP.

- *ODA in agriculture*

Official development assistance (ODA) for agriculture has been declining in past years. Given donor promises to enhance global food security, CSOs should continue to advocate for raising ODA's share in agriculture.

### **Laws and policies**

Laws and policies are translated into programs leading to outcomes; these programs are able to materialise because of the budget. Though policies alone are never enough (implementation being more important), they nonetheless serve as indicators of a government's commitment towards enhancing access to land and land tenure. Pro-poor agrarian reform policies should be considered in monitoring land reform. However, it is also acknowledged that there may be other venues for this – such as case studies and books. How much of the budget has gone into support of present policies may be a better indicator than the policy per se.

Nonetheless, for national monitoring, the following are suggested policies to study:

- *Land use policies*

Land use policies should form a major part of monitoring. Partners should be proactive in preparing *national land use policies*, which are not comprehensive or non-existent in several countries like Bangladesh and the Philippines. This is also one of the priority areas identified by the Land Watch Asia network.

- *Policies for marginalized groups*

Laws and policies that uphold the rights of marginalised groups like IPs and women should be recognised.

- *Policies or guidelines on foreign investments in land*

If countries have drafted policies to guide how they deal with foreign land investors – these can be considered.

### ***Outcomes Indicators: Land Tenure and Access to Land***

<b><i>Land Tenure</i></b>	<b><i>Access to Land</i></b>
<b><i>Land Disputes</i></b> <ul style="list-style-type: none"><li>▪ # of people killed (per 100,000 population)</li><li>▪ # of people detained (per 100,000 population)</li><li>▪ # of people harassed (per 100,000 population)</li><li>▪ # of cases received (per 100,000 population)</li><li>▪ # of cases investigated (per 100,000 population)</li><li>▪ # of cases adjudicated (per 100,000 population)</li><li>▪ # of cases of land grabbing</li><li>▪ % area of land grabbed</li><li>▪ Average time in years for dispute resolution</li><li>▪ Annual loss of time due to disputes</li><li>▪ Monetary loss</li></ul>	<b><i>Ownership</i></b> <ul style="list-style-type: none"><li>▪ Ownership by category according to size of landholdings and according to incomes</li><li>▪ Gini coefficient/bottom-to-top ratio (for analysis)</li></ul> <b><i>Tenancy Rights</i></b> <ul style="list-style-type: none"><li>▪ # of sharecroppers</li><li>▪ % of sharecroppers with legal documents</li><li>▪ % of contract farmers' area in relation to total agricultural area</li></ul> <b><i>Landlessness</i></b> <ul style="list-style-type: none"><li>▪ Gini coefficient/bottom-to-top ratio</li></ul>
<b><i>Evictions</i></b> <ul style="list-style-type: none"><li>▪ # of households evicted/ displaced from farms per 100,000 population</li><li>▪ # of households becoming totally <i>homeless</i> because of eviction</li></ul>	

### **Land Tenure**

#### ***Land disputes***

Land dispute monitoring will include judicial cases, administrative cases, and those under mediation. *Please see end notes for more information on the indicators and related issues.*

- # of people killed (per 100,000 population)
- # of people detained (per 100,000 population)
- # of people harassed (per 100,000 population)
- # of cases received (per 100,000 population)
- # of cases investigated (per 100,000 population)
- # of cases adjudicated (per 100,000 population)

- # of cases of land grabbing
- % area of land grabbed =  $\frac{\text{area of land grabbed}}{\text{total area of cultivable agricultural land}}$
- Average time (in years) for dispute resolution (per 100,000 cases)

This refers to the average length of time (with years as the unit of measurement) that it takes for a land dispute to be resolved.

- Annual loss of time due to disputes

Annual loss of time is basically productivity time loss for those who are involved in disputes.

- Monetary loss

There are two types of monetary loss due to land disputes: direct and indirect. Direct monetary loss refers to the costs directly associated with litigation and settling disputes. When monetary value is assigned to the loss of time, it can be translated into a figure to estimate how much money or GDP land disputes have cost a country – indirect monetary loss.

### ***Evictions***

- # of households evicted/ displaced from farms per 100,000 population
- # of households becoming totally homeless because of eviction

### ***Access to Land***

#### ***Ownership***

- Ownership by category according to size of landholdings and according to incomes

*Effective* ownership and *effective* land retention are more important than nominal ownership. One may be the legal owner and cultivator of the land, for instance, but others may claim rights over the harvest. Therefore, it is important to look at effective land ownership or effective control over land, which needs to satisfy the following three conditions:

- Title deed (legal owner)
- Right to cultivate the land (usufructuary right)
- Right to harvest the cultivation (benefits)

Those who cannot satisfy all of the above three conditions are considered *landless*.

- Gini coefficient/bottom-to-top ratio (for analysis; see Landlessness below)

The bottom-to-top ratio and the gini coefficient can paint a good picture of the state of land reform in a country, to serve as inequality indicators in terms of ownership and landlessness. However, sub-indicators need to be developed for gender, urban poor, fishers, and IPs.

### ***Tenancy rights***

*Tenancy rights* are the missing element between landlessness and ownership. Although tenants have the right to harvest, they do not own the land. Looking at tenancy rights will add nuance to the gini coefficient. Most of the countries covered have agrarian reform experiences, with various forms of share cropping.

### Sharecropping

- # of sharecroppers
- % of sharecroppers with legal documents =  $\frac{\text{number of share croppers}}{\text{number of share croppers with legal documents i.e., deeds}}$

Sharecropping entails giving a certain percentage of a farmer's product to the landowner. Sharecroppers include lease holders.

- % of contract farmers' area in relation to total agricultural area =  $\frac{\text{contract farmers' area}}{\text{total cultivable area}}$

### Landlessness

- Gini coefficient/bottom-to-top ratio (for analysis)

The bottom-to-top ratio and the gini coefficient can paint a good picture of the state of land reform in a country, to serve as inequality indicators in terms of ownership and landlessness.

### Defining landlessness

As proposed, landlessness refers to households:

- Owning neither homestead nor any agricultural land
- Owning only homestead but no cultivable land
- Owning homestead and some cultivable land (up to 49 decimals)

## ENDNOTES

### 1. M&E Logic

In conventional M&E frameworks, the logic followed is that of:



*Inputs* refer to laws, policies and budget. *Processes* relate to how governments are implementing programs. *Outcomes* have three levels: *outputs*; *effects*; and *impacts*, depending on the timeframe and level of achievement. *Outputs* are more immediate and usually tangible, whereas *impacts* refer to ultimate goals. For example, in a particular project, knowledge can be the output; the attitude is the effect; and new practices are the impact.

At the regional level, monitoring *outcomes* would be more practical and strategic given limited resources, whereas monitoring *inputs* is more country-specific and hence at the national level.

On one hand, solely focussing on monitoring *outcomes* might be myopic – possibly merely fixing the damage. In contrast, monitoring the inputs can help avert damage and fix it by drawing attention to the root of the problems – poor policies and insufficient budgets. On the other hand, inputs, since these tend to be country-specific, are better monitored at the national level.

## 2. Budget

For the budget, **data availability, accessibility and desegregation** are concerns. Normally there is no line item for agrarian reform - but only for agriculture and its subsectors. The agrarian reform budget might be available under different line items and various government ministries, since most countries do not have direct budgetary figures for AR. Determining specifically which parts of the budgets on land use policy and implementation are directly linked to agrarian reform would be challenging. In most cases, there is a need to sift through the data and desegregate to determine the agrarian reform budget.

IFAD is now using agrarian reform as a lending conditionality and might have relevant data. However, the data is normally requested from the Prime Minister and Finance Minister and this may be inaccessible.

The better recourse to such data concerns will be to try asking the government agencies concerned to provide the data, as part of their mandate to implement agrarian reform.

*On agricultural subsidies.* Since the focus of the monitoring initiative is land reform, agricultural subsidies will not be included. Such subsidies for agricultural inputs are given to those who already have land.

## 3. Policies on women ownership

In Indonesia, it is difficult to recognise women ownership because of Islamic law. The National Land Agency can generate data whether certificates are given to men or women, up to the district level. Bangladesh has a progressive policy for its *khas* land distribution program. The deed contains the names of both husband and wife. If there is a divorce, irrespective of whose fault it is, the ownership automatically goes to the wife. But whether this is implemented in reality is unknown.

Another issue applicable in most of the countries concerned is that 10-15% of the rural households are female headed households, almost 90% of which are poor and marginalised. The policy of the *khas* land distribution program prioritises households that are landless, female headed, of freedom fighters.

As a point of clarification, since the initiative aims to rate government's efforts (rather than culture), the focus should be on land given by government, not inherited land. Land is inherited according to *personal* law – e.g. Islamic or Hindu. The gender aspect should concentrate on land the government distributes.

## 4. Pro-poor land policy and land governance

Pro-poor land policy and land governance would consider important facets in land policy, namely: land control, land ownership, land market, land-based investments, competing land use, and territorial rights. These are drawn by Dr. Laksmi Savitri from the suggestions of scholars Borras and Franco (2010), as published in the Journal of Agrarian Change.

**Land control** looks at land transfer and land disputes. Land transfer is done through distribution, re-distribution, non-distribution and even re-concentration. These are the types of reform that attempt to see whether land-based wealth and power are indeed distributed to the poor. Distribution is from the landed class to the landless; redistribution refers to state transfer to the landless. Non-redistribution is status quo. Re-concentration means the state has distributed the land but it returns to the landed classes. Land control would look at land concentration, with the gini coefficient as indicator – and who are the beneficiaries – the landless or landed class.

**Land ownership** considers whether land rights are effectively realised and upheld through legal, actual and perceived tenure security. Though people may have their land titles, actual, physical security could be different. Non-discriminatory land titling can be indicated through the number of titles received by women and ethnic minorities.

Looking at the state's role on regulation and procedures of land transfer, the **land market** component would entail policy **analysis** on whether existing laws and regulations have resulted in land concentration.

**Land-based investments** review the state's role on regulation and procedures of investments on land. Indicators include: rights and permits given to investors (considering the type of investors -whether smallholders, joint ventures between small holders and private corporations); and land and labour productivity – particularly at whether food and fuel sufficiency is increasing in the villages.

The area allocation for smallholders' commodity and corporations; infrastructure for rural and urban development; enclosure of the common land resources or commons fall under **competing land use**. Land resources degradation is suggested here as an indicator. Agrarian reform does not conflict with resource conservation objectives; the ecological crisis may be the link between these two activisms.

Finally, the recognition of **territorial rights** by the state would include not only IP claims, but also recognising claims of local people or heterogenic community.

## 5. The case for marginalized groups

IPs are among the most marginalized; their context will be very different from other groups. To understand IPs' access to land, one would need to look at common property rights. Some governments do not recognise IPs at all. It is important to raise governments' awareness of the situation of IPs – especially those that have ratified ILO Convention 107 on Indigenous and Tribal Peoples.

Similarly, fishers' communal rights to water bodies and offshore areas; community forestry users' rights should also be included. A gender lens will also be used; several indicators can be used to monitor women's access to land, including laws upholding women's rights and whether titles are given to women.

## 6. Land Dispossession

Land dispossession is both a rural and urban issue. There are two major broad causes of land dispossession – manmade, and “natural.” Natural causes span disasters triggered by natural hazards, erosion, climate and environmental change, among others.

As a case example of “natural” causes, Bangladesh's coastal land in the south, previously for rice cultivation, is now under shrimp cultivation. In 1985, shrimp was declared as an infant industry – shrimp cultivation owners were given many incentives such as tax holidays. They bought lands of the poor; some also indiscriminately grabbed land. The consequent saline water affected rice paddies; after 2-3 years, the land was too saline for rice cultivation. Poor and small marginalised farmers bore the brunt of suffering as a result of market-driven development.

Land dispossession is a reality among the rural poor in plain lands, religious minorities, indigenous peoples, and slum dwellers. Dhaka has around 4,500 slums, whose area is owned by government. People migrating to urban areas from the countryside is *not* urbanization. Although in classical literature a certain percentage of people living in urban area characterises urbanisation, this should be accompanied by industrialisation. There is no industrialisation in Bangladesh. Rather, the phenomenon of employment contraction (borrowing from Amartya Sen) among the landless and marginal farmers occurs. The rural poor, becoming landless in the process of market liberalization, are forced to migrate to the urban areas, having no other alternative.

## 7. Challenges and experiences in land dispute monitoring vis-a-vis the budget

In Bangladesh, there are an estimated 2.5 million land disputes, about 90% of which occur in rural areas. Resolving each land dispute requires almost 8-9 years, according to Dr. Barkat's estimations. The number of judges is associated with the budget – that is, if the number of judges in courts is increased, then time for dispute resolution will decrease. The appropriate intervention for land disputes would be to extend the local level arbitration and adjudication system with a supporting budget.

In Indonesia, land is categorised as either forested or non-forested land, with the Ministry of Forestry governing the former, and the National Land Agency the latter. Unlike the National Land Agency, the Ministry of Forestry has no specific entity working on land dispute resolutions. Data on conflict disputes and the budget for conflict resolution may be available but not on *forested* lands. NGOs are therefore proposing the creation of an independent multi-stakeholder mechanism to monitor land disputes, to also shrink the power of the Ministry of Forestry.

In the Philippines, the Department of Agrarian Reform has regional offices that handle cases under mediation. To a certain extent, the government is monitoring disputes.

The relationship of the budget with land disputes is twofold. First, because there is no budget or there is very limited scope

of budget for agrarian reform, land disputes arise. The second, is that because there is not enough budget for dispute resolution mechanisms, land disputes occur.

#### 8. Mechanisms for working with land disputes

Traditionally, simple disputes are resolved with local level arbitration or alternative dispute resolution (ADR), through rural headmen or elders. Local level arbitration complements the court system by minimising the load of the court. As past experiences demonstrate, the high costs associated with litigation drive poor people to landlessness and poverty – even if the verdict is in their favour. Poor persons may be evicted in the process should the verdict be against them.

#### 9. Issues and constraints on obtaining data on land disputes

Monitoring systems for land disputes, where they exist, will vary across countries. In some countries, government data are difficult to rely on.

Agrarian legal assistance is provided for reported land disputes– which are available in official figures. However, there are many unreported disputes and data on cases undergoing the litigation process are also unavailable. KPA has data on land conflict, but which is not yet updated. In view of this, another way to monitor disputes is through establishment of a *mechanism*, like a blog, under Land Watch Asia, where CSOs can submit reports.

Many countries share a similar judicial system – broken down into: Supreme Court; regional (district) courts; provincial (sub-district) courts. Some countries have a concept of village or traditional courts.

It must be noted that there are some land disputes and incidents of harassment, detainment, killing, etc. that do reach the court level. Partners need to decide up to which level of disputes will be taken into account for *comparability* of the index – from the high court up to the district level; for which data availability should be considered. For example, data on land disputes below the district level is unavailable in Nepal, but the number is very high and therefore important. More disputes will be covered the further down the ladder one goes. There are fewer disputes at the Supreme Court level, and more at the district and sub-district levels.

In the Philippines the *barangay* justice system aims to settle issues amicably at the lowest level, try to facilitate understanding, but if things are not settled, you go to court. Indonesia has no concept of a village court.

Many NGOs and CBOs are working at the grassroots level. At least in Bangladesh, there are only a few NGOs focussed on land, and most tend to be localised, giving only partial information on their areas of work. If such data will be used, a new methodology will need to be devised to extrapolate it for the whole country. One way is to take government official judicial level data; another is to cover as much of the pie as possible.

The degree of severity also varies. A case that is not settled at the village level can move up to the next level. The more serious cases reach the high courts. A farmer overstepping by 1 metre can be settled amicably among themselves, for example. That case will not reach the higher level.

Data on harassment is difficult to obtain, because it is seldom reported. Nevertheless, it should be made a part of research (including monitoring) for the next 10 years.

Some NGOs, such as human rights NGOs working on specific cases, as well as academics have researched and reported on killings and extra-judicial harassment due to land disputes and published these. The data is not official, however. Furthermore, any killings associated with land disputes can be reported; but reporting in terms of harassment or detainment will be difficult.

The political situation can also be a constraint in obtaining data, and must be considered. In some countries like Indonesia, reporting of harassment and killing incidents is not possible politically and legally, especially where the military is involved.

#### 10. Average time for dispute resolution would refer to the district level and above. The figure would be in average number of years for 100,000 cases. If more resources are poured for dispute resolution mechanisms, more legal people can be made available – to help both the plaintiff and defendant.

11. **Harassment** is tricky; it could refer to either prevalence or incidence – that is, harassing a person once versus harassing a person ten times. Again, partners will need to define what exactly counts as harassment, as well as decide which aspect of harassment to cover.

12. **Annual loss of time due to disputes and monetary loss**

The proposed methodology for determining the annual loss of time due to disputes is to conduct a random study for rural and urban households. It is a fairly simple and inexpensive methodology, designed to make comparability easier. If the number of disputes is known, it is possible to take, for example, 50 dispute cases and study these in simple form. Collect data on the loss of time (whether in a year, week, or month) and convert this to a year. The parameter should account for both the time of the plaintiff and defendant. Then the time should be assigned a value, computed by using per capita GDP, dividing by the number of days in a year (365) and the number of work hours per day (8). This will then be multiplied by the annual number of disputes to yield monetary loss. When an amount is calculated for the annual loss in terms of GDP, it can be used to advocate government to prioritise land access.

Alternatively, annual loss of time can be included as suggested *analysis* that partners can do. For instance, expediting dispute resolution might be good, but it might also be bad if there is no due process. Such trends can be probed.

*Monetary loss.* Looking at the cost of corruption in land disputes is also possible. The estimation not very difficult, as it has already been done by others.

13. **Land grabbing and eviction**

There is still a need to set a definition for land grabbing, to address possible issues, such as whether a corporation's adherence to the guidelines or principles for responsible agri-investments will still be considered as land grabbing.

Instead of only looking at the number of land grabbers, the number of cases, the number of farmers displaced, the *percentage of land grabbed to total agricultural land* may be a better indicator. One land grabbing case may cover thousands of hectares.

Eviction would not be able to capture land grabbing completely – sometimes people are not evicted; rather, they are merely incorporated into the system.

14. **Severity and frequency of disputes.**

Constructing a scale to gauge the severity of disputes is needed but will be difficult. While it is fairly easy to identify killing as very severe, it is more difficult to identify real life issues to be considered as severe, irrespective of country. Due to the potential methodological difficulties involved with determining the frequency and severity of disputes (as initially proposed), the Experts have decided to exclude these from the list of indicators for the LRDR/I.

15. **Effective ownership**

Once partners agree on the definitions and criteria, distribution or concentration of land ownership and landlessness can be captured by the bottom-to-top ratio and the gini coefficient. The number of landless and the number of landowners can be computed. However, this has to be based on *effective ownership*. The gini coefficient or bottom-to-top ratio may be misleading if based on nominal rather than effective ownership.

Sub-indicators also need to be developed for gender, urban poor, fishers, and IPs.

If titles are still *in process*, it will not be considered yet as owned.

In Bangladesh, 50% of land is owned by women – but is nominal rather than *real* ownership. The women own the land because of inheritance laws. The concept of “good sister” – a sister who gives her land to her brother – deters women from truly owning the land. In contrast, in Hindu law, in India and Bangladesh, women have no land ownership.

16. **Access versus ownership.** There is a sharp distinction between ownership and access; effective ownership is more important than mere access to land.

17. **Access to Land** is not enough as a development goal. Though simple share cropping denotes access to land, *all* share croppers remain poor. Even if access can be enhanced and ensured, it does not translate into actual poverty eradication. The World Bank, IMF, and other neoliberal institutions insist that access is more important than ownership, and on keeping the present ownership structure. If more emphasis is placed on *access* rather than on effective *ownership*—it is a departure from the genuine spirit of agrarian reform.

Access is an issue of sharecroppers, as well as for IPs, where communal ownership and state ownership are concerned. Community forestry would entail 100% access of the community to property resources.

As it were, there is no concept of deed for IPs. But private ownership does exist. Ownership is usually done through a headman, who is in charge of distributing. The use of documents rather than word of mouth is gaining ground, but may without stamps, can they be considered deeds? Such emerging issues and trends should be considered for the longevity of the index.

18. The **non-retention rate** is a major issue in most countries. Government must complement land distribution with legal enforcement, plus subsidies and inputs for a sustained period of time (i.e., more than 3 years), if poverty is to be eradicated.

In many cases, the harvest is not given 100%, not only for sharecroppers – but even for those who receive land from government under distribution program. Government gives the deed, then the beneficiary cultivates, but when harvest time arrives, someone comes in, puts a flag and informs the beneficiaries that the land is not the beneficiary's, but his. This sets off the dispute as well as the process of land litigation. In more than 50% of cases in Bangladesh, the recipient of the government land is unable to retain it. Moreover, before the land distribution program, the recipient may have had a small homestead of his own, with say, 2 cattle. In the course of litigation, he may lose everything, thereby becoming even poorer and more landless.

19. **Inequality indicators.** The gini coefficient measures inequality, but is only as good as its base data. It can be derived in Bangladesh, Indonesia and the Philippines. Other measures of inequality are possible, such as the decile (top 10% and bottom 10%) bottom-to-top ratio.

## 20. Tenancy Rights

Not all share croppers have legal documents. For example, in West Bengal, almost 90-95% have legal documents; but in India as a whole, only 5% have such. In Bangladesh, only 5% of total sharecroppers have legal documents.

21. **Leaseholding** is more progressive than traditional sharecropping. Normally, leaseholding occurs when land is distributed by the government to the poor through agrarian reform programs. Leaseholders lease from the government or from landlords in a transition from share tenancy systems to that of complete land ownership. A farmer pays a fixed amount of money for the land, regardless of the harvest.

22. **Contract farming** is not included in the index, but it has been suggested for national monitoring teams to look at this. In contract farming schemes, the product or output is more important than the land. The farmer owns the land or exercises some control over the land, and makes a contract with a dealer. Under such arrangements, the farmer commits the product.

In schemes promoted by the World Bank, the land is in the hands of the corporation, while landless farmers are given land to cultivate. The corporation provides technical supports and inputs. Such schemes are lucrative for poor farmers. The company purchases the products in advance and the minimum price is already fixed. However it comes with negative consequences in terms of food security. Tobacco production, for instance, is lucrative for a span of about two decades, but depletes the soil's natural fertility that it can no longer produce rice until after 10 years.

## 23. Landlessness

The proposed definition for landlessness needs to be approved by partners in terms of figures. Moreover, it also needs to take into account various countries' official definitions of landlessness where they exist. Where there are none, other observable facts may be considered. For example in the Philippines, looking at who the agrarian reform beneficiaries are will hint at who government deems landless. In Indonesia, though no official definition exists, there is a category of landlessness and marginal persons; those owning less than 0.5 hectare are considered landless. In India, Nepal and

Pakistan, classifications of landlessness are similar. The closer the proposed definition is to official definitions, and the more transparent it is, the higher the likelihood of the index's acceptability.

Households should have some homestead land and agricultural cultivable land. According to Bangladesh's official definition, an *absolutely landless* household is one that has neither homestead nor agricultural land. A *functionally landless* household has its own homestead land and some agricultural cultivable land up to 49 decimals. In between these two classifications are households with homestead land but without agricultural cultivable land. Such nearly landless households are considered *absolutely landless*, because in the rural areas if someone has no agricultural land but only homestead land, that homestead land must be very small.

***Land ownership classification in Bangladesh***

Classification	Area (in decimals)*
Landless	0-49
Marginal	50-149
Small	150-400
Medium	401-749
Large	750+

\*100 decimals = 1 acre = 0.4047 hectares

Likewise, for the purposes of this monitoring initiative, *landlessness* will be taken to include functional landlessness. At least in Bangladesh, eligibility for receiving government land is not limited to absolute landlessness but in fact also considers functional landlessness. In terms of priority, the absolutely landless are prioritised.

***Priority for land distribution according to levels of landlessness***

	Priority 1	2	3
Homestead land	X	✓	✓
Agricultural land	X	X	✓ up to 49 decimals
	Absolutely landless	Nearly landless	Functionally landless

### PART III: Land Reform Development Report/Index (LRDR/I)

*This section presents the Land Reform Development Report, before describing its concomitant Land Reform Development Index more fully, outlining its proposed methodology for obtaining data and translating these into values to put in the index.*

#### **Constructing the Land Reform Development Index (LRDI)**

The LRDI will be contained on one page. The challenging task of developing an index for land reform is best approached *simply*, as with the United Nations Human Development Index (HDI) which uses only three main indicators (life expectancy, education, and per capita GDP). In studying land reform, economists tend to use indicators like Gross Domestic Product (GDP); but the value of a CSO initiated index is its use of a *rights-based approach*.

The LRDI is a function of land tenure and access, assuming the formula:

$$\text{LRDI} = f(\text{land tenure, access}).$$

The Land Reform Development Index will assign **equal weights** to two broad variables on: a) **land tenure**; and b) **access to land**. Land access and tenure are equally important and thus will be assigned equal weighting for the index. The sub-indicators will explain why a country has a high or low LRDI value, thereby also indicating specific target areas for CSO advocacy. The maximum attainable value predetermined is 1.0 for the LRDI, according to which values countries will be ranked.

The value of the LRDI will range from 0 to 1, comprising 2 indexes: land tenure (LT) and land access (LA) index. At this stage, LT and LA are assigned equal weights. Each has a maximum value of 1; whatever value is attained will then be multiplied by 0.5 (or divided by 2), so that each indicator can get a maximum value of 0.5. The LRDI will have a total of 15-20 sub-indicators and a maximum of 10 indicators each for access to land and land tenure. Generally the fewer indicators there are, the better; but the index should strive to be as comprehensive as possible. In case the sub-indicators look identical, there is need to think of a margin; or drop one for the moment.

Values close to 0 suggest poor land reforms, whereas values that approach 1 reflect more positive state of land tenure and access. Values will probably be close to each other; no country will approximate 1, which represents the ideal situation.

To illustrate how the LRDI would be created, the first proposed sub-indicator of land tenure is the number of persons killed associated with land disputes, per 100,000 population, while the first for land access is the gini coefficient. Assuming land tenure has 4 indicators with equal weightings, each sub-indicator will have a maximum value of .25. In the hypothetical example as shown below, Bangladesh does not receive a score for the first LT indicator; Indonesia gets 0.188, while the Philippines receives 0.125. When all the sub-indicators for land tenure

#### **Regional Report: The Land Reform Development Report/Index (LRDR/I)**

The Land Reform Development Report (LRDR) will be a *regional* report accompanied by the Land Reform Development Index (LRDI). The standard report would run to approximately 50 pages, produced annually. It should be translated into the different languages for broader accessibility. There will be two versions –the extended or comprehensive version; and an abridged version for policy makers. The regional report consolidates and synthesises data and findings from the country reports.

For the LRDI, only two variables – land tenure and access to land – will be considered. Given limited resources, there is a need to reach the index and focus on what can be measured.

The budget cannot be assigned any value since values for outcomes on land tenure and access are entered on the other half of the equation **S (LT, A) = f (budget)** where S refers to the status of land tenure and access.

*Further explanation for the exclusion of the budget in the LRDI can be found in the technical notes. Also, note that the indicators proposed are still subject to consultation with Land Watch Asia partners. Partners will be asked up to which level the data is available, and if it is easy to obtain. Otherwise, they can conduct primary research.*

are added up, the total is then multiplied by 0.5 (since the land tenure index comprises half of the LRDI). In this case, the LT index for Bangladesh, Indonesia and the Philippines is 0.3, 0.4, and 0.4, respectively.

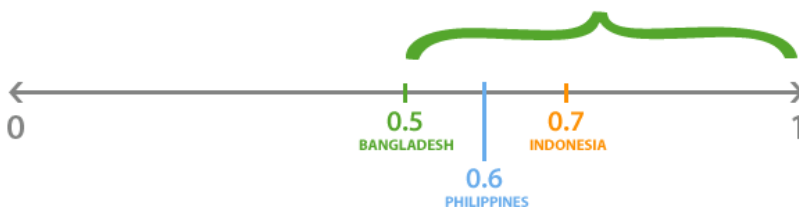
For land access, the case for IPs will be included as one of the sub-indicators. Bangladesh will be given a 0.02, Indonesia 0.10, and the Philippines 0.07. Again, the total LA sub-indicators would ideally be 1; then multiplied by 0.5 to yield the LA index.

Adding the [weighted] LT index and the LA index, the LRDI is 0.5 for Bangladesh, 0.7 for Indonesia, and 0.6 for the Philippines. One common conclusion is that the three countries all lag in land access compared to land tenure. Indonesia would fare better than Bangladesh and the Philippines in terms of land access. Another conclusion is that these countries show LRDI values closer to 0 than to 1.

The sub-indicators will explain why a country has fared poorly or well, and point to specific areas for advocacy. For example, looking at the last sub-indicator for LA, it appears that the land grab situation is bad in Indonesia compared to the other countries. However, values for the two other countries are close to 0, all indicating that land grabbing incidence is high in all three.

In the graph below, the green bracket denotes the area that Bangladesh still needs to cover to reach the “ideal” state of land tenure as defined by the sub-indicators.

Sample LRDI values for Bangladesh, the Philippines and Indonesia. The LRDI is expressed as a value between 0 and 1.



**Sample Land Reform Development Index**

	Bangladesh	Indonesia	Philippines
<b>1. Land Tenure (multiplied by 0.5)</b>	<b>0.3</b>	<b>0.4</b>	<b>0.4</b>
1.1 Number of persons killed per 100,000	0.00	0.188	0.125
1.2			
1.3			
1.4			
1.5 Land grabbed as percentage of total agricultural land	0.050	0.070	0.002
<b>2. Land Access (multiplied by 0.5)</b>	<b>0.2</b>	<b>0.3</b>	<b>0.2</b>
2.1. Gini coefficient	0.04	0.030	0.025
2.2.			
2.3.			
2.4.			
2.5. IPs	0.02	0.100	0.070
<b>Land Reform Development Index (LRDI) value</b>	<b>0.5</b>	<b>0.7</b>	<b>0.6</b>

***Sample range and index values for sub-indicator on # killed per 100,000 population***

	<b># killed per 100,000 population</b>	<b>Assigned Value (0-100)</b>	<b>Value in index (weighted)</b>
<b>Bangladesh</b>	210	0	0
<b>India</b>	104	50	0.125
<b>Indonesia</b>	34	75	0.188
<b>Philippines</b>	110	50	0.125
<b>Canada</b>	0	100	0.25

\* Value in index is based on a total of 4 sub-indicators for land tenure, with a maximum value of .25.

***Assigned values for the sub-indicator on # killed per 100,000 population***

<b># killed per 100,000 population</b>	<b>Assigned value (0-100)</b>
<b>0-50 = 100</b>	100
<b>101-150</b>	50
<b>151-200</b>	25
<b>200+</b>	0

For the time being, equal weights will be assigned to all sub-indicators. Discussion and consensus building will be important with regard to defining and prioritizing indicators. Partners will be asked for the data to construct the LRDI. A similar methodology will be used across all countries. In the process, there will inevitably be situations, wherein people will criticise and debate about the weights assigned per indicator. Though all identified indicators are important, ultimately some indicators will be more important than others for some groups.

At the country level – weights can be determined by the partners. If countries think that something is more important and deserves more weight, they can freely do so for the national level report. Partners will nonetheless be reminded that there is a common methodology; for the purposes of the LRDI, to be done at the regional level – weights will be necessarily uniform across all countries.

***Categories of Land Reform Development (according to rank)***

<b>Categories</b>	<b>LRDI</b>
<b>High LRDI</b>	0.8 – 1.0
<b>Medium LRDI</b>	0.5 – 0.799
<b>Low LRDI</b>	< 0.5

Countries will be ranked according to their respective LRDI. LRDI less than 0.5 is classified as having low LRDI; between 0.5 and 0.799 medium LRDI; and 0.8 to 1.0 high LRDI. If a country has low LRDI, ANGOC and Land Watch Asia will provide recommendations to move up to the next level and have medium LRDI.

Various statistical tools to use are available, such as ranges and proportional distribution, which will depend on data availability of data. After processing the data, the range will be constructed. For example there are 6 countries.

For some important indicators data may not be available; again, in which case, referring to the pyramid, it will only be available up to a certain level. Since monitoring is a continuous process, there will be scope in the next phase for moving towards the bases or lower levels of the pyramid – to get village level data. A major part of the population will be missing if only the higher levels are addressed. How best to reach that part – and how to make that institutional at the level of the countries - should be the job of advocacy groups. In this way, after 5 or 10 years, the data will be more complete. ANGOC and its Land Watch Asia partners are launching this initiative, with a new methodology to estimate available data for the index.

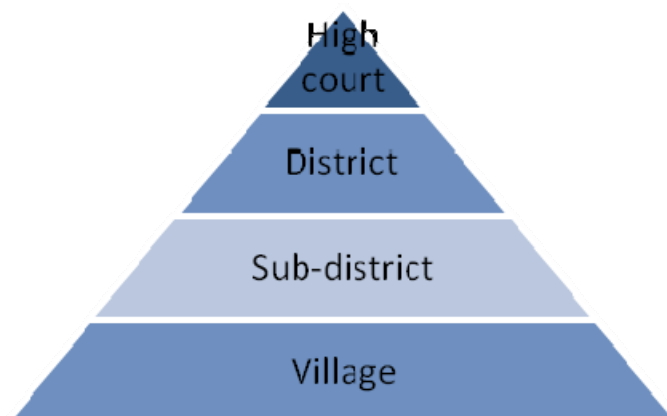
## A Few Guidelines for the LRDI

- When the data is not easily available, *primary* research is needed.
- For some indicators, a higher value will mean a higher score on the index; whereas for others, a lower value will merit a high score.
- Absolute numbers are not relevant, since country sizes vary. For the index, one must take into account these differences in country sizes, by using a numerator and denominator to attain percentage figures. Also, it is useful to look at the incidence per 1,000 or 100,000 population.
- Use *projected* populations in case official data on population is dated or unavailable.
- In terms of the timeline, the reference period should ideally be the same. However, sometimes this is not possible. Even the Human Development Report and World Development Report annex tables list data from various reference years. Different reference years are not problematic. In terms of agrarian reform, generally not too many changes occur within 3 to 5 years.
- Note that some indicators may be similar; if both are used, they will earn more value in the index.

## A note on levels of data availability

Partners will be consulted whether the information is available at all in their respective countries. Furthermore, ANGOC will give a caveat – for partners to give whatever number is available and specify at which level the data is available. To illustrate, for the indicator on *number of persons killed due to land disputes per 100,000 population*, partners should identify whether the data is only available up to the high court level, or the district level, or readily available at the village level.

Once the figures are determined, ANGOC/the experts will have to decide which figures to use in the index. If, after consulting the partners, it is found that data up to the district level is available in all countries, then that could be the cut-off point. Some countries can report all figures, but for the purposes of the index, the cut-off point will be strictly the district level, to ensure *comparability* among countries.



Sources of information will be suggested. For killings, newspapers can be one source. But the Home Ministry or another relevant government agency will be able to provide some figures regarding the number of persons killed. More important than the number of persons killed per se are those killings specifically associated with land disputes. The figure of persons killed given by the Home Ministry may be understated. But there are heuristic methods about this. One case in point – asking 5 retired inspectors general of the police the probable percentage of reality. One IGP would say 20%, the other 25%, still the other 30%, and so on and so forth. One gets the average

figure of killing, which is 25% of reality, multiplied by which will yield a close picture of reality. One should sit with knowledgeable people – done through partners - to understand what could be the percentage of killings associated with land dispute. For instance, 5-10% of that killing is associated with land dispute.

The other way at arriving at the figures is to look at what is being reported, by compiling newspaper sources. Groups should not only look at national dailies, but also local journals. One will get a different figure, which should be extrapolated and compared with the other set. The results will be very close – with a 10% margin of error, which is acceptable.

## ENDNOTES

### 1. Learning from the HDI

Technical notes (explaining how the figures were derived) should be annexed for the LRDI, as is done for the HDI. Comparing HDI and LRDI can add value to the initiative. There must be a high positive correlation for *developing* countries. If HDI is high, LRDI will also be high. The HDR is issued annually. As part of the strategy, Land Watch can perhaps share its LRDI with UNDP, or even organize a joint launch.