

CONCLUSION

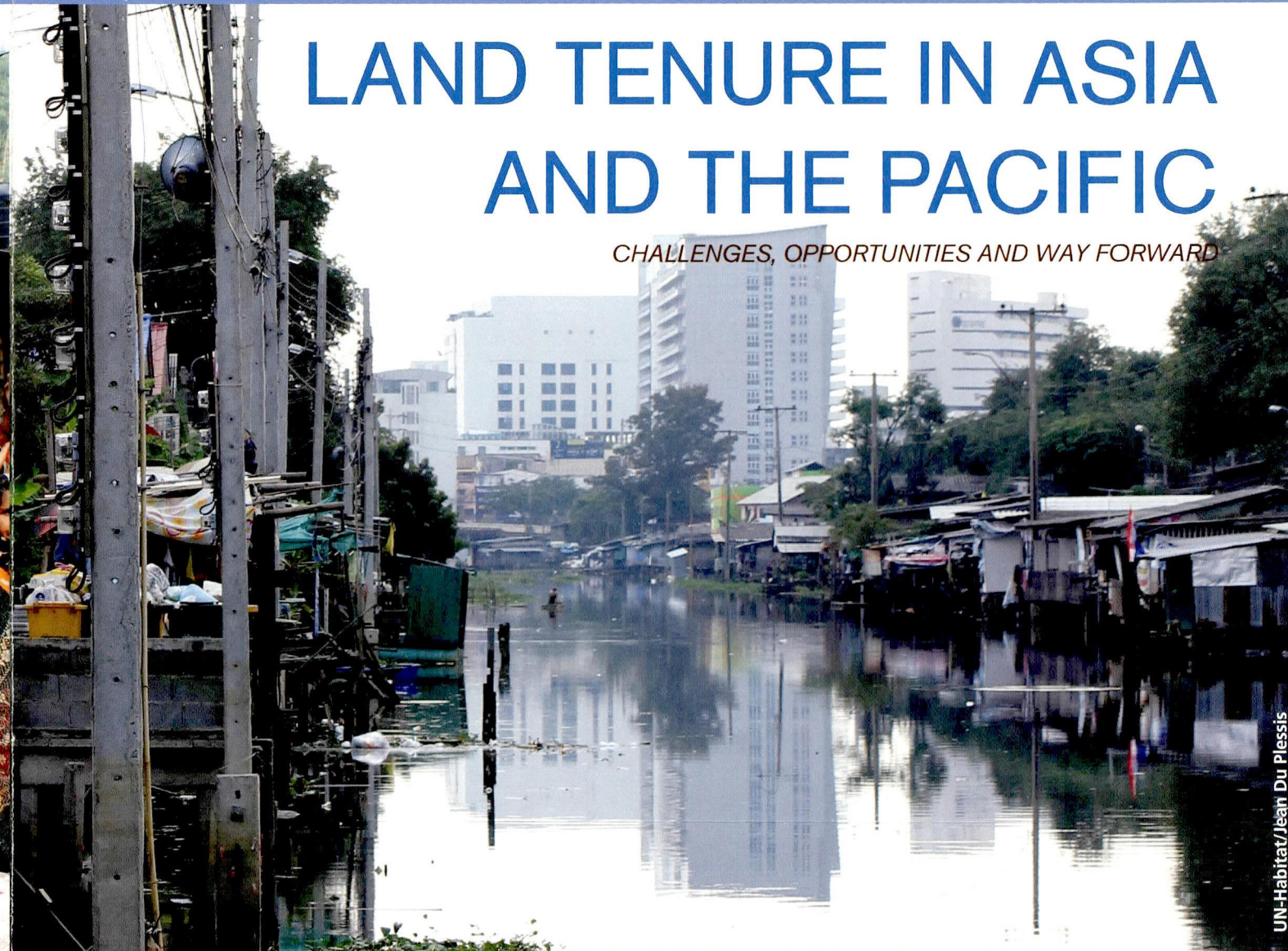
Stakeholders agree that improving tenure security is key to poverty reduction and sustainable development. Tenure security is at the core of transforming the lives of women, landless, rural tenants, smallholders, Indigenous Peoples, internally displaced people, customary landholders, and informal settlers and other vulnerable groups. Reforming the land administration system to make it more pro-poor, low-cost, gender responsive and fit-for-purpose will greatly contribute to this objective.

For the short to medium term, the identified key priorities include the following: 1. Capacity development in both the public and private sectors for the successful implementation of land tools and programmes that address tenure security at scale, 2. Establishment of regional coordination mechanisms for stronger collaboration, learning exchanges, knowledge and awareness building and capacity development and 3. National platforms to promote consultation and country-level dialogue on land governance.



LAND TENURE IN ASIA AND THE PACIFIC

CHALLENGES, OPPORTUNITIES AND WAY FORWARD



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Urbanization and the rapid transformation of urban areas in Asia and the Pacific region has driven economic growth and stimulated prosperity for many countries. However, this economic success has come with social costs including related to equity of access to land, and there have also been environmental costs. Poverty remains concentrated in marginal areas. Women and vulnerable groups have often missed out on the benefits of development, or been marginalised and there are major challenges related

to climate change, natural disasters, food security and environmental degradation.

This Brief presents the summary findings of a review of land tenure in Asia and the Pacific. It highlights the major land challenges, barriers and opportunities as basis for planning and future decisions about partnerships and engagement in the land sector in the region.

KEY CHALLENGES

Changing rural populations. Agriculture in the region is dominated by smallholders, with an ageing farmer population increasingly made up of women. Colonial and national land reforms and increasing land values have concentrated landholdings in the hands of a few. A result has been a rapid decline in the average size of smallholder farms. Food and fuel prices, the impact of climate change and the growing demand for agrofuels have increased competition for land. Large-scale foreign farmland acquisitions provide opportunities, but there are concerns about the impact on the poor.

Women's access to land. Access to land for women varies under state laws and customary arrangements, and poor rural women can be particularly disadvantaged. Deep-rooted cultural practices and legal barriers in many countries often deny women land rights. Duality of legal systems and a dichotomy between the law and practice also impact on women's land and property rights. Women's ability to inherit property is also restricted in many societies.

Rapid urbanization (and urban growth). Population growth combined with a lack of affordable land in safe areas typically manifests as unplanned and informal settlements on unsuitable or hazard-prone land. National and local authorities struggle to meet basic urban infrastructure and service needs. Land grabbing and forced evictions lead to loss of shelter and disconnection from livelihoods especially as pressure for land increases. As cities grow, the demand for land causes land speculation and market distortions, and brings unforeseen pressures on an already scarce resource.

Indigenous Peoples rights to land. Approximately two-thirds of the world's indigenous peoples live in the Asia and the Pacific region and land is central to their life, culture and beliefs. Indigenous Peoples are among the most socially and economically marginalized members of society, and face dispossession of their lands and natural resources. The increased demand for food and energy and foreign agricultural acquisitions results in encroachments onto Indigenous Peoples' land and territories and common property resources. In urban areas Indigenous Peoples encounter difficulty finding employment and can face severe housing pressures.



Tribal women on their way to the market to sell their agricultural produce. Vietnam. Photo © Muhibuddin Usamah

Climate change and natural disasters. The region is among the most vulnerable to climate change, including more frequent natural disasters, glacial melt, sea-level rise, impacts on food and water security, and drought. The poor and most marginalized with poor tenure security are more prone to long-term displacement after natural disasters. The region also offers huge potential for REDD+ Programmes. However, interventions have the potential to negatively impact on existing tenure rights.

Islamic tenure and principles. Islamic principles and tenures remain influential in the region, even where colonial reforms created new tenure types and formal approaches to land administration. However, there is a plurality of tenures in predominantly Islamic countries with formal, customary and Islamic tenures which results in land issues. Using Islamic law principles and tenures have the potential to support pro-poor and gender-responsive land administration interventions but will need more research for practical application.

Barriers and limitations in land administration and management. Effective land administration and management is needed to respond to the land issues described above. However, there are many challenges in the sector. The key limitations and barriers to effective land administration and management include: (i) capacity limitations in public and private sectors requiring a long-term investment, (ii) ineffective and unresponsive land administration policies and practices, (iii) limited high-level support and the reliance on local champions, and (iv) the large number of existing conflicts and backlog of land disputes which have a debilitating effect.

OPPORTUNITIES FOR IMPROVED TENURE SECURITY

Opportunities exist for a coordinated response towards improved tenure security. Global conventions and frameworks articulate human rights and sustainable development principles that inform land responses. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, the Land Governance Assessment Framework, GLTN land tools and Land Watch Asia also provide platforms for significant governance improvements at country level. There is also an opportunity to build on existing coordination networks, partnerships, programmes and projects in the region. Political-level regional coordination mechanisms and several regional forums exist. Existing programmes focusing on responsible land governance, disaster risk reduction, climate change adaptation and mitigation, dispute resolution, and food and water security programmes provide an opportunity to raise awareness of challenges and possible responses. On land administration, there is a growing debate and increasing knowledge on the use and application of fit-for-purpose, affordable and gender responsive land interventions and tools.

WAY FORWARD

Responding to tenure security challenges

- Improvement to women's rights to land requires a human rights-based approach. Development must be anchored in international law and provide for the full participation of women. Women's rights should be recognised and respected on equal terms, women provided with information about their land rights, and specialized programmes should be designed for particularly marginalized groups.
- The legitimate land rights of the landless, rural tenants, smallholders, Indigenous Peoples, internally displaced people, customary landholders, and informal settlers should be respected and protected. It will be necessary to ensure that the pressures from foreign investment and large development projects do not lead to dispossession of existing rights.



Salvaging land records after the onslaught of Typhoon Haiyan in the Philippines. Photo © UN-Habitat/ Danilo Antonio

- Mainstreaming climate change adaptation/ mitigation (CCA/M), and disaster risk reduction (DRR) into the land sector will require strong coordination between stakeholders and government authorities. Securing and safeguarding land tenure rights for all improves resilience to the impacts of climate change, and effective land-use planning and control can minimize the spread of housing onto hazard-prone land.
- Responses to urbanization demand a coordinated approach by government authorities, the private sector, civil society, communities and customary land groups. Effective land-use planning and control and effective urban profiling and slum upgrading programmes are key priorities.
- In predominantly Islamic countries, applying appropriate Islamic principles in the design of land interventions can provide for more effective outcomes. These interventions should involve a political and risk assessment, and awareness that the existence of Islamic tools does not guarantee success.
- Improving land-dispute resolution mechanisms needs to be addressed and could be enhanced through existing international frameworks and instruments.
- Achieving fit-for-purpose, low-cost, pro-poor and gender responsive land administration at scale requires the legal framework to be consistent with international obligations, and require states recognize, record and respect all legitimate land rights. Land sector services need to be more sustainable and land agencies need to be strengthened.