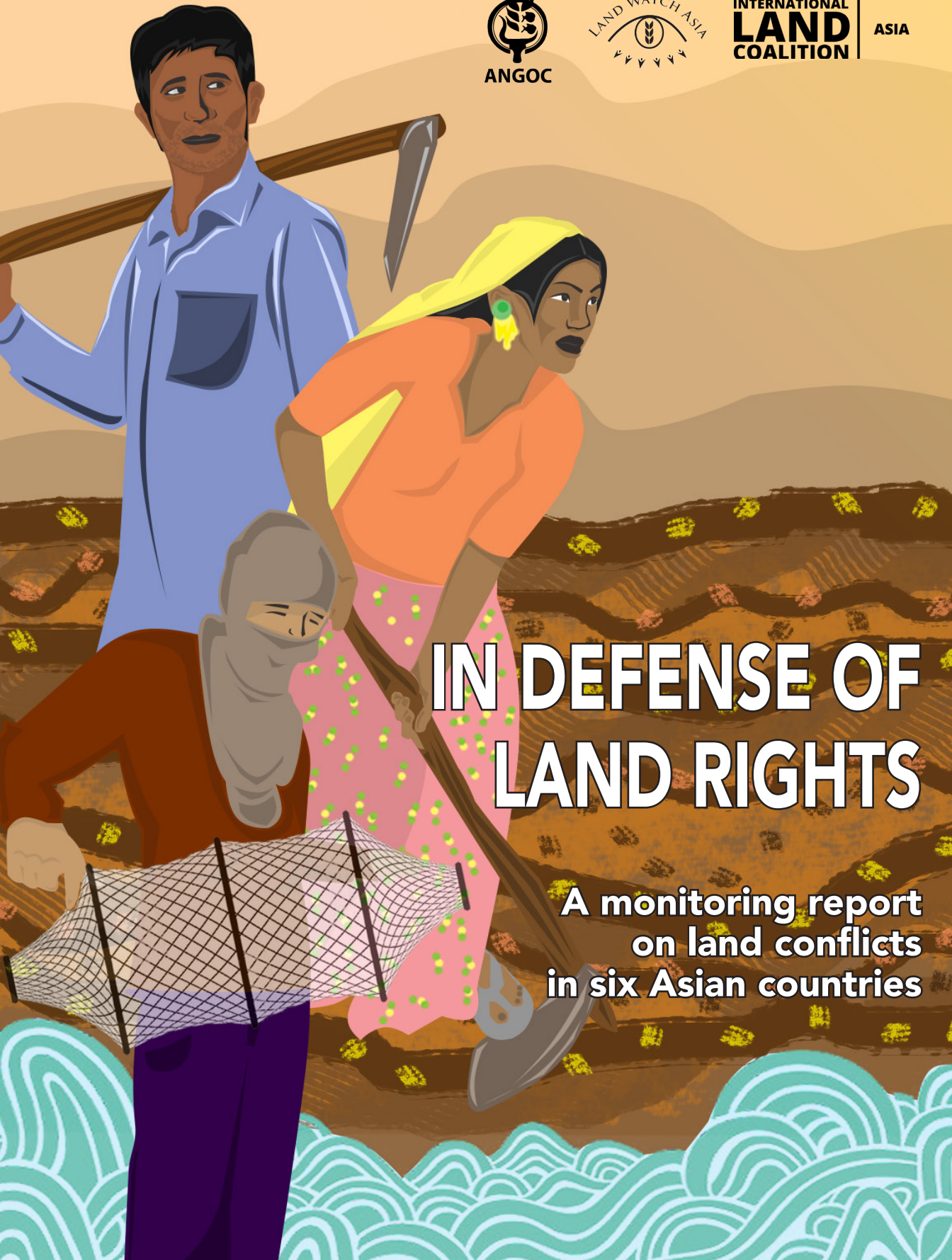




INTERNATIONAL  
**LAND**  
COALITION | ASIA



# IN DEFENSE OF LAND RIGHTS

A monitoring report  
on land conflicts  
in six Asian countries



Founded in 1979, the **Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)** is a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in promoting food sovereignty, land rights and agrarian reform, sustainable agriculture, participatory governance, and rural development. ANGOC member networks and partners work

in 10 Asian countries together with some 3,000 CSOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy discussions with national governments, intergovernmental organizations (IGOs), and international financial institutions (IFIs).

The complexity of Asian realities and diversity of CSOs highlight the need for a development leadership to service the poor of Asia—providing a forum for articulation of their needs and aspirations as well as expression of Asian values and perspectives.

ANGOC is a member of the Global Land Tool Network (GLTN), Global Forum on Agricultural Research (GFAR), Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium and the International Land Coalition (ILC).



Land Watch Asia (LWA) is a regional campaign to ensure that access to land, agrarian reform and sustainable development for the rural poor are addressed in national and regional development agenda. The campaign involves civil society

organizations in Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, Pakistan and the Philippines. LWA aims to take stock of significant changes in the policy and legal environments; undertake strategic national and regional advocacy activities on access to land; jointly develop approaches and tools; and encourage the sharing of experiences on coalition-building and actions on land rights issues. ANGOC is the regional convenor of LWA.

**ANGOC can be reached at:**

33 Mapagsangguni Street  
Sikatuna Village, Diliman  
1101 Quezon City, Philippines  
P.O. Box 3107, QCCPO 1101, Quezon City, Philippines  
Tel: +63-2 351 0581 Fax: +63-2 351 0011  
Email: [angoc@angoc.org](mailto:angoc@angoc.org)  
Website: [www.angoc.org](http://www.angoc.org)

# **In defense of land rights**

**A monitoring report on land conflicts  
in six Asian countries**

January 2019

Edited by : Antonio Quizon, Joel Pagsanghan,  
and Nathaniel Don Marquez

Production team : Nathaniel Don Marquez, Denise Hyacinth Joy Musni,  
Marianne Jane Naungayan, Timothy Salomon,  
Joseph Onesa, Lennie Rose Cahusay

Layout and design : Gerard Jerome Dumlao

Cover Artwork : Christine Mae B. Santos

**ISBN: 978-971-8632-49-9**

**Citation:**

Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). (2019). *In defense of land rights: A monitoring report on land conflicts in six Asian countries*. Quezon City: ANGOC.

This knowledge product is published by the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) with support from the International Land Coalition (ILC). The views expressed in this publication are those of the authors and do not necessarily reflect the views of ILC.

---

# Contents

---

<i>Contents</i>	5
<i>Acknowledgements</i>	6
<i>Foreword</i>	7
<b>Regional Summary: A Perspective Overview of Land Conflicts in Six Asian Countries</b>	10
<i>By Antonio B. Quizon, Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)</i>	
<b>Bangladesh Land Conflict Monitoring Report</b>	46
<i>By Md. Mahamudul Haque, Community Development Association (CDA)</i>	
<b>Cambodia Land Conflict Monitoring Report</b>	58
<i>By STAR Kampuchea (SK)</i>	
<b>India Land Conflict Monitoring Report</b>	73
<i>By Sajal Babu, Paritosh Bisen, Ayushi Narayan, Ridhi Soni, and Achyut Tewari, Centre for Legislative Research and Advocacy (CLRA) and Ekta Parishad (EP)</i>	
<b>Indonesia Monitoring Report of Agrarian Conflicts for Years 2017-2018</b>	83
<i>By Konsorsium Pembaruan Agraria (KPA)</i>	
<b>Nepal Land Conflict Monitoring Report</b>	96
<i>By Community Self-Reliance Centre (CSRC)</i>	
<b>Philippines: Land Conflicts and Rights Defenders in the Philippines</b>	106
<i>By Timothy Salomon, ANGOC</i>	

---

# Acknowledgements

---

The following organizations and individuals contributed to the preparation, analysis, and finalization of the contents of this publication:

- Bangladesh            Community Development Association (CDA)
- Cambodia            STAR Kampuchea (SK)
- India                    Ekta Parishad (EP)  
                                Centre for Legislative Research and Advocacy  
                                (CLRA)
- Indonesia            Konsorsium Pembaruan Agraria (KPA)
- Nepal                    Community Self-Reliance Centre (CSRC)
- Philippines            Asian NGO Coalition for Agrarian Reform  
                                and Rural Development (ANGOC)
- Regional Summary    Antonio Quizon, ANGOC

Support for these studies and this publication was provided by the International Land Coalition (ILC).

---

# Foreword

---

**P**private sector investments in agriculture have been increasing in Asia. This increase in agricultural investments has contributed to intensified competition for agricultural lands. Forest communities have faced even greater threats to their lands and livelihoods due to the intrusion of commercial interests, the expansion of commercial agriculture and forestry, extractive industries such as logging and mining, and the appropriation of lands for development projects and tourism. In Pakistan, Laos, Cambodia, and Indonesia, agreements have been forged between corporations and central governments for diversion of large tracts of land into “production areas” for food and biofuels that are geared for markets abroad.

This increase in agricultural investments has contributed to intensified competition for agricultural lands to the extent that reports abound of land grabbing, displacement of occupants, unfair deals and erosion of agricultural resources. Moreover, land has become vulnerable to commercial pressures from other sectors, such as tourism, migration, resettlement and industrialization.

A number of Asian governments have brokered the growth of land-based private investments. Having grappled with problems such as food security and poverty, these governments have brokered such deals by easing their investment regulations and have started offering policy and fiscal incentives to eager investors. Thus, people who have worked on and relied on the land for their livelihoods discover that their lands now belong to a much “bigger” power. Feudalism has come to be replaced by corporate landlordism: in lieu of the feudal landlord, the transnational or large corporation, or the government now controls the lands.

The alarming rise of land grabbing in Asia pose serious question of incentives. Land grabbing is almost always done to gain more profit for governments and for companies alike – profits. Moreover, data on land

conflicts reflect the strong correlation between land grabs and rights violations for rights defenders and communities alike. Incidences of killings and harassments exist with the hunger for land and the consequent onslaught of “development” for mining, plantations, and economic zones. Displacements are a necessary development cost, and communities are the collateral damage.

As land rights activists and defenders disappear or killed, subtle ways of harassment through legal means are being employed by the State authorities to silence them. In most instances, the judicial system is restricting public participation/right to seek redress as cases related to public interest are monitored. This has an effect of limiting space available to CSOs for demanding accountability from the State and other stakeholders. On the other hand, filing of criminal cases against farmers, indigenous peoples, women (e.g., qualified theft/arson/trespassing) is hurled left and right as they assert their rights and rights to land.

It is in this context that the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) in partnership with Land Watch Asia (LWA) partners in Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines, are implementing the *“Defending Land Rights and Human Rights Defenders”* which seeks to gain recognition for the right to land as a human right, by engaging land rights organizations and communities in country and regional dialogues. One component of this initiative is the conduct of Country Land Conflict Monitoring Reports that aim to contribute to the growing body of evidence that land and resource conflicts impinge on human rights.

The specific objectives of the land conflict monitoring report are to:

- discuss the impacts and outcomes of land and resource conflicts on local communities and on land rights defenders;
- assess the nature and causes of land and resource conflicts;
- discuss the available conflict response, and resolution mechanisms in the country; and,
- recommend actions towards the prevention and resolution of such conflicts.

Country Land Conflict Monitoring Reports were prepared by CSO partners to understand the nature, causes and impacts of land and resource conflicts, and to highlight human rights issues in the context of these conflicts. The reports likewise provided an overview of some of the available conflict response and resolution mechanisms in the country. Finally, the reports included



recommended actions in addressing such conflicts, as formulated during the country consultation processes.

A regional summary of the six country papers was presented and discussed at the regional workshop “*Engaging National Human Rights Institutions Toward the Promotion of Land Rights as Human Rights*” (held on 15-16 November 2018 in Bangkok, Thailand). This publication thus contains the regional summary and the abridged country land conflict monitoring reports.

ANGOC is grateful to the authors, LWA partners, as well as the editorial and production teams for preparing this publication. Our thanks also to the International Land Coalition (ILC) for its financial contribution for this knowledge product.

Finally, through this publication, we honor those whose lives, limbs, livelihoods, safety and sense of normalcy have been taken away by violence. Let this be an expression of solidarity with the families and communities whose tenure over land remain insecure due to land and resource conflicts. With every case and story digested, the lives of people amidst their contested landscapes intensifies the desire to provide broader and more meaningful opportunities for claim-making. Though their claims remain challenged, it is our hope that we may all find recourse in peaceful means of struggle.

**Rohini Reddy**  
*Chairperson*

**Chet Charya**  
*Vice Chairperson*

**Nathaniel Don E. Marquez**  
*Executive Director*

---

# Regional summary:

## A Perspective Overview of Land Conflicts in Six Asian Countries<sup>1</sup>

---

By Antonio B. Quizon, ANGOC

Land governance is defined as “the **rules, processes and structures** through which decisions are made about **access to land and its use**, the manner in which the decisions are implemented and enforced, and the way that **competing interests in land are managed**” (FAO, emphasis supplied). As such, the definition of land governance involves three key elements, namely: (i) a set of rules, processes and structures, whether these are defined by legal, customary or traditional systems; (ii) decisions on land distribution, access and use, including the enforcement of rights; and, (iii) management of conflict due to competing interests on land.

It is widely recognized that land being a fixed and limited resource is an inherent source of conflict. Yet, any study of land conflict should also view and address the broader contexts in which land policies, structures and processes have evolved, and how land is allocated, and rights are protected and enforced.

### OVERVIEW OF THE STUDY

#### Objectives

This assessment study aims to contribute towards a better understanding of land and resource conflicts that impinge on human rights, by providing

---

<sup>1</sup> **Citation:** Quizon, A. (2019). A Perspective Overview of Land Conflicts in Six Asian Countries. In ANGOC (Ed.) *In defense of land rights: A monitoring report of land conflicts in six Asian countries* (pp. 10-45). Quezon City: ANGOC.

evidence-based data for policy – towards the prevention and resolution of such conflicts.

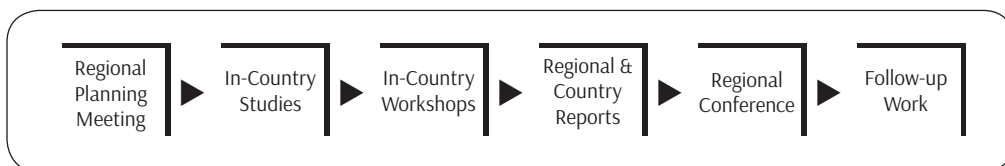
The specific objectives are:

1. To describe the prevalence and nature of land and resource conflicts in each country;
2. To discuss the impacts and outcomes of land and resource conflicts on local communities and on land rights defenders;
3. To examine the nature and causes of land and resource conflicts; and,
4. To assess the effectivity of existing conflict resolution mechanisms in the country.

## Process

The overall objectives, outline and methodology of the country studies were first discussed during the Asian regional planning meeting among researchers held in February 2018. Research studies were then undertaken in six Asian countries by civil society organizations (CSOs) working on land and agrarian issues. These include – the Community Development Association (CDA) in Bangladesh, STAR Kampuchea in Cambodia, Ekta Parishad (EP) and the Centre for Legislative Research and Advocacy (CLRA) in India, Konsorsium Pembaruan Agraria (KPA) in Indonesia, Community Self-Reliance Centre (CSRC) in Nepal, and Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) in the Philippines. The country research studies were carried out between March to November 2018.

**Figure 1. Overview of the research process**



With the exception of India, the draft reports were presented, discussed and validated at in-country workshops with participants from affected communities, and representatives of CSOs, community organizations, government agencies working on the land sector, and National Human Rights Institutions (NHRIs).

All six country studies were discussed at an Asian regional workshop, “*Engaging National Human Rights Institutions Toward the Promotion of Land Rights as Human Rights*,” held on 15-16 November 2018, in Bangkok, Thailand.

This regional report provides a perspective and summary of the six country studies and highlights key discussion points and recommendations from the Asian regional workshop.

### **Concepts on land conflict**

**Case approach.** The data indicator used in the country reports are the “cases of land and natural resource conflict.” *Conflict cases* are defined as situations wherein “two or more stakeholders perceive that their interests are incompatible, express hostile attitudes, or ... pursue their interests through actions that damage the other parties.” Interests can differ over: (a) access to and distribution of *resources*; (b) control of *power* and decision-making; (c) cultural, social, and political *identity*; and, (d) *status*, particularly those embodied in systems of government, religion, or ideology (as cited in Engel and Korf, 2005). In all the studies, land conflicts also cover disputes over water resources, trees, forests, and rights to natural resources.

**Latent and manifest conflict.** It is important to understand the context of conflict, as well as the *behavior* of stakeholders – particularly how they interact and respond as the conflict unfolds. All conflicts start as *latent conflict* – a situation wherein stakeholders may be unaware, or else aware yet not taking action on how their goals and interests are competing over control of land, resources, and decision-making. When there is inaction or withdrawal, the conflict remains latent. But when stakeholders contend or assert their rights or interests, it escalates into a *manifest conflict* or a situation where stakeholders take action to contend or assert their rights or interests over control of land, resources, and decision-making.

In cases where conflicts are not resolved, or the outcomes from third party facilitators are not acceptable, they can escalate into *violence* – a show of force or an imposition of will on another to achieve control through destructive means.

**Forms of violence.** All the cases studied had an incidence of violence that occurred within the period covered. The most visible form of violence is *physical* (i.e., killing, injury, incarceration, torture, eviction, and displacement). However, violence can also be *psychological* (grave threat, verbal abuse, harassment, defamation, discrimination), *economic* (denial of access to resources, services and opportunities, subjecting people to servitude, undue debt and exploitative conditions) and/or *political* (denial of participation and

self-determination, stifling of protests, or curtailment of political and civil rights).

**Two main types of land conflict.** It is also important to differentiate between two types of land and resource conflicts:

- A “land dispute” involves conflicting claims to rights in land by two or more parties, focused on a particular piece of land or resource, which can be addressed within the existing legal framework. These may include cases involving inheritance, boundary disputes, legal titles, and commercial transactions. Such land disputes may or may not reflect some broader conflict over land.
- By contrast, a “structural land conflict” involves competing claims to large areas of land by groups, of a breadth and depth not easily resolved within existing law. There is often no consensus on the rules to be applied, and the parties may have quite different understandings of the nature of the conflict. As used by studies in this paper, “conflict” implies tension and the danger of violence, but not necessarily violence itself, unless this is specifically mentioned. Latent conflicts based on structural or other fundamental problems may be triggered by events to turn violent.

All the country studies here focus on *structural* land conflicts. Many of these land conflicts raise questions of *land governance*, as they are related directly to national and local government policies, and to decisions of public officials. They involve not just individuals or single families but may affect entire neighborhoods and communities in significant numbers, causing physical and psychological harm, with extensive impacts on their social, economic, and political lives, as the studies will show.

### **Methodology and data sources**

For the land conflict studies from Indonesia, Nepal, and the Philippines, the researchers themselves collected and analyzed hundreds of land conflict cases collected from both primary and secondary data sources. On the other hand, the land conflict studies from Bangladesh and India are based entirely on secondary sources. For the Cambodia study, STAR Kampuchea engaged with the Provincial Government of Kampong Chhnang Province to study the mechanisms for conflict resolution at the local level.

Table 1 on page 14 shows the sources of data collection on land conflict cases.

**Table 1. Data collection sources of land conflict cases, per country**

Country/Researcher	Data collection sources for land conflict cases
<p><b>Bangladesh</b></p> <p><i>Community Development Association (CDA)</i></p>	<ul style="list-style-type: none"> <li>■ Annual reports (2015-2017) by the Kapaeeng Foundation entitled "Human Rights Report on Indigenous People in Bangladesh" which analyze data culled from media reports and CSO networks across the country</li> <li>■ Collected cases by Kapaeeng Foundation for January-June 2018</li> </ul>
<p><b>Cambodia</b></p> <p><i>STAR Kampuchea (SK)</i></p>	<ul style="list-style-type: none"> <li>■ Official summary reports from the Ministry of Land Management, Urban Planning and Construction (MLMUPC)</li> <li>■ Monitoring reports from Radio Free Asia (RFA), 2017-2018</li> <li>■ Data from the Provincial Government of Kampong Chhnang Province, 2016-2018</li> <li>■ Discussions with commune leaders and local people in Teukphos district, Kampong Chhnang Province</li> </ul>
<p><b>India</b></p> <p><i>Ekta Parishad (EP)</i></p> <p><i>Centre for Legislative Research for Advocacy (CLRA)</i></p>	<ul style="list-style-type: none"> <li>■ <i>Land Conflict Watch</i> portal (<a href="https://www.landconflictwatch.org/">https://www.landconflictwatch.org/</a>) which is a network of researchers and journalists across India that records the major ongoing land conflicts in the country</li> <li>■ In turn, the <i>Land Conflict Watch</i> portal draws its case data from: <ul style="list-style-type: none"> <li>• Regional newspapers</li> <li>• Official documents (court papers, police records, public hearings, recordings or transcripts, memorandums and petitions, resolutions passed by village councils, etc.)</li> <li>• CSO databases</li> <li>• Internet sources (Google alerts)</li> <li>• Resource persons and local non-profit organizations</li> </ul> </li> </ul>
<p><b>Indonesia</b></p> <p><i>Konsorsium Pembaruan Agraria (KPA)</i></p>	<ul style="list-style-type: none"> <li>■ Agrarian conflict victims who report directly to KPA National and Regional Secretariats</li> <li>■ Land conflict victims whose cases are followed up by KPA through assistance or case reports</li> <li>■ Data collection in specific localities</li> <li>■ Field investigations of land conflict cases</li> <li>■ Mass media reports (printed and electronic)</li> <li>■ Reports from other organizations in specific sectors (fisheries) and issues (palm oil) – within the agrarian reform network</li> </ul>
<p><b>Nepal</b></p> <p><i>Community Self-Reliance Centre (CSRC)</i></p>	<ul style="list-style-type: none"> <li>■ Reports by households and communities at CSRC's District Land Rights Forums (DLRF), based on a simple reporting format</li> <li>■ Mass media monitoring of four national daily newspapers</li> <li>■ Field follow-up of reported land conflict cases</li> <li>■ Summary reports from CSOs and government</li> </ul>
<p><b>Philippines</b></p> <p><i>Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)</i></p>	<ul style="list-style-type: none"> <li>■ Reports and documents from national government line agencies involved in land issues; Commission on Human Rights</li> <li>■ Civil society organizations (CSOs) working with communities on land and natural resource issues</li> <li>■ Online reports by human rights organizations</li> <li>■ Mainstream mass media reports (online)</li> <li>■ Leaders from affected communities attending the FGDs and national consultations</li> </ul>

*Primary sources* consist mainly of narratives and written accounts provided by affected communities to CSOs, specifically in the cases of KPA-Indonesia and CSRC-Nepal – which have extensive networks and regional offices within their countries. *Secondary sources* consist of written accounts, case reports and research studies of CSOs, reports from national government agencies, and CSO monitoring of mass media reports (online and press).

Few of the documented cases come from judicial court files; in many countries, restrictions are imposed against commenting on *sub judice* cases (or cases under litigation). Moreover, access to court documents is often restricted or inaccessible, and court systems often do not maintain centralized databases with categories for land cases unless these are handled by special courts. In Nepal, however, the Supreme Court Annual Report provides summary data on the types of cases pending in courts.

For the Indonesian and Philippine studies, efforts were made to verify and validate information from multiple sources. Focus group discussions and consultation workshops were conducted in each country. In the Philippine study, 51 collected cases were excluded from the final analysis due to missing or inaccurate information (on stakeholders, location, inclusive dates, and nature of the conflict).

### **Scope of the studies**

Table 2 on page 16 shows the coverage of the data on land conflict cases per country. All the studies are national in scope. The specific period under study varies for each country, although all documented land conflict cases occurred between 2012-2018, with many conflicts still ongoing.

### **Limitations**

The studies here are not all-inclusive, as many land conflict cases go unreported. Governments do not readily disclose reliable information about land conflicts. Thus, any research on land conflict needs to gather information from other sources, including media and CSOs, in order to get an idea on the real size of the problem. However, media often focuses on events that are deemed newsworthy, such as violence and crime, rather than on long-standing land conflicts. CSO offices and networks in each country also have limited reach, with the more remote and inaccessible areas least likely to be reported on.

**Table 2. Extent of coverage of data on land conflict cases, per country**

Country/Researcher	Extent of coverage of data on land conflict cases
<p><b>Bangladesh</b></p> <p><i>Community Development Association (CDA)</i></p>	<ul style="list-style-type: none"> <li>■ National overview of land conflicts based on secondary sources</li> <li>■ Specific focus on indigenous peoples in the plains and in the Chittagong Hill Tracts (based on 2017 study by Kapaeeng Foundation)</li> <li>■ Period covered is 2015-2018</li> </ul>
<p><b>Cambodia:</b></p> <p><i>STAR Kampuchea</i></p>	<ul style="list-style-type: none"> <li>■ National overview of land conflicts based on secondary sources</li> <li>■ Specific focus on land cases and dispute resolution in Kampong Chhnang Province (based on provincial government data)</li> <li>■ Period covered: 2012-2018</li> </ul>
<p><b>India</b></p> <p><i>Ekta Parishad</i></p> <p><i>Centre for Legislative Research for Advocacy (CLRA)</i></p>	<ul style="list-style-type: none"> <li>■ National summary data, based on <i>Land Conflict Watch</i> portal (<a href="https://www.landconflictwatch.org/">https://www.landconflictwatch.org/</a>)</li> </ul>
<p><b>Indonesia</b></p> <p><i>Konsorsium Pembaruan Agraria (KPA)</i></p>	<ul style="list-style-type: none"> <li>■ National coverage, with 937 recorded land conflict cases from all districts and provinces in Indonesia</li> <li>■ Reported conflict area covers a total of 624,239 hectares</li> <li>■ Period covered: January 2017 to August 2018</li> </ul>
<p><b>Nepal</b></p> <p><i>Community Self-Reliance Centre (CSRC)</i></p>	<ul style="list-style-type: none"> <li>■ Study covers 12 districts in the country</li> <li>■ Period covered is six months in 2018</li> </ul>
<p><b>Philippines</b></p> <p><i>Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)</i></p>	<ul style="list-style-type: none"> <li>■ National coverage, with an analysis of 352 documented cases</li> <li>■ Reported conflict area covers 1,281,390 hectares</li> <li>■ Period covered is January 2017 to June 2018</li> </ul>

Moreover, CSO monitoring of land conflicts is not conducted regularly, except in Indonesia and Cambodia, and partly in Bangladesh.<sup>2</sup>

The cases in this study have been selected on the basis of “incidence” of any form of violence within the stated period of study. Thus, it excludes many cases with *latent* conflicts that remain unresolved.

<sup>2</sup> The *Konsorsium Pembaruan Agraria* (KPA) has been monitoring land conflicts in Indonesia since 2008. Similarly, the NGO Forum, along with several other CSOs (LICADHO, ADHOC, etc.) have been monitoring land conflicts arising from the issuance of Economic Land Concessions (ELCs) in Cambodia. For Bangladesh, the Kapaeeng Foundation has produced annual reports on land conflicts involving indigenous peoples in the plains and the Chittagong Hill Tracts.



Moreover, in some countries, existing conflicts over land and resources are conveniently ignored by official policy or by public officials. The Bangladesh government, for instance, recognizes the indigenous peoples (IPs) in the Chittagong Hill Tracts (CHT), but often ignores the existence of lowland IPs. In the Philippines, there are four large indigenous peoples' tribes near Metro Manila who are continually driven away from their ancestral lands by the influx of lowland migrants. And yet, this passive form of land conflict is not written about and often goes neglected.

Finally, the country studies here do not focus on land conflicts arising from war and refugees, including the transboundary migrations of people (e.g., Rohingya people), or internal displacement arising from natural and ecological disasters and the longer-term impacts of climate change.

## **COUNTRY CONTEXTS OF CURRENT LAND AND RESOURCE CONFLICTS**

Land tenure systems today face increasing stress due to growing demands for food and housing, while environmental degradation and climate change reduce the availability of land, fisheries and forests. Inadequate and insecure tenure rights increase vulnerability, hunger and poverty, and can lead to conflict and environmental degradation when competing users fight for control of these resources.

Land and resource governance is crucial in determining whether people, communities and others are able to acquire rights, and associated duties, to use, manage and control land, water, forests and natural resources. Many land and resources conflicts arise because of unequal distribution of land and resources, lack of access to land especially for poor people, unclear or insecure tenure rights and weak governance.

Weak governance adversely affects social stability, sustainable use of the environment. People can be condemned to a life of hunger and poverty if they lose their tenure rights to their homes, land, fisheries and forests, and their livelihoods because of corrupt tenure practices, or if implementing agencies fail to protect their tenure rights. People may even lose their lives when weak tenure governance leads to violent conflict. Responsible governance of tenure conversely promotes sustainable social and economic development that can help eradicate poverty and food insecurity, and encourages responsible investment.

This section examines the different country contexts – historical and policy-related causes – which drive land conflicts to occur.

## Bangladesh

**Land and people.** Bangladesh is a low-lying, mainly riverine country, with almost 80 percent of the country consisting of fertile alluvial lowland. Historically, highly complex and elaborate land tenure and tenancy systems developed in the rich alluvial plains of the Bengali Region. Some 60 percent of the land is under agriculture, and 64 percent of the population are in rural areas. With one of the world's most dense populations (1,265 people/km<sup>2</sup>) and given the scarcity of land, Bangladesh has been marked by land conflicts.

Moreover, the country is highly vulnerable to natural hazards (floods, tropical cyclones, storm surges, erosion, and drought) and to the effects of climate change – which sometimes lead to destruction of housing and property, loss of livelihoods, displacement, and migration.<sup>3</sup>

**Land ownership structure.** Rural poor sectors – landless poor and marginalized peasants, indigenous peoples, fisherfolk, and female-headed households – comprise majority of the rural population yet they are often constrained in accessing land and resources. Land ownership is highly skewed – 60 percent of all Bangladeshi households are functionally landless, owning only 4.2 percent of lands, while about 6.2 percent are rich landowners that own 40 to 45 percent of lands (Barkat and Suhrawardy, 2018). Landlessness has been on an increasing trend in recent decades.

**Land reforms.** The country has a rich history of land rights movements. During the period of Indian partition, the East Bengal State Acquisition and Tenancy Act of 1950 (EBSATA) abolished the *zamindari* (intermediary rent-collectors) system earlier established under British Rule<sup>4</sup>, and gave the control of land back to their tillers. Subsequent land reform laws also provided for tenure security of sharecroppers, established a minimum daily wage for agricultural labor, and stipulated sharecropping arrangements between landowner and tenants. There were brief periods of land reform in 1972 and 1991, but the implementation of reforms was protracted under a succession of civilian governments, military coups, and military regimes. Government lacked

<sup>3</sup> In Bangladesh, the annual monsoons often cause massive erosion and accretion in the rivers, creating sandbars as small islands or attached to riverbanks, known as “chars” (small islands). These highly-disputed char lands comprise as much as 1,723 square kilometers or 1.2 percent of the country's land area.

<sup>4</sup> Bangladesh was then known as East Pakistan; it gained independence from Pakistan in 1971.

the political will to recover all ceiling surplus lands, and many landowners circumvented the law through illegal land transactions and corruption.

**Water rights and land issues in the CHT.** In Bangladesh, discussions about land conflict includes disputes over access to water bodies and inland fisheries, as about 11 percent of the total population, or over 17 million people are involved in fisheries for their livelihood, majority of them on seasonal basis (FAO, 2016).

Also, the historical encroachment into indigenous peoples' lands in the plains and the hills has continued unabated, with a major portion of IP lands already land-grabbed. State-sponsored migrations and plantations (tea, rubber, horticulture) into the Chittagong Hill Tracts, along with heavy militarization, have changed the region's demography, with most of the indigenous peoples already displaced and with large numbers having fled into neighboring India.

**Khas lands.**<sup>5</sup> As of 2014, the total *khas* land and water bodies under the government is over two million hectares, of which only about 24 percent are agricultural lands. The rest are inland water bodies (24 percent) and non-agricultural land (52 percent) that are located mostly in the Chittagong Hill Tracts. Yet, only a portion of valuable *agricultural khas* lands were distributed, and these often involved the payment of bribes and corruption. Much of the *khas* lands supposedly under government custody for distribution to the landless, have been illegally occupied by rich peasants. Also, only five percent of the *khas* water bodies have been leased out to poor fisherfolk, as 95 percent of *khas* water bodies have been grabbed by local elites.

The Bangladesh government is also currently custodian of some 850,000 hectares of land under the Vested Property Act, plus some 405,000 hectares under the Abandoned Property Act (Barkat, 2007). These consist of lands confiscated by the government from fleeing Hindu families following the Indian partition of 1947. However, these lands have not been returned to their rightful owners despite a Supreme Court ruling in 2001.<sup>6</sup>

<sup>5</sup> *Khas* land refers to government land and water bodies.

<sup>6</sup> The Indian partition in 1947 caused a massive population migration of an estimated 3.3 million people spilling in both directions on the eastern border between India and Bangladesh (East Pakistan). Bangladesh instituted a series of laws, known as *Vested Property Acts* against non-Muslims, allowing the government to confiscate property of individuals it deemed to be enemies of the State, especially the lands of fleeing Hindu families. Nearly 750,000 families were dispossessed of agricultural lands. (Barkat et al, 2000: 37-38). The Act was repealed by the Supreme Court of Bangladesh in 2001, citing that it violated provisions of the Bangladesh Constitution.

**Legal disputes.** Meanwhile, land-related conflicts are common, and land cases continue to clog the judicial courts. About two million hectares of land are currently under litigation, while land related cases need an average of 9.5 years for settlement.

## Cambodia

**Land in historical context.** Cambodia is the only country that has experienced four major shifts in property regimes within a single generation, due to decades of internal war and foreign occupation. The period of French colonization ended with a return to monarchical rule (1953-1975), followed by land collectivization under the Khmer Rouge (1975-1979), then partial de-collectivization under Vietnamese occupation, and finally the shift towards private property under a liberal economy after 1989 (Quizon, 2013b). In 1975-79, the Khmer Rouge regime abolished private property, destroyed cadastral maps and wiped out the entire administrative and institutional infrastructure of the land system. Over three million people were killed. Decades of war and forced relocation resulted in the massive dislocation of millions of people and the loss of their property rights.

**Restoring property systems.** After the Vietnamese departed in 1989, all lands were considered as State property, as all ownership of the pre-1975 period was lost. Sub-Decree 25 was enacted, which permitted Cambodians to buy and sell land. However, land disputes arose in the process of reclaiming lands. In the 1990s, Cambodia opened its borders to a free-market economy. In 1992, the Basic Land Law was promulgated; but in the period of 1993-2000, the recourse to land markets, land grabbing and abuses of power, and the absence of effective measures to protect peasants resulted in landlessness, land concentration, and land insecurity. Public institutions were weak and unable to tackle land conflicts. In 2001, the Land Law introduced a cadastral system, a central registry of titles, and a land classification system.

**State-owned lands, ELCs, and land conflicts.** In Cambodia today, the State controls and manages 80 percent (14.5 million hectares) of the country's 18.1 million hectares. However, State land management has favored the granting of large-scale economic land concessions (ELCs) to private entities, while disregarding customary land rights. This has triggered conflicts between companies with State backing and local communities. As of 2016, over 20

percent of State lands (3.6 million hectares) had been awarded to large-scale agricultural concessionaires, including foreign corporations.<sup>7</sup>

In the wake of heightened violence and conflict between concessionaires and displaced communities, the Prime Minister in May 2012 earlier issued a moratorium on granting ELCs, and Order 01 to initiate a land titling campaign in those areas of conflict between concessionaire companies and existing communities on State land. Human rights groups, however, say that little has happened since then. With poor law enforcement and a weak juridical system, the more powerful interests have continued to gain from the conflicts.

**Land rights issues.** Meanwhile, the continuing challenge faced by many people is how to formalize their property rights under the 2001 Land Law in the face of competing claims. According to the law, land certificates are provided to those who can prove that they have occupied the land for at least five years. But with limited information and lacking the resources to fully complete the formal land titling process, most people rely on mere recognition of their land claims. This has put them at the mercy of the rich and the big companies, since a claim can be contested.

## India

India often is often described in terms of the country's immensities, but it can also be seen as 640,000 villages differentiated and united by diversity in its languages, cultures, religions, pursuits, convictions, and customs.

Traditional and customary land tenure systems existed long before the nation-State. Feudal systems, however deepened under colonial rule, as land taxes became a central source of State revenue. The new colonial land system in the form of *zamindari* and *ryotwari*<sup>8</sup> systems created a class of absentee landlords, making way for exploitation of the peasants and the concentration of land and economic power. Also, the large-scale annexation of Indian forests by the colonial State curtailed the customary use and rights of forest dwellers and tribal communities.

**Land reforms.** After independence, land reforms were instituted to address landlessness and social exclusion. Under India's federal system of government,

<sup>7</sup> Under the 2001 Land Law, foreigners cannot be issued with land titles, but foreign investors may obtain economic land concessions which give them exclusive rights to control the land for 99 years.

<sup>8</sup> *Ryotwari* refers to a system of land tenure in which land taxes are paid directly to the State, rather than through intermediaries.

land reforms were legislated and implemented by the States with guidance from the central government. Reforms came in three phases: (a) abolition of *zamindars* and *ryotwari* systems (giving proprietary rights to 20-25M tenants); (b) tenant protection acts (benefitting some 12.8M tenants, although many tenants were also evicted); and, (c) land ceilings and land redistribution. By the end of 2005, about 2.63 million hectares (6.5 million acres) of surplus lands had been redistributed to 5.6 million households, representing only one percent of India's agricultural lands and four percent of rural households. State-level land reforms were deemed most successful in West Bengal and Kerala, but reforms were poorly implemented in other States.

**Social legislation.** India today has some of the region's most progressive legislations, as many anti-discrimination and social protection acts were passed. In relation to land, these include among many others, the Forest Rights Act of 2006 and the Land Acquisition Act of 2013. But with earlier structural adjustment programs in the 1990s, and later State-led interventions to support the growth of private investments under market liberalization, the gap between rich and poor has been growing. This exacerbates existing land inequalities and divides, including discrimination against women and *Dalits*.

**Land conflicts.** Current drivers of land conflict include: State-led development projects (for infrastructure, Special Economic Zones, etc.) which has led to the displacement of an estimated 60 million people between 1947-2004, of which 40 percent are tribals; continuing land conversion of forests to other uses; and, privatization of community lands that are under common property use and tenure.

## Indonesia

**Colonial land policies.** After 347 years, the Dutch left three main colonial land policies in Indonesia: *First*, all lands were divided into two categories of ownership through the *domein verklaring* (declaration of domain) principle. In one category land was recognized as being individually owned, known as *eigendom* (ownership), and in the other category all land was owned by the State. *Second*, land was allocated for the development of big plantations, particularly on State-owned land. *Third* was a policy on the formation of "state-forests" (Bachriadi, 2009). This created a dichotomy and division between small rice peasants and large plantations for export based on hired labor.

**State lands.** After independence in 1949, most of the Dutch colonial land and agrarian policies continued under the Indonesian State in a new form. The State

inherited forestry lands that covered nearly 70 percent of the total land area of Indonesia, as the highly-centralized system of the Dutch colonial government was carried over to the new republic. In addition, the Indonesian government became the largest landowner after 1958, when Dutch and Japanese colonial plantations were nationalized and placed under State ownership, while many foreign private companies retained their land-lease rights. Sometime later, the government also resumed the Dutch policy of “colonization,” which involved the planned resettlement of farmers from Java to the less populated islands (under the new name of *Transmigrasi* Program) (Quizon, 2013b). This led to conflicts between migrants and indigenous peoples over *adat* lands.<sup>9</sup>

**Agrarian reforms.** The nationalist government instituted two agrarian reform policies – the 1960 Basic Agrarian Law and the 1962 Land Reform Program. The 1962 law established land ceilings based on the availability of irrigation and on regional population densities, and land in excess of these limits would be acquired and redistributed by the government. Over a million hectares were redistributed. Yet the Land Reform Program was implemented for only five years, and then reversed when the military took power in 1966. All rural organizing activities were stopped, freedoms curtailed, thousands killed, and much of the State lands that had already been distributed to peasants through the Programme were taken back by local elites (Quizon, 2013b).

**Private concessions in State forest lands.** Meanwhile, there has been no restitution of indigenous peoples’ lands since Independence, and no land reforms in the forest sector. Government policymakers have viewed Indonesia’s vast forest resources as the exclusive responsibility of central government. The approach of government in managing the forest estate has been to award large concessions to private sector firms for agribusiness and industrial development. As of 2017, the Ministry of Environment and Forestry had issued land concessions to 499 enterprises covering a total of 68.7 million hectares, or 38 percent of the country’s total land area. (KPA, 2018a) Meanwhile, a 2004 study estimated that as much as one quarter of the country’s population live in classified forest lands without security of tenure (Bachriadi and Sardjono, 2005).

## Nepal

**Customary land systems.** Nepal is a country where the land systems have been governed by statutory laws, as well as historically by customary and non-

---

<sup>9</sup> *Adat* means under native traditional law in Indonesia.



formal practices. In a country where indigenous ethnic groups comprise 36 percent of the population, custom and tradition continue to play an important role in the management of land, and in the exercise of tenure rights. Land is seen not just as an economic asset but also as a fundamental source of culture, social relations, political power, identity and belongingness among people.

**Evolution of land systems and reforms.** The system of land tenure in Nepal has evolved over the years. Historically, State ownership was the traditional form of land tenure in Nepal, as the land belonged to the State and its rulers (monarchs), who awarded land grants to relatives and favored individuals. This feudal land tenure system concentrated land ownership among the wealthy few and those who were close to the authorities.

Reforms started with the Land Reform Act of 1964, yet such reforms were able to redistribute only 28,124 hectares or 1.5 percent of all agricultural lands. Ceilings were set too high, and implementation was thwarted by resistance of landowners, and slow enforcement by government (Adhikari, 2008). The Jana Andolan Movement of 1990 and the instatement of constitutional democracy brought new hope for land reform, but this soon faded.

The inequalities in land ownership were among the underlying drivers of a decade-long armed conflict between the Government of Nepal and the Communist Party of Nepal-Maoist (CPN-Maoist) that broke out in 1996, and which led to the eventual abolition of the monarchy in 2008, and the passage of a new Federal Constitution in 2015. Land reform remains high on the agenda, but the highly-politicized nature of the debate has thus far impeded any real change (CSRC, 2015).

**Land conflicts.** Land conflicts today have different dimensions. Some of the more common land-related conflicts in the country are inheritance conflicts among family members, boundary conflicts between neighbors, conflict between landless people and authorities, and conflict between landowners and tenants. These are often addressed through formal institutional structures.

However, there are recent trends that contribute to growing land conflict especially in the *terai* (plain) regions. Migration between rural and urban areas, as well as from the hills to the plains has put further pressure on an already strained land and housing situation. The growth of informal settlements has bred conflict between migrants, private property owners and the State. In recent years, new conflicts have emerged from State-supported infrastructure



projects (roads, airports, and park expansion) and increasing army camps under a federal system.

There are deeper sources of conflict as well. There are those who utilize their power and position to engage in land grabbing, use public and private land illegally, manipulate the land market to their advantage, and engage in nepotism and corruption. Moreover, land conflicts often reflect the deep-rooted societal conflicts born out of inequality or unfair distribution of wealth, and discrimination against women, ethnic minorities and *Dalits*. Land conflicts can undermine social stability as they can increase fear and suspicion among neighbors and communities.

In much of the country, informal and customary tenure systems continue to be practiced. Such tenure systems may or may not have legal basis and social recognition. But since many lands have no formal registration, local people's tenure is not fully recognized.

However, customary tenure in Nepal is fast-dying. Especially in the hill regions, customary social institutions regulate land use practices, and determine land allocations. Under *Kipat*, shifting cultivators used enjoy their land rights generated through customary tenure.<sup>10</sup> Also, land allocations used to be based on the lineage or clan, to control the influx of outsiders. But as customary practices are eroded by statutory laws, these have given rise to land conflicts. *Kipat* was officially abolished in 1964, and limited to certain hill communities, in favor of individual property rights. However, there is ongoing debate between State and ethnic minorities regarding the recognition of customary land practices like *Kipat*, which had been legally abolished.

Land has become one of the most contested resources, and many conflicts, even within families, are land-related. With escalating land prices, population growth, and the inheritance law, there has been increasing fragmentation of landholdings.

## Philippines

**Colonial land history.** The roots of landlessness in the Philippines can be traced to its 400-year history colonization. Much of traditional land systems were destroyed when the Spaniards claimed all lands under the *Regalian*

<sup>10</sup> *Kipat* refers to land collectively owned by the community (not by the State) and traditionally managed under usufructory rights.

Doctrine<sup>11</sup> and introduced feudal systems. Large tracts of land or *haciendas* were parceled out to colonialists (military and clergy), while systems of tribute (taxes) and forced labor were introduced. Later, American occupation facilitated the entry of foreign companies into mining, logging, and the establishment of modern capitalist plantations, especially in Mindanao. The American colonialists introduced the Torrens title system where all unregistered land and without title were declared as “public lands,” without regard for prior occupancy.

**Agrarian reforms.** Following independence in 1945, a series of land reform programs were legislated in direct response to escalating agrarian and social unrest; however, implementation was stifled by landowning interests entrenched in power, and the lack of government funding and support. In 1972, the martial law regime instituted a land-to-the tiller act, but this was limited to tenanted farms planted to rice and corn staples, which were hotbeds of agrarian unrest, while large plantations with cash crops (e.g., sugarcane, pineapple) remained untouched.

Following the 1986 People Power revolution that ousted the dictatorship, a new Constitution was enacted that laid the basis for land and social reforms. Primary among these was the Comprehensive Agrarian Reform Program of 1988, aimed at tenancy reforms and the redistribution of land covering 9.1 million hectares of private farms and public lands deemed suitable for agriculture. However, the implementation of CARP proved slow and cumbersome, due to the complexity of the program, corruption, weak implementation, the poor state of land records and land administration. Since 2009, there has been a resurgence of violent land conflicts, especially in the redistribution of private lands.

Meanwhile, there has been increasing private investments in agriculture that impact on tenure security of rural communities. Due to the lack of government support, many farmer cooperatives have entered into various long-term contracts (long term lease, joint venture, marketing contracts) with large agribusiness companies under problematic contractual arrangements unfavorable to smallholders.

**Indigenous peoples' lands.** Another major social reform was the Indigenous Peoples Rights Act (IPRA) of 1997 which recognizes the rights of Indigenous Peoples (IPs) to their ancestral domain and lands, self-governance and cultural

<sup>11</sup> *Regalian* means belonging or relating to a monarch/ king.

integrity. In the past 20 years, 221 Certificates of Ancestral Domain Titles (CADTs) have been issued over 5.4 million hectares. However, the integrity of native titles is continually challenged by conflicting claims, with the entry of mining and investments, the continued influx of migrants and commercial interests, and the entry of State-sponsored projects, such as dams and power projects, infrastructure, and special economic zones into IP domains.

**Other sources of land conflict.** A major source of land conflict are contradictory development policies that impact on land tenure and land use. Moreover, multiple government agencies issue land titles, licenses and permits – which lead to overlapping claims and land conflicts. With growing populations and urbanization, there has been conversion of prime agricultural lands and destruction of forests. And while land and social reforms have been instituted, an estimated 17-22 million people continue to live on public forestlands with no legal tenure rights.

## Summary

The roots of many land conflicts in Asian countries may be traced to enduring historical injustices, inequitable access to land and resources, faulty and weak implementation of past land and resource reforms, emergent clashes between statutory and customary tenure systems, misappropriation of State domains, and the lack of regard for human rights of the disadvantaged and vulnerable sectors.

## ANALYSIS OF LAND AND RESOURCE CONFLICTS

### Prevalence and Impacts

There is no comprehensive data or estimation of land conflicts that occur annually in each country. Only a portion of the incidents are reported in media, litigated in court or filed with authorities. Nevertheless, the country studies here show the prevalence and immediate impacts of land conflicts.

In Indonesia, KPA recorded 937 cases of agrarian conflicts during a 20-month period (January 2017 to August 2018). These occurred in every province in Indonesia. The conflicts affected some 711,243 families, and a total land area of 1.14 million hectares. In the Philippines, ANGOC collected 352 documented cases of land conflict over an 18-month period (January 2017 to June 2018). The land area under dispute was 1.28 million hectares, equivalent to four percent of the total territory of the Philippines.

In Bangladesh, land in general is the source of almost 60 percent of all legal disputes (TIB, 2015). In the Chittagong Hill Tracts which is the principal home of the country's indigenous people with a separate legal regime, some 30,000 applications are still pending with the CHT Land Dispute Resolution Commission. In Nepal, nearly 25,000 land-related cases are filed in court each year, based on data for 2012 to 2016, although the numbers are gradually decreasing. In Cambodia, an estimated 400,000 to a million people are said to have been affected by land disputes. ADHOC, a Cambodian human rights group, estimates that some 60,000 people have been forcibly evicted from their homes.

Many land conflict cases lead to violence. Physical violence is most visible. In Bangladesh, a BRAC study estimates that 7.5 percent of households with past or present land conflict have experienced a physical assault (as cited in CDA, 2018). In the Philippines, 80 cases (23 percent of the total cases) had resulted in the killing of a stakeholder, of which 70 cases had the involvement of armed groups such as the military, paramilitary, and private armed groups. In Indonesia, agrarian conflicts are frequently followed by violent acts by the State security apparatus or by company guards against people who refuse to be evicted. Over a 20-month period, 22 people were killed and 318 people were injured, including 67 women. In all countries, it has been observed that women tend to be particularly active in land disputes, as they involve potential threats to homes, families and livelihoods.

Other forms of physical violence include forcible eviction, destruction and burning of homes, looting of property, and human disappearances. The Kapaeeng Foundation's annual *Human Rights Report on Indigenous Peoples* in Bangladesh showed that 1,484 houses of indigenous people were burned down, 206 houses were looted and ransacked, 146 people were assaulted/injured, 9 killed and 40 women were raped or were victims of attempted rape – as a consequence of land disputes from 2015 to June 2018.

Over the same period, some 1,544 indigenous families in Bangladesh were forcibly evicted from their ancestral lands, with an equal number under threat of land grabbing. Some 771 indigenous people were facing false cases, while 39 others were arrested.

Similarly, there have also been cases of people imprisoned by the police and military in other countries. In Indonesia, protesting communities have been criminalized – imprisoned and charged for civil and criminal acts. Some 369 people were arrested in 2017, and 152 people in the first eight months of

2018. In the Philippines, there were 147 documented incidents of cases filed against community leaders and members in 2017 to mid-2018. Cases filed by businesses and landed families included trespassing and theft, for “illegally harvesting crops” from farmlands that they had planted.

Further, systematic efforts are often made to destroy the reputation of land rights activists and community leaders. In Cambodia, trade union leaders have been subjected to arrest, physical violence, and judicial harassment. Community activists protesting against land grabs and forced evictions have been jailed and charged with offenses such as incitement and damage to property, as well as with fabricated common crimes that include robbery, assault and drug smuggling. In extreme cases, rights defenders have been silenced through killing.

Other forms of violence in land conflict cases are equally concerning. There is psychological violence that comes in the form of grave threats, verbal abuse, harassment, and discrimination – which may have deeper and longer-lasting impacts within the family and community. When land conflicts occur, there is fear, a loss of sense of security, and erosion of community trust.

Land and resource conflicts also affect the livelihoods of communities, either by (a) displacing them from lands they use for farming, (b) denying them access to forests and waters, or (c) compromising the quality of their environment, such as when mining pollutes water systems and makes the land unsuitable for use or vulnerable to erosion and landslides. In Northern Mindanao, Philippines over 10,000 livelihoods were displaced when indigenous people were denied access to their traditional forests with the entry of plantations for oil palm and pineapple, and pasture for cattle-raising.

Meanwhile, the lack of access to justice and peaceful resolution of disputes bring about the escalation of land conflicts, often leading to violence.

Land conflicts breed other crimes. In Bangladesh, an estimated 80 percent of criminal offenses today are said to stem from land disputes. Moreover, some 18.3 percent of families pay BDT 22,270 (USD 266.27) to police and BDT 5,483 (USD 65.56) to local arbitrators for pending cases or to resolve land disputes.

Finally, land conflicts breed conditions that may have long-term impacts within households and communities. They can bring about poverty, the loss of livelihoods, food insecurity, environmental degradation, social tensions,

fear, psychological disorders, social inequalities, and an increased sense of insecurity and vulnerability.

### **Causes of Land Conflict**

Inequalities in land distribution, landlessness, discrimination and social exclusion lie at the core of land conflicts. In Bangladesh, for instance, almost 60 percent of all households own only 4.2 percent of the land, whereas 6.2 percent of the top landowners own 40-45 percent of lands (Barkat and Suhrawardy, 2018).

Moreover, many of the lands under private possession and cultivation are unregistered. This makes them highly vulnerable to land grabs and eviction, especially when private investors and government officials are involved. In Cambodia, 85 percent of the population is rural, many of them cultivating lands without proper recognition of ownership. And while their traditional use of nearby forests is locally recognized, the central State has its own laws that govern forests as part of the State public domain.

Another root cause of land conflict is the historical disenfranchisement against indigenous peoples and certain sectors whose lands were never restituted and have been under long-standing claims. Nevertheless, many indigenous peoples today live in the remaining frontiers where biodiversity and forest ecosystems have been kept intact over many decades through customary practice, traditional management, and sustainable use. However, where their customary rights to land and territories are not legally recognized by States, indigenous peoples face increasing external pressures and further marginalization by continued in-migration of settlers, expansion of commercial agriculture and forestry, extractive industries such as logging and mining, and the expropriation of lands for development and tourism. Once considered as the “peripheries” of the State, the traditional territories of indigenous peoples have been increasingly targeted especially in the last two decades for large-scale projects and private investments (Quizon, 2013a).

There is an increasing clash between different tenure systems – legal, informal and customary. In Nepal, customary/communal land tenure systems such as *Kipat* were abolished in 1964, although it continues to be practiced in the hilly regions.

To provide for a more egalitarian distribution of land, and to address social exclusion, agrarian/land reform programs were instituted in all six countries

since the 1950s. However, the implementation of reforms fell short of their objectives, due to the lack of political will. In Bangladesh, India and Nepal, the abolition of rent-collecting intermediaries (*zamindars*) proved successful, in contrast to their poor implementation of land ceilings and tenancy reforms. In other countries (i.e., Indonesia, Cambodia) land reforms had little or no impact, as these reforms were stopped in their tracks or left un-implemented by military-backed regimes, and their gains later reversed by anti-reform policies (Quizon, 2013b). In the Philippines, agrarian reform has had limited success, but land conflicts have been increasing since 2009, due to the ongoing resistance to reforms by large landowners.

Another major root cause of land conflict is the misappropriation of State domains. In the history of many Asian countries, the colonial State took over all lands outside of permanent settlements and brought these lands under the “public domain.” These included those lands that local people had previously regarded as “communal lands” or those under shifting cultivation. These included lands outside of land registries that were considered as belonging to the *public domain* regardless of their possession, occupation, or use. After independence, national governments continued to manage these lands as an important source of State revenue. But large valuable lands under State control have also made them conducive to mismanagement, poor resource utilization, and corruption (Quizon, 2013b). Especially in Cambodia and Indonesia, State capture by big business interests has led to the awarding of large-scale concessions to private corporations for plantations, mining, and logging operations.

In Indonesia, land conflicts between small farming communities and corporations have become widespread. This escalated during the *reformasi* era (after the fall of Suharto in May 1998), which marked the start of open and liberal politics where extensive autonomy was transferred to the regions, away from the center (decentralization). Yet along with power, corruption was decentralized to the regional level where land concessions and permits for mining and logging were granted on a large scale by local officials, usually without proper monitoring or administration. KPA notes that during the 11 years between 2004 to 2015, there have been 1,770 agrarian conflicts with a contested land area of nearly seven million hectares affecting over one million households in Indonesia (KPA, 2018).

Moreover, in all countries, the multiplicity of laws, overlapping agency jurisdictions and sectoral arrangements on land administration often undermine people’s interests on land. In Indonesia, sectoral arrangements

are regulated by the State through sectoral law, such as on spatial planning, forestry, plantations, water resources, management of coastal areas and small islands, and land acquisition by the State. However, these sectoral laws contain problems such as unclear mechanisms for land acquisition by private companies, overlapping allocation of areas for different purposes, and failure to recognize customary law (KPA, 2018).

In recent years, a major cause of land conflict has been the increasing commodification of land. This has led to increasing cases of *land grabbing*, sometimes with the State taking on the role of a “broker” for private investments. Land grabbing is defined as: “the control (whether through ownership, lease, concession, contracts, quotas, or general power) of larger than locally typical amounts of land by any persons or entities (public or private, foreign or domestic) via any means (‘legal’ or ‘illegal’) for purposes of speculation, extraction, resource control, or commodification at the expense of agroecology, land stewardship, food sovereignty and human rights” (Baker-Smith and Attila, 2016).

Yet to many people, land remains as more than just an economic asset or commodity. Rather, land is seen as the foundation of one’s home and community, personal security, faith, culture, livelihood, and even identity.

### Current Drivers of Land and Resource Conflicts

Based on the six country studies, the current drivers of land and resource conflicts are summarized in Table 3 below.

**Table 3. Key drivers of land and resource conflicts**

Country	Drivers of land conflict
<b>Bangladesh</b>	<ul style="list-style-type: none"> <li>■ Disputes over private property (intra-family, boundary disputes, sales, rents, and leases)</li> <li>■ Conflicts over property rights arising from non-registration of land parcels, missing or inaccurate records, falsification of deeds</li> <li>■ Agrarian conflicts, including landowner-tenant disputes, evictions by landowners</li> <li>■ Commercialization of agricultural land, contract farming, agribusiness investments with political interests</li> <li>■ Indigenous peoples’ rights vs. statutory laws (Bengali settlers vs. indigenous peoples in the plains and the CHT)</li> <li>■ Unsettled “Vested Property” and “Abandoned Property”</li> <li>■ Undistributed <i>khas</i> lands; grabbing of <i>khas</i> lands</li> <li>■ Favored State concessions and grabbing of water bodies</li> </ul>



<b>Bangladesh</b> (cont.)	<ul style="list-style-type: none"> <li>■ Urbanization, rising land prices and property markets</li> <li>■ Land grabs, often involving political corruption</li> <li>■ State land acquisitions/expropriations for infrastructure (e.g., power projects, eco-parks,) and investment areas (i.e., special economic zones)</li> </ul>
<b>Cambodia</b>	<ul style="list-style-type: none"> <li>■ State-led land grabbing of unregistered lands of citizens</li> <li>■ Private land grabbing of unregistered lands by powerful people/public officials</li> <li>■ Economic land concessions (plantations, mining, hydropower dams, etc.)</li> <li>■ Evictions from city development (property markets) and establishment of Special Economic Zones</li> <li>■ Government infrastructure projects (roads, railways)</li> <li>■ Encroachments on community land (forest lands, communal forests and lands of indigenous people)</li> </ul>
<b>India</b>	<ul style="list-style-type: none"> <li>■ State-led land acquisitions and expropriations for infrastructure (roads, railways, dams and power projects, ports, tourism, etc.) and Special Economic Zones (SEZs)</li> <li>■ State-led expropriations for direct investments by private entities</li> <li>■ Privatization of community lands that are under common property use and tenure</li> <li>■ Land conversion of forests to other uses</li> <li>■ State-led takeover of forest lands in the name of afforestation and conservation areas</li> <li>■ Mining and plantation concessions</li> <li>■ Land encroachment, dispossession (land grabs) against <i>Dalits</i> and Tribals by elites and upper castes</li> <li>■ Ethnic conflicts, social and religious tensions that escalate and involve land disputes</li> <li>■ Environmental issues (pollution, erosion) and resource conflicts (water) arising from misuse of land and poor management of resources</li> </ul>
<b>Indonesia</b>	<ul style="list-style-type: none"> <li>■ Private and State-owned plantations (oil palm, rubber) through State land concessions and facilitation</li> <li>■ Government infrastructure projects (roads and toll highways, airports, railways, seaports)</li> <li>■ Property development (housing, hotels, commercial areas, offices and multi-use complexes) and urbanization (including land reclamation, seizure of water resources) – usually involving land grabs and evictions</li> <li>■ Forestry (concessions for logging, industrial forests; boundary conflicts between State forests/Perhutani and local communities)</li> <li>■ Mining and logging concessions/leases</li> <li>■ Coastal and marine conflicts</li> <li>■ Agrarian conflicts in the agriculture and food sector</li> </ul>
<b>Nepal</b>	<ul style="list-style-type: none"> <li>■ Local disputes within families or among community members (i.e., inheritance, property transfers, boundary disputes, production sharing)</li> <li>■ Land and resource conflicts (informal settlers in forestlands, indigenous peoples and dwellers in protected areas, overlapping land use)</li> <li>■ Non-recognition of customary tenure, abolition of <i>kipat</i> system</li> </ul>

<b>Nepal</b> (cont.)	<ul style="list-style-type: none"> <li>■ Urban expansion, growth of property markets and squatting/informal settlers especially in the <i>terai</i> (lowland region)</li> <li>■ Government land acquisitions (eviction, compensation issues), infrastructure projects (army camps, roads, airports), and government federal restructuring (new infrastructure, new boundaries and delineations, taxation and local revenue generation)</li> <li>■ Agrarian conflicts, landowner-tenant issues (land rents, tenancy land separation, evictions)</li> <li>■ Post-conflict issues (1996-2006 insurgency) and post-disaster issues (2015 earthquake)</li> </ul>
<b>Philippines</b>	<ul style="list-style-type: none"> <li>■ Government infrastructure (Economic Zones, water systems, power, buildings) and private investments (power, real estate, tourism, industry)</li> <li>■ Agribusiness investments (unfair business/lease contracts, land grabbing for plantations)</li> <li>■ Mining and extractive industries (for metals, coal, natural gas and sand/gravel quarrying)</li> <li>■ Forestry (logging, reforestation, industrial tree plantations)</li> <li>■ Conflicts over resource use (informal settlers in forestlands, indigenous people and dwellers in protected areas, conflicts over land classification and use)</li> <li>■ Overlapping claims among communities, due to overlapping land laws and multi-agency jurisdictions, and the multiplicity of titles, leases and permits issued over the same land, often in ancestral domains</li> <li>■ Agrarian conflicts, including landowner resistance to agrarian reform</li> </ul>

## MECHANISMS FOR CONFLICT RESOLUTION

### Formal Mechanisms

- **Judicial court systems.** Land-related cases continue to clog court systems in many countries. In Bangladesh, land in general is the cited source of almost 60 percent of all legal disputes in the country, according to Transparency International. In Nepal, about one-fourth of all court cases filed from 2012-2016 has been land-related. Moreover, there is a backlog of land-related cases in court. The *Supreme Court Annual Report of 2015* stated that a total of 41,591 land-related cases (or 24 percent of all cases) were registered in the Supreme, Appellate, and District Courts in Nepal.

Courts are frequently criticized by the public for the slow-paced hearings and decision-making processes. Costs are high especially to the poor in terms of time, money, and resources spent. In Nepal, court systems frequently take up to five years, and require huge amount of resources. In Bangladesh, lawyers' fees account for about 60 percent of total costs of land disputes, and households spend about 45 percent of their annual

incomes to resolve a dispute. Overall, people spend a total of BDT 2.5B (nearly USD 300M) a year, to resolve the estimated 2 million pending land cases in courts. Disposal of cases take an average of 9.5 years. This represents not only a huge loss of income for the household, but also a massive loss of national wealth. In Bangladesh, land related cases in courts cost an estimated 10 percent of the country's GDP (as cited in CDA, 2018).

- **Administrative mechanisms.** Table 4 below shows the different administrative bodies that address land and resource disputes in four countries.

**Table 4. Administrative mechanisms for dealing with land and resource disputes**

Country	Administrative agencies
<b>Bangladesh</b>	The Ministry of Land is responsible for land administration and management. Under the ministry, the (a) <i>Land Appeals Board</i> and (b) <i>Land Reforms Board</i> serve as arbiters in cases involving <i>khas</i> lands, changes in records, plot demarcation, and taxation.
<b>Cambodia</b>	There are several administrative mechanisms that provide arbitration over land disputes. (a) <i>National Authority for the Resolution of Land Disputes (NARLD)</i> was established in 2006 primarily to assist the Council of Ministers (and Prime Minister) to resolve disputes and by allowing greater central government control of other institutions involved in land management. (b) <i>National Cadastral Commission</i> is an agency under the Ministry of Land Management, Urban Planning and Construction (MLMUPC). It identifies properties, establishes cadastral maps, issues ownership titles and registers land. It works with the ministry to resolve conflicts on land ownership and registration claims. (c) <i>Administrative Commissions</i> at provincial level are under the supervision of the MLMUPC. They receive objections, investigate and settle disagreements in the process of establishing cadastral maps and land registers. They resolve issues regarding "possession claims."
<b>Indonesia</b>	Under the 1960 Basic Agrarian Law, all land is classified as either private or public. The two main Ministries that handle land administration are: (a) <i>Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN)</i> for non-public lands; and (b) <i>Ministry of Environment and Forestry</i> for lands under the public domain. These ministries have provincial and district offices. There is also a Department on Land Dispute Settlement under the ATR/BPN. Also, the <i>Ministry of Agriculture</i> deals with policies and investments in the agriculture sector.  Others seek remedies through the following: (a) Alternative dispute resolution (Law No. 30 of 1999) (b) Environmental compliance (Law No. 32 of 2009) (c) Indonesian Sustainable Palm Oil (ISPO, a policy on certification adopted by the Ministry of Agriculture) (d) Komnas HAM (national human rights institution) – investigative and recommendatory; however, lacks enforcement authority

<b>Philippines</b>	<p>Several government line agencies deal with certain types of land disputes over public and private lands at national and regional levels. These agencies have quasi-judicial powers for resolving cases within their jurisdictions.</p> <p>(a) <i>Department of Agrarian Reform (DAR)</i> has jurisdiction over agrarian disputes involving private and government lands</p> <p>(b) <i>Department of Environment and Natural Resources (DENR)</i> covers lands of the public domain</p> <p>(c) <i>National Commission on Indigenous Peoples (NCIP)</i> covers ancestral domains and claims</p>
--------------------	--

Overall, quasi-judicial bodies and administrative mechanisms for dispute resolution are able to deliver quicker resolution of conflicts compared to courts. However, administrative mechanisms can only address specific types of issues within their own limited sectoral jurisdictions. Moreover, different agencies often have overlapping mandates and conflicting policies; and a common problem is the lack of coordination and cooperation among agencies. Administrative mechanisms are reactive; they deal with incoming issues on a case-by-case basis, and the process can be time-consuming. Changes in officials can cause major delays. Moreover, administrative dispute resolution mechanisms do not address broader land issues, such as providing land to landless families, resolving squatter issues, or strengthening land administration.

Problems arise especially when public officials or the government itself is an involved party in the conflict, such as in cases that involve State-run enterprises, the granting of public land concessions, or where violence has occurred in which the police have been involved. In such cases, the impartiality of administrative mechanisms becomes questionable. An issue often raised is the transparency of relevant data and information. There is also a perceived lack of affirmative action when violators are business and State entities.

In formal justice systems, the poor and small farmers are constrained by several other factors from obtaining justice – i.e., limited procedural knowledge regarding resolution of land conflicts, no access to or understanding of the court and land administration systems.

- **Local governments.** In Nepal, the *Village Panchayat Act* gives authority to local governments for resolving disputes related to public land, boundaries, wages, trespassing, sources of water, pasture land and collection of grass and firewood. In the Philippines, the *Barangay Justice System* also provides an alternative, community-based mechanism for

dispute resolution of conflicts between members of the same community. In Cambodia, *Commune Councils* have the role of “reconciling differences” among community members, but do not have the power to make decisions (arbitration). Although not a requirement, in practice most local disputes are heard by Commune Councils before they are brought to higher levels. In Nepal, resolving land disputes through local authorities has not proven effective, because the elected local officials tend to fuel conflict, perpetuate feudalism, and fail to work for the poor (as cited in CSRC, 2018). Also, when adjudication processes are managed through local political leaders, this can exacerbate existing social discrimination vs. certain sectors (women, IPs) and minority groups.

### Non-Formal Mechanisms

- **Community mediation.** In Nepal, there is a *community mediation program* which is an alternative dispute resolution mechanism for people who have weak access to the formal justice system, and have inadequate means of resolving local disputes. Under this system, disputants select a panel of mediators available in the village community who provide a neutral and confidential venue for dialogue between the parties, and assist them to find solutions to their disputes. In some cases, for instance, poor people and small farmers may be unable to initiate dialogue with landowners, for fear of being evicted from the lands they have been cultivating.

The mediation approach has proven to reduce the frequency of disputes, and has helped improve understanding, coordination and cooperation among community members. Women and members of marginalized communities are able to participate both as beneficiaries and as providers of mediation services.

The community mediation program was introduced in 2002, which the Nepali government later recognized through the 2010 Mediation Act, which recognizes the validity and importance of community mediation within the Nepali context. However, the community mediation approach requires building people’s capacities to solve problems, to analyze situations and other perspectives, and to make effective decisions independently.

- **Customary justice systems.** These have proven to be accessible and effective in settling internal land disputes within and among indigenous communities and tribes. However, these mechanisms are gradually coming out of practice. Customary justice systems have limited scope and are

dominated by leaders of the community. They become inoperative where disputants involve non-members of the community.

In Cambodia, traditional systems facilitated by village chiefs have proven effective for settling early disputes in the process of land registration. These include border demarcation between property claims, conflicts among relatives, and occupation of land – which are often not recognized by higher authorities.

- **Political negotiations.** This is a key tool for addressing broader land-related conflicts that are political in nature – i.e., caused by national laws, policies, and government-supported projects. These include discussions on broader issues of land governance, such as assisting informal settlers, instituting agrarian reform policies, recognizing customary rights, providing preferential access to marginalized sectors in the granting of access to public lands and resources, equal land rights and support services for women, and preventing arbitrary evictions and displacement.

A large number of land conflicts within countries are highly political in nature, and thus demand political solutions. The challenge is how to arrive at political consensus and inclusive solutions, with the active participation of affected sectors and communities.

### **Safeguards for conflict prevention**

In Bangladesh, there are no direct measures to prevent land conflicts. There are no procedural safeguards, effective land policies or legal and institutional frameworks related to public and private investments to prevent land grabbing and land disputes. Moreover, there are no policies in place to protect affected communities or to protect land rights defenders (halfway house, legal assistance, witness protection, relocation or medical and psychological assistance).

In most countries, there are procedural safeguards in the case of land-related large-scale projects and investments. These include the need for social and environmental impact assessments (ESIAs), as well as the need public disclosure and consultations. In the case of indigenous peoples in the Philippines, there is also a legal requirement for free, prior and informed consent (FPIC) prior to the extraction of resources from indigenous ancestral domains and lands. FPIC in this context requires that indigenous communities be provided with adequate and accessible information, and that consensus is determined in

accordance with indigenous peoples' customary laws and practices and free from any external manipulation or coercion.

However, it was found that the FPIC process suffers from inadequate systems and implementation failures (Oxfam, 2013). In the Philippines, it was also found that procedural safeguards such as permits, licenses and other mandatory compliances to government agencies embedded in land governance processes are marginally effective and at times serve as rubber stamps for land investments.

## SUMMARY OF RECOMMENDATIONS

### To Governments:

- **Address discrimination.** Repeal discriminatory laws against marginalized sectors – such as laws against women's equal rights to land and inheritance. For Nepal, implement the 2015 Constitutional provisions that guarantee equal rights to land for women, peasants, landless, and Dalits.
- **Recognize and respect diverse tenure systems** upon which people's livelihoods depend, including communal, customary, and informal tenure systems. Establish national land policies that does not treat land as a mere economic asset or commodity, but recognizes the value of land in its socio-cultural aspects, and protects land tenure accordingly.
- **Revive land reforms through responsive legislations.** Proposals include:
  - Indonesia:** Promulgate and implement a responsive agrarian reform program founded on the principles of, among others: (a) reducing inequalities in agrarian land tenure and ownership, and (b) addressing land conflicts through justice. Implement Presidential Regulation 86/2018 on agrarian reform, while giving priority to agrarian conflict areas – in relation to State assets (lands of State-owned businesses), PERHUTANI<sup>12</sup>, extracted forest areas, abandoned lands and lands with problematic business user rights. Government should undertake a bottom-up approach, by implementing reforms in priority areas (called "LPRA") that have been identified by local communities and CSOs.<sup>13</sup>
  - Nepal:** Amend the Land Related Act of 1964 to include provisions aimed at ending the remaining cases on dual ownership in Nepal. Include provisions for the recognition of unregistered tenants and protect them against

<sup>12</sup> PERHUTANI stands for *Perusahaan Hutan Negara Indonesia* (the Indonesian State forestry company).

<sup>13</sup> KPA-Indonesia has mapped out and proposed "Priority Locations for Agrarian Reform (LPRA)." These areas were identified through members of the KPA in various regions and in the areas affected by land conflict.



forced eviction from their landlords. Review the reports developed by past High-Level Land Reform Commissions, and conduct public consultations to solicit views and concerns on needed land reform measures.

**Philippines:** Complete the implementation of all existing land and resource reform programs, including the Comprehensive Agrarian Reform Program. Install all farmer-beneficiaries on their awarded lands. Implement land-to-the tiller in public agricultural and forest lands and give local communities preferential rights in the issuance of Integrated Forest Management Agreements (IFMAs).

- **Enact a specific law to prevent land grabbing and for quick resolution of land disputes.** In Cambodia, apply an immediate moratorium on the issuance of Economic Land Concessions (ELCs), and undertake a full contractual compliance review of all land concessions.
- **Protect the poor and marginalized communities from arbitrary eviction and forced displacement.**
- **Establish an independent monitoring mechanism on large-scale land investments and concessions** so as to guarantee respect for human rights and responsible investment standards. Explore alternatives to large-scale land investments that forcibly displace communities from their homes and sources of livelihood.
- **Protect land rights defenders.** In line with the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopt effective measures to combat the culture of violence and impunity, and to protect human rights defenders, including indigenous leaders and peasant activists.
- **Legislate and implement land use policies** in order to protect agricultural areas against fragmentation and land use conversion, to strengthen local food security, and to prevent conflicts between different groups and communities. In the Philippines, legislate the National Land Use Act (NLUA) to protect agricultural and forest lands from land use conversion, and to protect the rights of smallholders and indigenous communities.
- **Adopt and implement the UN Guiding Principles on Business and Human Rights (UNGPs BHR)** in land and resource governance. As an initial effort, governments should implement the UN Guiding Principles in the management and operations of State-owned enterprises.
- **Address violations of land/human rights** where they occur. Cancel land leases, permits, and licenses of companies and groups that violate land/human rights.
- **Conduct outreach programs** to inform local communities, especially vulnerable groups, of their land rights and entitlements.
- **Train government staff** (including those working at the district land offices, as well as the police and military) on alternative dispute resolution,



- gender and culturally sensitive approaches, and respect for human rights.
- **Check corruption, irregularities, and bribes** at land administration, courts, and police stations.
  - **Fast-track the resolution of land-related cases pending in courts.** In countries such as Bangladesh and Nepal, establish land tribunals or special courts to deal with the backlog of cases.
  - **Establish independent land dispute commissions to speed up the response to, and resolution of, land-related cases.** For Bangladesh, establish an independent land commission for indigenous peoples in the plains, and strengthen the CHT Land Dispute Resolution Commission.
  - **Strengthen local mediation mechanisms for addressing local land conflicts,** especially those involving civil cases at community level. Conduct capacity building programs for local mediators, as well as public awareness campaigns for local people to consider mediation over adjudication mechanisms.
  - **Ensure integrity, transparency and public access in land administration and in the management of land records.** In the case of Nepal, generate accurate data on lands and property that were seized during the conflict period (1996-2006) so that these cases can be addressed, as they have the potential to create further tension and unrest.
  - **Strictly implement social and environmental impact assessments, and adherence to free, prior and informed consent (FPIC)** of affected communities – as preconditions for all large-scale private and public land-related investments and transactions.
  - **Harmonize various overlapping land laws and agencies** that create confusion and conflict over land rights and entitlements. Institute effective mechanisms to resolve overlapping claims on land. Cease and desist from issuing tenure and resource use instruments that encroach on lands of indigenous peoples.

#### To NHRIs:

- **Include land conflict monitoring reports in the annual reports of the National Human Rights Institutions.** This will serve to highlight the importance of the issue; it will also help to validate the collected data and information by CSOs.
- **Conduct independent field investigations** of land conflicts where human rights are violated.
- **Promote the UN Guiding Principles on Business and Human Rights (UNGPs BHR).**

### To Business and the Private Sector:

- **Adhere to the highest standards of environmental and social safeguards;** strictly apply the UNGP BHR standards and implement government regulations at all stages of investments. Ensure that sub-contractors act with due diligence in order to avoid any adverse impacts on communities and the environment.
- **Publicly share and disclose master plans, environmental and social impact assessments (EIAs, SIAs)** and other relevant documents relating to concessions.
- **Ensure regular communication with affected communities** on the progress of the project. If and when any harm is caused by company operations, implement compensation and redress measures. Review compensation provided to all affected families to ensure proper compliance with national and international standards on adequate and fair compensation.

### To Civil Society Organizations:

- **Organize and empower local communities,** particularly landless and small producers, and assist them in strengthening their organizations. Provide community organizations with basic legal education. Train local paralegals and conflict mediators.
- **Improve reporting and response mechanisms to land conflicts.** Monitor business interests that affect land rights. Share information and evidence-based analysis with the public through media.
- **Promote non-violent action.** Mobilize and provide humanitarian assistance to victims of land conflict, especially for those who are poor and marginalized. Provide support for land rights defenders. Build public solidarity and support especially in cases of large-scale land grabbing and evictions due to land acquisitions. Strengthen and sustain non-violent actions by communities to hold rights violators accountable for their actions.
- **Establish independent people's commissions** to investigate land conflicts, including the conduct of businesses and the role of the State, to seek the truth, protect local community rights and to find lasting solutions that engage local communities and the government.
- **Support the establishment of an independent National Human Rights Institution in Cambodia.**
- **Lobby governments to protect political space for CSOs and communities.** Strengthen efforts to protect freedom of expression and

the rights of human rights defenders, including those working on land rights, to conduct their work without hindrance or intimidation including safeguarding the freedom of assembly and association. ○

## LIST OF ACRONYMS

ADHOC	Cambodian Human Rights and Development Association
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
ATR/BPN	<i>Kementerian Agraria dan Tata Ruang Republik Indonesia/Badan Pertanahan Nasional</i> – Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Indonesia)
BRAC	Bangladesh Rural Advancement Committee
CDA	Community Development Association (Bangladesh)
CHT	Chittagong Hill Tracts (Bangladesh)
CLRA	Centre for Legislative Research and Advocacy (India)
CSO	civil society organization
CSRC	Community Self-Reliance Centre (Nepal)
DAR	Department of Agrarian Reform (Philippines)
DENR	Department of Environment and Natural Resources (Philippines)
EBSATA	East Bengal State Acquisition and Tenancy Act (Bangladesh)
ELC	economic land concession
EP	Ekta Parishad (India)
FPIC	free, prior, and informed consent
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFMA	Integrated Forest Management Agreement (Philippines)
IPs	indigenous peoples
ISPO	Indonesian Sustainable Palm Oil
KPA	<i>Konsorsium Pembaruan Agraria</i> – Consortium for Agrarian Reform (Indonesia)
LICADHO	The Cambodian League for the Promotion and Defense of Human Rights
LPRA	<i>Lokasi Prioritas Reforma Agraria</i> – Priority Location for Agrarian Reform (Indonesia)

MLMUPC	Ministry of Land Management, Urban Planning and Construction (Cambodia)
NCIP	National Commission on Indigenous Peoples (Philippines)
NHRI	National Human Rights Institution
NLUA	National Land Use Act (Philippines)
PERHUTANI	<i>Perusahaan Hutan Negara Indonesia</i> – Indonesian State forestry company
SEZ	Special Economic Zone
UNGP BHR	United Nations Guiding Principles on Business and Human Rights

## SELECTED REFERENCES

- Adhikari, J. (2008). *Land Reform in Nepal: Problems and Prospects*. Kathmandu: Nepal Institute of Development Studies and ActionAid-Nepal.
- Bachriadi, D. (2009). *Land, Rural Social Movements and Democratisation in Indonesia*. Agrarian Resource Center. [Manuscript copy].
- Bachriadi, D. and Sardjono, M. A. (2005). *Local Actions to Return Community Control over Forest Lands in Indonesia: Conversion and Occupation*. [Unpublished].
- Baker-Smith, K. and Attila, S. B. M. (August 2016). *What is Land Grabbing? A Critical Review of Existing Definitions*. Eco Ruralis. Retrieved from: [https://drive.google.com/file/d/0B\\_x-9XeYoYkWSdH3dGk3SVh2cDg/view](https://drive.google.com/file/d/0B_x-9XeYoYkWSdH3dGk3SVh2cDg/view)
- Baranyi, S. and Weitzner, V. (2006). *Transforming Land-Related Conflict: Policy, Practice and Possibilities*. Ottawa: The North-South Institute and International Land Coalition.
- Barkat, A. (2007). The Backpedalling Stops: Bangladesh Country Paper Land Watch Asia In ANGO (ed.) *Securing the Right to Land: An Overview on Access to Land in Asia* (pp. 60-80). Quezon City: ANGO.
- Barkat, A. and Roy, P. K. (2004). *Political Economy of Land Litigation in Bangladesh: A Case of Colossal National Wastage*. Dhaka: Association for Land Reform and Development and Nijeri Kori.
- Barkat, A. and Suhrawardy, G.M. (14 August 2018). *Land Watch Bangladesh Monitoring Report 2018*. Dhaka: Association for Land Reform and Development. [Manuscript copy].
- Community Self-Reliance Centre (CSRC). (November 2018). *Land Conflict Monitoring Report, Nepal*. [Manuscript copy].

- Consortium for Agrarian Reform (KPA). (2018a). *Land Watch Indonesia Monitoring Report 2018*. [Manuscript copy].
- Consortium for Agrarian Reform (KPA). (2018b). *Monitoring Report of Agrarian Conflicts in Indonesia Year 2017-2018*. [Manuscript copy].
- Engel, A. and Korf, B. (2005). *Negotiation and Mediation Techniques for Natural Resource Management*. Rome: Food and Agriculture Organization of the United Nations.
- Haque, M. (November 2018). *Bangladesh Land Conflict Monitoring Report*. Community Development Association. [Manuscript copy].
- Indonesia Investments. (n.d.). *Reformation; New Challenges and Changes for Indonesia*. Retrieved from: <https://www.indonesia-investments.com/culture/politics/reformation/item181>
- Oxfam America. (September 2013). *Free Prior and Informed Consent in the Philippines – Regulations and Realities*. Oxfam America Briefing Paper. Retrieved from: <https://www.oxfamamerica.org/static/media/files/fpic-in-the-philippines-september-2013.pdf>
- Quizon, A. (2013a). *Issues in Protecting Land and Domain Rights of Indigenous Peoples in Southeast Asia*. Paper prepared for the United Nations Indigenous People's Programme, UNDP. [Unpublished].
- Quizon, Antonio (2013b). *Land Governance in Asia: Understanding the Debates on Land Tenure Rights and Land Reforms in the Asian Context*. Rome: International Land Coalition.
- Salomon, T. (2018). *Land Conflicts and Rights Defenders in the Philippines*. ANGOC. [Manuscript copy].
- STAR Kampuchea. (2018). *Land Conflict Monitoring in Cambodia*. [Manuscript copy].

---

# Bangladesh

## Land Conflict Monitoring Report<sup>1</sup>

---

By Md. Mahamudul Haque,  
Community Development Association (CDA)

### INTRODUCTION

#### Project and study background

**M**anagement of land and natural resources is one of the most critical challenges facing developing countries like Bangladesh. The exploitation of high-value natural resources has often been reported as a key factor in triggering, escalating, or sustaining violent conflicts around the globe. Increasing competition and conflict for diminishing land and natural resources is on the rise, and creates new challenges such as: environmental degradation, population growth, and climate change, which contribute to new conflicts and obstruct the peaceful resolution of existing ones.

Disputes over land are one of the reasons behind numerous human rights violations, conflicts, and violence. Incidences of harassments, tortures, killings, and rape of women and girls, and many other human rights violations by land grabbers are common in many countries, including Bangladesh. A proper and regular land monitoring mechanism is essential for effective action against land grabbers and protection of rights defenders.

---

<sup>1</sup> This is an abridged version of the paper "Bangladesh Land Conflict Monitoring Report" prepared by the Community Development Association (CDA) for the project "Defending Land Rights and Human Rights Defenders." For more information, contact edcda08@gmail.com.

**Citation:**

Haque, M. (2018). Bangladesh Land Conflict Monitoring Report. In ANGO (Ed.) *In defense of land rights: A monitoring report of land conflicts in six Asian countries* (pp. 46-57). Quezon City: ANGO.

## Study objectives

This study aims to answer the following three questions:

- What is the nature and prevalence of land and resource conflicts in Bangladesh?
- What are the causes of land and resource conflicts, their outcomes, and impacts?
- How effective are existing conflict management and resolution mechanisms?

## Study methodology

Both primary and secondary data have been collected to understand the nature and prevalence of land conflicts, its causes, impacts and resolution mechanisms in Bangladesh. Primary data have been collected through FGDs and consultation workshops. Secondary data have been gathered from books, published research reports, and media reports.

Two consultation workshops, on 30 July 2018 and 5 November 2018 were conducted with the participation of CSOs and land rights activists.

One focus group discussion with the participation of CSOs, land rights activists and experts was also conducted to identify causes of land and resource conflicts, their impacts, as well as to know the existing conflict-management and resolution mechanisms.

<p><b>146</b> land related laws</p> <p><b>80%</b> cases over land</p> <p><b>25 lakh</b> cases pending</p> <p><b>9.5 yrs</b> on average for disposal of a case</p> <p><b>23.5 lakh</b> acres of land are disputed</p> <p>Annual household losses <b>Tk 11,520 crore</b></p> <p><b>Tk 24,860</b> crore spent on land cases a year</p>	<p>The number of land cases are increasing every day. People have to spend almost 3 billion USD (Tk 24,860 crore) a year to resolve these cases. Disposal of a case takes nine and a half years on average, meaning it would require 27,000 (2.70 crore) years to dispose of the 2.5 million (25 lakh) pending cases (The Daily Star, 23 December 2015, citing a study of Barkat, 2015).</p>
---	--

Source Barkat, 2015

## Limitations of the study

This study is limited to land-human rights violation against indigenous people in the Chittagong Hill Tracts (CHT) and in plain lands across the country. It is mostly based on secondary data gathered by Kapaeeng Foundation from media reports and its own network from 2015 until June 2018.

## OVERVIEW OF LAND AND RESOURCE CONFLICTS IN THE COUNTRY

### Nature of the conflicts

Bangladesh is experiencing strong pressures on land due to population growth. Tenure insecurity is high due to outdated and inactive laws and policies. Incidences of land conflicts and land grabbing are increasing. Influential people have encroached on public land. Flood control projects are accompanied by expropriation; and ongoing conflicts over control of water bodies are negatively impacting the lives and livelihoods of poor communities.

Land conflicts occur in many forms in Bangladesh – between individuals, between communities, landless and land grabbers, and people and State actors. Disputes occur over State property, private property, and collective and common property (see table below).

**Table 1: Nature of land conflicts in Bangladesh**

<p><b>Conflicts over all types of property</b></p>	<ul style="list-style-type: none"> <li>■ Inheritance and ancestral land conflicts</li> <li>■ Boundary conflicts</li> <li>■ Conflicts over overlapping rights (indigenous rights vs. statutory laws, such as between Bengali settlers and IPs in CHT and plain lands)</li> <li>■ Conflicts due to lack of land registration, i.e. 45.2 percent unregistered documents in cases of inherited land parcels (BRAC HRLS-PRI, 2014)</li> <li>■ Conflicts between State and private/collective owners due to unclear and non-transparent land demarcation</li> <li>■ Multiple sales/allocations of land</li> <li>■ Limited access to land due to discrimination by law, custom or practice</li> <li>■ Peaceful and informal land acquisitions without evictions</li> <li>■ Violent land acquisitions</li> <li>■ Evictions by landowners</li> <li>■ Illegal evictions by State officials acting without mandate</li> <li>■ Establishment of tea gardens and Eco Parks/social forestry</li> <li>■ Commercialization of land and unplanned development projects</li> <li>■ Disputes over the payment for using/buying land</li> <li>■ Disputes over land value</li> <li>■ Destruction of property (pre-grabbing for dispossession, ex. violent attacks and burning)</li> </ul>
--	--



<b>Conflicts over private property</b>	<ul style="list-style-type: none"> <li>■ Eviction by the State without compensation</li> <li>■ Sales of other's property</li> <li>■ Leasing/renting disputes</li> <li>■ Agrarian reform issues</li> <li>■ Intra-family conflicts, especially in the case of polygamy</li> <li>■ Indigenous people's land is falsely recorded as Vested Property</li> </ul>
<b>Conflicts over collective/common property</b>	<ul style="list-style-type: none"> <li>■ Competing, illegal, or improper uses of collective land</li> <li>■ Unauthorized sales of collectively owned property</li> <li>■ Disputes over the distribution of revenue from collective land</li> </ul>
<b>Conflicts over State property</b>	<ul style="list-style-type: none"> <li>■ Competing, illegal, or improper uses of State property</li> <li>■ Land grabbing by politicians, public officials and other influential persons</li> <li>■ Illegal sales/lease of State land like forests, mines, and concession land to be used by the Water Supply and Sewerage Authority (WASA), city corporations</li> <li>■ Improper land privatization (e.g. unfair land distribution or titling)</li> </ul>

## Recent developments/Emerging issues

Recent and emerging factors contributing to land and resources conflicts in the country include commercialization of agricultural land and value chain development; migration due to climate change; industrialization and unplanned development projects; unplanned housing projects around cities; unplanned urbanization due to demographic and economic growth as well as new/expansion of cities in the name of increasing civic services; and, multinational investments.

The table below shows the victims and perpetrators of land conflicts.

**Table 2: Land conflict victims and perpetrators**

Land conflict victims		Perpetrators
<ul style="list-style-type: none"> <li>■ Landless poor people</li> <li>■ Agricultural labors</li> <li>■ Construction workers</li> <li>■ Tea garden workers</li> <li>■ Small peasants</li> <li>■ Migrants</li> <li>■ Slum dwellers</li> <li>■ Marginalized people</li> </ul>	<ul style="list-style-type: none"> <li>■ Women and girls</li> <li>■ Children</li> <li>■ Old-aged people</li> <li>■ Indigenous people in both hill and plain lands</li> <li>■ Persons with disabilities</li> <li>■ Occupational minorities</li> <li>■ Transgender people</li> </ul>	<ul style="list-style-type: none"> <li>■ Political leaders</li> <li>■ Influential persons/groups</li> <li>■ Local administration and government officials, bureaucrats</li> <li>■ Military and para-military forces</li> <li>■ Police</li> <li>■ Land grabbers</li> <li>■ Agriculture investors</li> </ul>

The recent influx of more than 700,000 Rohingya refugees from Myanmar has led to the degradation of the environment and undermining of the land and resource rights of the hill tribes in CHT, and has had a critical impact on forest land in Cox's Bazar, as thousands of hectares were cleared to make way for makeshift camps and firewood.

## Land conflicts in the CHT region

The Chittagong Hill Tracts (CHT) region is the principal home of the country's indigenous peoples. Here, land administration is a blend of unwritten customary laws and State laws. Practicing customary land-rights in line with the State's laws creates problems in the land-use patterns of the indigenous peoples.

Fierce clashes, killings, rape, abduction, arbitrary arrests, detentions and eviction of indigenous people are common incidents in CHT region due mainly to conflicts over land. From January to June 2018, at least 70 incidents of human rights violations against indigenous peoples, both in the plain lands and CHT region have been reported (UNPO, 2018). Some 209 indigenous persons from 125 families, including 12 children and 23 women and girls, have been subjected to violence (UNPO, 2018).

Following the Chittagong Hill Tracts Accord in 1997<sup>2</sup>, the government formed the CHT Land Dispute Resolution Commission to settle land disputes in the region. But it is still ineffective due to lack of rules and mechanisms. Roughly 30,000 applications are now pending with the land commission to settle disputes over land (Prothom Alo, 2018).

Due to non-resolution of land disputes, land grabbing, eviction, and ethnic conflicts are frequently taking place in CHT and plain lands, which negatively affect the lives and livelihoods of indigenous communities. The conflicts among different political groups in the CHT over establishing supremacy have left an estimated 600 people killed since the signing of the Peace Accord in 1997 (Rahman, 2008).

The table below details the types of human rights violations experienced by indigenous peoples in the CHT and plain lands.

**Table 3: Human rights violations against indigenous people over land disputes**

Types of human rights violation against indigenous people	2015-June 2018		Total
	CHT	Plain lands	
Number of houses burnt to ashes	237	1,247	1,484
Number of houses looted and ransacked	115	91	206
Number of persons assaulted and injured	13	133	146
Number of persons killed	02	07	09

<sup>2</sup> Against the backdrop of two decades of insurgency in the Chittagong Hill Tracts (CHT), the Peace Accord was signed between the State-led National Committee on Chittagong Hill Tracts and the Parbatta Chattagram Janasanghati Samity (PCJSS), the political wing of the separatist rebels, on 2 December 1997.

Number of rape attempt/molestation against women	08	32	40
Number of evicted families	263	1,281	1,544
Number of families threatened to eviction	1,163	13,465	14,628
Land grabbed (in hectares)	3,083	5,305	8,388
Land under grabbing/acquisition (in hectares)	3,384	5,223	8,607
Number of victims facing false cases	89	682	771
Number of arrested victims	10	29	39

Source: Kapaeeng Foundation's Human Rights Reports on Indigenous People in Bangladesh

## ANALYSIS OF LAND CONFLICTS

### Drivers of conflict

**Table 4. Current drivers of land conflicts**

Drivers/causes	Examples
Socio-economic and demographic causes	<ul style="list-style-type: none"> <li>■ Patriarchal society and discrimination of the women</li> <li>■ Unsettled vested property, abandoned property and <i>khas</i> land</li> <li>■ Evolution of land markets</li> <li>■ Increasing land prices</li> <li>■ Poverty and poverty-related marginalization/exclusion</li> <li>■ Extremely unequal distribution of power and resources (including land)</li> <li>■ Strong population growth and rural exodus</li> <li>■ New and returning refugees</li> <li>■ Development projects undertaken without consent (FPIC) from locals/IPs, for establishing tea gardens and Eco Parks/social forestry, etc.</li> </ul>
Legal & judicial causes	<ul style="list-style-type: none"> <li>■ Unfavorable laws and policies</li> <li>■ Outdated laws and policies</li> <li>■ Non-implementation of policies</li> <li>■ Legislative loopholes</li> <li>■ Contradictory legislation</li> <li>■ Discriminatory State policies and inheritance laws</li> <li>■ Legal pluralism</li> <li>■ Customary land law without written records</li> <li>■ Formal law which is not sufficiently known to all</li> <li>■ Limited/no access to law enforcement and jurisdiction by the poor/disadvantaged</li> <li>■ Insufficient implementation of legislation</li> <li>■ Ignorance about mutation and laws</li> <li>■ Insufficient or absence of land conflict resolution mechanisms</li> </ul>
Administrative causes	<ul style="list-style-type: none"> <li>■ Corruption in land administration, which ranks among the top three institutions with worst rates of bribery (71.2 percent)</li> <li>■ Insufficient control over State land</li> <li>■ Lack of co-ordination within and between different government agencies as well as between public and private sector</li> <li>■ Lack of responsibility/accountability/transparency</li> </ul>

Administrative causes	<ul style="list-style-type: none"> <li>■ Lack of conflict management capacity of government officials</li> <li>■ Delayed land survey</li> <li>■ Limited access to land administration, especially for the poor and rural population</li> <li>■ Insufficient information to the public</li> <li>■ Contradiction between judiciary and land ministry</li> <li>■ No updated data and ideas about tax, court fees, prices of stamps etc.</li> </ul>
Technical causes	<ul style="list-style-type: none"> <li>■ Missing or inaccurate surveying</li> <li>■ Missing land register (e.g. destroyed) or one that does not meet modern requirements</li> <li>■ Lack of modern land management system</li> <li>■ Lack of proper documents keeping/storage</li> <li>■ Falsification of deeds</li> </ul>
Causes of political economy	<ul style="list-style-type: none"> <li>■ Change in the political and economic system</li> <li>■ Exercise of political influence</li> <li>■ No political commitments to resolve land conflicts and land grabbing</li> <li>■ Political corruption, State capture and land grabbing</li> <li>■ Political (and economic) support for big agricultural investments, which go against the poor peasants</li> <li>■ State land acquisitions/expropriations for infrastructure &amp; investment areas (i.e., establishment of special economic zones)</li> </ul>

### Impacts of land conflicts

Land conflicts often have extensive negative effects on economic, social, spatial, and ecological development. This is especially true in developing countries and countries in transition, where land market institutions are weak, opportunities for economic gain by illegal action are widespread, and many poor people lack access to land (Wehrmann, 2008). Land conflicts can have disastrous effects on individuals as well as on groups and even entire nations. Many conflicts that are perceived to be clashes between different cultures are actually conflicts over land and related natural resources (Wehrmann, 2008).

It is said that 80 percent of criminal offences today stem from land disputes (Saleh, 2015). Victim families take the toll financially, and in terms of safety. One study states that some 18 percent of families in the country pay 266 USD to police and 65 USD to local arbitrators as bribes for the resolution of pending cases of land disputes (BRAC HRLS-PRI, 2014).

According to the study, 7.5 percent of households involved in land conflicts have experienced physical violence. Lawyers' fees account for about 60 percent of the total costs for resolving a dispute. The total cost to see through a land dispute is 45 percent of a household's annual income.

## MECHANISMS TO ADDRESS CONFLICT AND VIOLENCE

Land administration and management is the realm of the Ministry of Land, which has four divisions: i) Land Administration; ii) Land Appeal Board; iii) Land Reforms Board; and, iv) Directorate of Land Record & Survey (DLRS).

The Land Appeals Board and Land Reforms Board are in charge of administrative dispute resolution over land. Assistant Commissioners, Additional Deputy Commissioners, and Additional Commissioners hand down decisions on disputes. These two bodies are the final arbiters in matters of *khas* land, changes in records, mutation, plot demarcation, and taxation at the lower levels. After administrative decision, people can take their cases to the lower court, which is the first step of a judicial procedure.

Land litigation in Bangladesh is characterized by a huge backlog of cases, high legal expenditure, corruption, bribery, and harassment. Land litigation leads to destitution and distress among the families involved. Corrupt government officials, influential locals, and touts are the only beneficiaries of the system (Barkat & Roy, 2004). The formal legal and judicial system is obviously cumbersome in Bangladesh and does not work in the end.

One in every seven households in Bangladesh is involved in land disputes, according to a study conducted in 14 districts. About two million land related cases are pending with the judiciary, which make up more than 70 percent of all litigations in the country (BRAC HRLS-PRI, 2014). Of those resolved, each dispute took about three years to be adjudicated, but some cases found settlement after 17 years. However, the average time a case remains pending is approximately eight years, while a few cases have been continuing for nearly 40 to 50 years.

## POLICY IMPLICATION AND RECOMMENDATIONS

### For government

- Repeal *discriminatory* laws against marginalized people– such as against women’s land and inheritance rights, and against indigenous peoples land entitlements before any reforms like formulation of a comprehensive land policy or land governance system.
- Enact a specific law to prevent land grabbing and ensure quick resolution of land disputes.
- Establish an independent land commission for the plain land indigenous people to protect their land human rights and resolve land disputes.

- Strengthen the CHT Land Disputes Resolution Commission and enforce its law and rules.
- Enact laws and formulate a mechanism to protect land rights defenders.
- Check corruption, irregularities, and bribes at land administration, courts and police stations.
- Take initiative to withdraw false cases over land conflicts and stop police or administrative harassments against land rights holders and defenders.
- Cancel lease of land among companies/corporations/political and non-political influential groups for violation of land-human rights.
- Ensure people-centered land governance and digitalization of land management system.
- National Human Rights Commission can act as a negotiator to resolve land disputes by engaging political parties, CSOs and other GO-NGO stakeholders.
- Fast-track the resolution of land related cases at courts.
- Strengthen local mediation mechanisms to resolve land conflicts.
- Establish a 24-hour service-based unit/cell with hotlines under the Land Ministry to monitor land conflicts, take immediate actions against land grabbers and protect victims and defenders. A mobile court led by the executive magistrate can be run under the unit/cell to stop land grabbing and protect victims.

### **For CSOs**

- Popularize land rights as human rights and business and human rights.
- Monitor land conflicts continuously and publish land conflict monitoring reports periodically and annually.
- Formulate and implement a strategic plan to reduce land-human rights violation and to assist victims and land rights defenders.
- Build public solidarity and support especially in cases of large-scale land grabbing and evictions due to land acquisitions that violate land-human rights.
- Empower affected communities and strengthen their organizations particularly landless and small producers.
- Improve reporting and response mechanisms to land conflicts. Monitor business interests that affect land rights.
- Undertaking strategic communication program engaging local land administration, CSOs, political leaders, landless people and marginalized farmers to resolve land disputes.
- Establish independent People's Institutions to investigate land conflicts, including the conduct of businesses and the role of the State, towards the protection of people's rights. ○

## ACKNOWLEDGMENTS

The Community Development Association (CDA) is grateful to the civil society organizations and national human rights institutions who have contributed to this document with their participation in consultation processes (focus group discussion and workshops). CDA would like to thank the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) for its guidance and thematic support.

CDA acknowledges the contribution of the members of the National Engagement Strategy (NES) of Bangladesh, a country level platform of the International Land Coalition (ILC), constituted with ALRD, ARBAN, CDA, Kapaeeng Foundation and Nagorik Uddyag. Similarly, CDA thanks the National Human Rights Commission, Bangladesh for their moral support.

Finally, a note of appreciation to the principal researcher of this study Md. Mahamudul Haque, CDA Senior Journalist and Managing Director of Knowledge Industry, and his team members.

## LIST OF ACRONYMS

ALRD	Association for Land Reform and Development
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
ARBAN	Association for the Realisation of Basic Needs
CDA	Community Development Association
CHT	Chittagong Hill Tracts
CSO	civil society organization
FPIC	Free, Prior, and Informed Consent
GO	government office
IPs	indigenous peoples
NGO	non-government organization
Tk	Bangladeshi Taka
USD	United States Dollar
WASA	Water Supply and Sewerage Authority

## REFERENCES

Barkat, A. (22 December 2015). *Land Laws of Bangladesh: A Right-based Analysis and Proposed Changes*. [Keynote address].

- Barkat, A. and Roy, P. (2004). *Political Economy of Land Litigation in Bangladesh: A Case of Colossal National Wastage*. Dhaka: Association for Land Reform and Development (ALRD).
- BRAC Human Rights and Legal Services and Policy Research Institute (BRAC HRLS-PRI). (2014). *Socio-Economic Costs of Property Disputes: An Empirical Examination from Bangladesh*. Dhaka: BRAC HRLS-PRI
- Hossain, M. I. and Ahsan, M. (2015). *Status and Dynamics of Land Rights, Land Use and Population in Chittagong Hill Tracts of Bangladesh*. Dhaka: Human Development Research Centre (HDRC).
- Kapaeeng Foundation (KF). (2017). *Human Rights Report on Indigenous People in Bangladesh 2017*. Dhaka: Kapaeeng Foundation.
- Kumar, C. (24 September 2013). Bangladesh Power Plant Struggle Calls for International Solidarity. *The Huffington Post*. Retrieved from [https://www.huffingtonpost.com/chaitanya-kumar/bangladesh-power-plant-st\\_b\\_3983560.html](https://www.huffingtonpost.com/chaitanya-kumar/bangladesh-power-plant-st_b_3983560.html)
- Land Portal and Uttaran. (2017). *Land Governance: a country profile*. Retrieved from [www.thisisplace.org/i/?id=d65b3405-d78f-46ca-9269-42cd97e6e91c](http://www.thisisplace.org/i/?id=d65b3405-d78f-46ca-9269-42cd97e6e91c)
- Muhammad, A. (11 April 2016). Scrap Project of Destruction. *The Daily Star*. Retrieved from <https://www.thedailystar.net/op-ed/politics/scrap-projects-destruction-1207177>
- Prothom Alo. (6 October 2018). *A report on CHT land commission: no rules formulated in two years*.
- Rahman, F. M. (7 May 2008). Killings in Hills: Justice elusive, all along. *The Daily Star*. Retrieved from <https://www.thedailystar.net/backpage/killings-hills-justice-elusive-all-along-1572721>
- Sabuj, M. (6 November 2018). Trapped in uncertainty: Around 1200 Santal families in Gaiband have yet to be rehabilitated in 2 years after their houses were torched. *The Daily Star*. Retrieved from <https://www.thedailystar.net/backpage/news/trapped-uncertainty-1656751>
- Saleh, M. F. (19 August 2015). Drawback of land administration system in Bangladesh and some feasible solutions. *Bangladesh Law Digest*.
- Transparency International and FAO. (2011). *Corruption in the land sector*. Working Paper 04/2011.
- UN Interagency Framework Team for Preventive Action (UNIFTPA). (2011). *Toolkit and guidance for preventing and managing land and natural resources conflict: Conflict prevention in resource-rich economies*. New York: UNIFTPA.
- Unrepresented Nations and Peoples Organization (UNPO). (2018). *Chittagong Hill Tracts: Increasing Human Rights Abuses Threaten Hundreds of Lives*. Retrieved from <https://unpo.org/article/20930>



- Wehrmann, B. (2006). *Landkonflikte im urbanen und peri-urbanen Raum von Großstädten in Entwicklungsländern*. Research Reports on Urban and Regional Geography 2. Berlin: LIT.
- Wehrmann, B. (2008). *Land Conflicts: A Practical Guild to Dealing with Land Disputes*. Germany: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

---

# Cambodia

## Land Conflict Monitoring Report<sup>1</sup>

---

By STAR Kampuchea (SK)

### BACKGROUND

#### Rationale and objectives

This study was undertaken by STAR Kampuchea, with the support of the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and the International Land Coalition (ILC) as part of a larger advocacy campaign in six Asian countries to engage public authorities on the issue of the land rights of the rural poor.

This research aims to:

- identify the causes of land conflicts in Cambodia, as well as the outcomes and impacts to local communities;
- examine the nature, history and dynamics of land and natural resources disputes; and,
- assess the effectiveness of conflict resolution mechanisms.

#### Methodology and data sources

The research process consisted of online surveys, group discussions, and interviews with victims of land disputes. Reports and data from the Ministry

---

<sup>1</sup> This is an abridged version of the paper “Land Conflict Monitoring Report in Cambodia” prepared by STAR Kampuchea (SK) for the project “Defending Land Rights and Human Rights Defenders.” For more details and information, contact [star-director@starkampuchea.org.kh](mailto:star-director@starkampuchea.org.kh)

#### Citation:

STAR Kampuchea. (2019). Cambodia Land Conflict Monitoring Report. In ANGOC (Ed.) *In defense of land rights: A monitoring report on land conflicts in six Asian countries* (pp. 58-72). Quezon City: ANGOC.

of Land Management, Urban Planning and Construction (MLMUPC) and Ministry of Agriculture, Forestry and Fisheries (MAFF), and other relevant government ministries were also collated and analyzed. Research papers and other reference materials on the land issue were also reviewed. Finally, expert interviews were conducted to provide additional depth. The study focused in the province of Kampong Chhnang, where SK has an existing project.

## **CONTEMPORARY LAND ISSUES AND CONFLICTS**

Although there are some figures on land dispute cases submitted to the Cadastral Commission or the Courts, the Royal Government of Cambodia (RGC) does not disclose reliable data through website about land disputes. Thus, the research relies primarily on local NGOs and the media to get an idea of the real size of the problem. NGOs working on land issues note that land disputes have continued to increase since the 2000s to the present.

Violations and abuses over land rights are among the most prevalent human rights violations in Cambodia today. Despite the legal protections governing land rights provided in Cambodia's Constitution, national laws and international law, vulnerable communities continue to have their land illegally and unfairly taken away.

Land is typically transferred to powerful individuals or companies for business or commercial development, often in clear violation of Cambodia's legal framework and international human rights obligations. Agribusiness companies are often behind land grabs and forced evictions of rural communities to make way for rubber or sugar plantations. Land has also been appropriated for the construction of hydroelectric dams, which in addition to displacing communities, have devastating long-term environmental and economic impacts on the affected areas.

### **Economic land concessions**

An economic land concession (ELC) is a legal right established by an official document granted by the RGC to an individual, group of individuals, or legal entity to occupy and develop State or private land. The right to an ELC is subject to a number of restrictions imposed by the Land Law of 2001 ("Land Law"), relevant sub-decrees, and the terms of the specific concession contract.

There are 97 economic land concessions that have been granted from 1992 to 31 December 2006 by the RGC. Of this number, nine concessions have been agreed to in principle by the Council of Ministers, covering an area of 64,208 hectares. However, contracts for these have not yet been signed. The Ministry

stated also that the contracts of 30 companies had been cancelled, covering an area of 265,230 hectares. However, only five of these companies had in fact signed contracts with the Ministry, and others had merely received letters agreeing in principle to the grant of concessions. As of 31 December 2006, 59 concessions remained, covering an area of 943,069 hectares in 15 provinces. This constitutes approximately 5.2 percent of the total land area in Cambodia, and 14.5 percent of all arable land in Cambodia. A list of all economic land concessions, with their full names and localities, is set out in the 2017 Report of the Special Representative of the Secretary-General for Human Rights in Cambodia.

The 2007 to 2017 report listed 190<sup>2</sup> economic land concessions that had been granted, or for which approval had been sought. Of this number, 190 concessions had been agreed to in principle by the Council of Ministers, covering an area of 2,139,552 hectares, under the MAFF. Economic mine concessions agreed to by the Ministry of Mine and Energy covered an area of 2,318,585 hectares (Open Development Cambodia, 2016).

## OVERVIEW OF LAND AND RESOURCE CONFLICTS<sup>3</sup>

### Nature of the land conflicts

85 percent of the population of Cambodia lives in rural areas, cultivating agricultural land without the proper recognition of land ownership (MLMUPC, n.d.). The land use of local communities is not legally recognized, as Cambodia has a number of laws managing land and forestry management, such as the forest law and natural resource protection law.

Evictions can be brutal. In 2012, a 14-year-old girl was shot to death by government security forces as they cleared a village in the northeast. The NGO Cambodian Center for Human Rights (CCHR) likens evictions to “battlefields.” Protests are often crushed with force. Villagers who dare to oppose the security forces risk arrest, detention, and prosecution. The courts are not considered independent. People believe that they act on behalf of the government.

The Cambodian Human Rights and Development Association (ADHOC), another NGO, points out that the government has typically failed to assess the situation on the ground properly before granting ELCs. Moreover, the environmental impacts of ELCs were not assessed either. Land disputes have hurt the government’s reputation. The ruling party’s share of the vote dropped

<sup>2</sup> This data includes ELCs signed by government, ELCs in-process, and ELCs cancelled.

<sup>3</sup> Land dispute monitoring will include judicial cases, administrative cases, and those under mediation.

by nine percentage points to slightly below 49 percent in the general election of 2013. It still has the majority of legislative seats.

Even before the election, Prime Minister Hun Sen acknowledged land-related problems. He decided to stop granting new ELCs in 2012 and limited the duration of future leases to 50 years. He insisted that local people deserve protection and promised to redistribute one million hectares of land to poor and dispossessed families.

Serious efforts were made to resolve ongoing land conflicts by MLMUPC through different mechanisms. National and provincial committees have been established to consider these matters. However, the conflicting parties' interests tend to be hard to reconcile, especially as the rights of ELC companies are defined in their contracts.

ADHOC says that the situation has generally been improving and no new conflicts have emerged since the government stopped granting ELCs. The unresolved conflicts are tough, however, and in the long run, it is expected that new conflicts will arise.

Government officers argue that the land law is good and will work out well in the long run. They admit that not everything is in place yet, but insist that the problems are being dealt with.

To some extent the government is blaming problems on opposition forces. It has stated that "political parties have manipulated the current land issue shamelessly for their own political gain". In the eyes of human-rights defenders, however, the successful resolution of land issues depends on "the political will of the government" (Sun, 2017).

### **Distribution and size of land conflicts**

Legal activists point out that powerful elites, including high-ranking government officials, are involved in most land conflicts. On the other hand, some 400,000 to 1 million people have been personally affected by land disputes, according to estimates. ADHOC reckons that 60,000 people have been forcibly evicted from their homes.

The data for this study was collected from official social media (Radio Free Asia) and official reports from MLMUPC between 2016 and 2018. The Radio Free Asia (RFA) report covers the period January 2016 until 20 November 2018, and the MLMUPC report is from January 2016 to June 2018.

## **Land conflict report from RFA 2016-2018**

In the period 2016 to 2018, Cambodia's land conflicts were caused by the following: State-sponsored land-grabbing, private land-grabbing, land tenure, economic land concessions or hydroelectric development, evictions, urban development, government development projects, and finally the encroachment on community land.

According to the data, State-owned private land-grabbing ranks most frequent cause, with 197 cases in 2016 and down to 59 cases in 2018.

Private land-grabbing by powerful people is the second most frequent cause of conflict, with 125 cases in 2016 and 17 cases in 2018.

Economic land concession investment is third, with 89 cases in 2016 and 76 cases in 2018. Most of the cases were caused by a failure to fully implement the law. Eviction from city development, mostly by private sectors in Phnom Penh and the Special Economic Zones, is fourth, with 22 cases in 2016, with only one case in 2018.

The government's railway development project caused conflicts only in 2016 and 2017, with 14 cases in each year. The disputes regarding community land accounted for 15 cases in 2017 and four more cases in 2018. The decreased number of cases in 2017 and 2018 can be traced to two factors. One, there were commune council elections in 2017 and national elections in 2018, and powerful people desisted from seizing land from the people for fear of electoral repercussions. But the main reason for the decrease in cases is that RFA has been suspended from collecting information in the targeted provinces.

## **Land conflict report from the Ministry of Land Management, Urban Planning and Construction, 2016-2018**

This portion describes the conflict resolution performance of the Cadastral Commission of the Ministry of Land Management. It is based on reports from the land department from 2016 to 2018, and on the report of MLMUPC Minister H.E Mr. Chea Sophara, delivered during the Ministry's 2017 annual meeting. The Minister reported that the total number of land disputes and related protests declined in 2017, and he claimed that this was because of the Ministry's tireless efforts to manage land use with fairness and transparency. However, some NGOs claimed that activists were too afraid of arrests to raise their concerns.

In 2017, according to a report from the land department in the province, the cadastral survey commission resolved 85 land dispute cases for 326 families, which amounted to 44.5 hectares. It found 37 cases to have been wrongly authorized and withdrew another 11 complaints.

The report added that from the start of its work on land disputes until the end of 2017, the Ministry has successfully solved 3,655 cases for 19,374 families, covering 6,068.2 hectares. It found 2,542 cases had been wrongly authorized and withdrew another 829 complaints. The Ministry's working group on land dispute resolution in 2017 received 511 complaints, 123 of which were resolved. Twenty-five cases were completely solved while 98 cases were transferred.

## **ANALYSIS OF LAND CONFLICTS**

### **Underlying historical causes**

Legal activists say that land conflicts started in 1999, one year after the very last Khmer Rouge fighters were beaten along the Thai border. The land situation definitely became worse however, after the government passed the new Land Law of 2001.

Among other things, the law was designed to attract foreign investors. It introduced a system of land registration. In principle, it entitles people to land that they have been using continuously for at least five years. The registration process is still going on. By 2016 land titles had been officially recognized for about 60 percent of all relevant plots. The government expects to conclude registration by 2021.

Another provision of the 2001 Land Law is economic land concessions (ELCs). An ELC means that the government may lease out State-owned land of up to 10,000 hectares to private investors for a maximum of 99 years. The problem is that many ELCs were granted while title registration was still going on. This policy resulted in forced evictions and violent protests all over the country. Responding to the unrest, the government has been going slow on ELCs in the past few years.

### **Current drivers of conflict**

Analysis of the land conflict data indicates that the following are the drivers of conflict:

- Large scale land acquisition by private companies for agribusiness and mining concessions;

- Lack of consultation and Free, Prior, and Informed Consent (FPIC), leading to overlapping claims on land where the indigenous peoples and local communities have no legal or written documents to prove their ownership;
- Irregularities in granting land concessions in the name of development for poverty reduction;
- Land use of local communities not legally recognized by government;
- Poor law enforcement;
- Corporations do not apply UNGP BHR principles;
- Overlaps among ministries managing land issues in Cambodia (Ministry of Land Management, Ministry of Agriculture, Forestry and Fishery, and Ministry of Environment, etc.);
- Unfair, inequitable and non-transparent land conflict resolution;
- External pressure and limited access information on the part of rural communities, making them unsuccessful in claiming their rights; and,
- Increasing number of land title applications, causing overlapping claims between the rich/military and poor/communities.

### **Policies on land, and investments**

- **On ELCs and indigenous peoples' rights.** Articles 23 to 28 of the 2001 Land Law grants indigenous' peoples the right to collective ownership. Article 23 defines an indigenous community as "a group of people that resides in the territory of the Kingdom of Cambodia whose members manifest ethnic, social and cultural and economic unity and who practice a traditional lifestyle, and who cultivate the lands in their possessions according to customary rules of collective use." In addition, international human rights law regards self-identification as an important criterion (ILO Convention No. 169).

Other than residential land, Article 25 of the 2001 Land Law explicitly specifies that lands actually cultivated and as well as land reserved for shifting cultivation required by agricultural methods practiced by indigenous people and recognized by the administrative authorities. This is also confirmed by Article 6 of the Sub-Decree on Procedures of Registration of Land of Indigenous Communities, which also recognizes indigenous rights to collective ownership of spiritual forest land and burial ground forest land (cemeteries)<sup>4</sup>, located on State Public Land.

- **Land use.** The 2002 Forestry Law is relevant to indigenous peoples in terms of user and tenure rights of communities. In addition to indicating rules for shifting cultivation areas (Article 37, Forestry Law), this law

<sup>4</sup> One or more plots for each community with a limit of seven hectares in total size.



requires concessionaires to make sure their operations do not interfere with “customary user rights taking place on land property of an indigenous community that is registered with the State consistent with the Land Law; and customary access and user rights practiced by communities residing within, or adjacent to forest concessions” (Article 15, Forestry Law).

Furthermore, Article 2 of the Sub-Decree on Forest Concession Management (2000) requests a “regular consultation with, and participation by, local communities and other relevant stakeholders in the development of concession management.”

### **Immediate outcomes**

Land disputes have become a serious and persistent issue in Cambodia. In response to unrest, the government stopped leasing large plots to private-sector investors a few years ago. Earlier land deals, however, are still causing tensions.

Cambodia is one of the least developed countries in Southeast Asia. According to the Asian Development Bank (ADB), 14 percent of the people live below the poverty line today. They have a purchasing power of equals less than \$ 1.25 per head, per day.

Affected communities have staged many rallies in Phnom Penh, hoping that the government would solve their problems. Villagers have also invited policymakers from the National Assembly, the Senate and relevant ministries to intervene (Sun, 2017).

## **MECHANISMS TO ADDRESS CONFLICT AND VIOLENCE**

### **Available formal and informal land conflict resolution and management mechanisms**

- **Legal, administrative, and judicial mechanisms.** There are five dispute resolution mechanisms to address land-related conflicts stemming from land-grabs and ELCs: 1) the Commune Councils; 2) the Administrative Committees; 3) the Cadastral Commission; 4) the National Authority for Land Dispute Resolution (NARLD); and, 5) the court system.
- **Commune Councils.** The Commune Councils “reconcile differences of opinion” among citizens of communes, but do not have power to make decisions (Sub-Decree No. 22 ANK/BK). While not a prerequisite, in practice most cases are heard before Commune Councils before going on to higher levels. Although the Administrative Committees lack power to

issue binding decisions, they may assist the conflicting parties in resolving their disputes.

- **Administration Commission.** The 2001 Land Law established the Administration Commission under the supervision of the Ministry of Land, which has the competence to identify properties, hear possession claims, and to register people's land. The Commission can resolve conflicts on possession claims only.
- **Cadastral Commission.** The 2001 Land Law established the Cadastral Commission under the supervision of the Ministry of Land, which has the competence to identify properties, establish cadastral index maps, issue ownership titles, register land and inform people about the status of each parcel of land. The Cadastral Commission does not focus on "possession claims" but on "registration claims," i.e., land that has not yet been formally registered with the Ministry, as legally required.
- **Courts system.** The courts in Cambodia have jurisdiction involving disputes over registered or titled land (Sub-Decree No. 47). If the parties are not satisfied, the case can be filed with the Court of Appeal. Parties who are not satisfied with the decision of the National Cadastral Commission may also file an appeal with the Court of Appeal (Article 23, Land Law). Courts also have jurisdiction over cases relating to forced evictions as well as contract and inheritance disputes, regardless of whether the land is registered or not (Ministry of Justice and MLMUPC, Joint Prakas No. 3). If the dispute is related to unregistered land, the parties must first go through the Cadastral Commission.
- **National Authority for the Resolution of Land Disputes (NARLD).** The Government has also set up a "National Authority for the Resolution of Land Disputes" which is composed of 17 high-ranking officials of various ministries. However, the members have largely delegated their tasks to others and this body is ineffective in practice (Royal Decree on the Establishment of National Authority for Solving Land Disputes).

## LESSONS LEARNED FROM THE CASES

**Informal dispute settlements** are traditional in rural areas, and facilitated by village chiefs. Some 90 percent of respondents agree that this mechanism is easy to access, reducing the incidence of unnecessary violence within the population. Under this mode, people do not have to prepare a lot of complex documents or endure long procedures. Monitor the non-systemic dispute: local authority is monitoring with village as they are responsible for resolving disputes and preparing documents relating to their local disputes.

**Court cases.** The case is located at the provincial court, which has nothing to do with the authority of the commune, district or department.

**NARLD.** There are a number of shortcomings associated in lodging a complaint with the NARLD. Complainants must file a written complaint in person at the NARLD office in Phnom Penh. Such a requirement has made access to this dispute resolution mechanism difficult in comparison to local authorities, Cadastral Commissions and the Courts. While the complaint is not required to be in any specific form, it must be submitted along with supporting documents, such as ID cards and family books.

## **Measures to protect land rights defenders**

### ***Protection mechanisms***

Cambodia has ratified six out of the nine international human rights treaties, one of the best ratification records in South-east Asia. However, this record does not reflect the situation of human rights defenders (HRDs) on the ground. In recent years, Cambodian government has increased its policy of repression of HRDs. The authorities use legislation and the judicial system, and the threats of arrest or legal action, to restrict free speech, jail government critics, disperse workers, trade union representatives and farmers engaging in peaceful assemblies (Front Line Defenders, 2018).

HRDs who work to promote and protect economic, social, and cultural rights are particularly targeted by the authorities. Trade union leaders have been subjected to arrest, physical violence, and judicial harassment. Community activists defending the right to housing and protesting against land grabs and forced evictions have faced fabricated charges and jail terms. Most of them are charged with offences such as damage to private property, incitement, robbery, assault and drug smuggling. Physical violence, including killing, is also used to silence HRDs.

According to ADHOC, 232 people – including land activists, community representatives and those resisting forced eviction – were arrested in 2012 in relation to land and housing issues. This is a 144 percent increase over 2011, when 95 people were arrested and 48 were detained. HRDs have repeatedly found themselves threatened and intimidated by the authorities, often at the bequest of well-connected business figures. In 2012, 238 HRDs faced judicial harassment. Those threatened have not had any protection offered from the authorities. Rather, threats and intimidation have come from officials, including local, provincial and judicial authorities.

The Law on Association and NGOs, which was signed by the Council of Ministers in 2016 without proper consultation with civil society and taking recommendations from CSO inputs, is expected to further tighten restrictions

on freedom of association. It introduces compulsory registration for all NGOs before they are allowed to “operate any activity” and imposes burdensome, overly bureaucratic registration requirements. The law also includes vague provisions which may provide for arbitrary and selective denial of registration and, thus, the criminalization and/or closure of NGOs and associations.

### **Reform measures**

In order to enhance protection for HRDs, the following are proposed:

- Adopt appropriate measures to disseminate widely and ensure full observance of the Declaration on Human Rights Defenders;
- Develop a national policy to protect human rights defenders;
- Effectively investigate and prosecute crimes and violations against human rights defenders and punish those responsible;
- In line with the previous recommendation made by the Committee on Economic, Social and Cultural Rights, adopt effective measure to combat the culture of violence and impunity and to better protect human rights defenders, including indigenous leaders and peasant activists;
- Investigate and prosecute any attacks on – or false allegations in relation to – human rights defenders, in particular those working with communities to protect land, houses and access to natural resources and prevent forced displacement. This issue has been reported on by the Special Rapporteur and the Committee on Economic, Social and Cultural Rights; and,
- Strengthen efforts to protect freedom of expression and the right of all human rights defenders, including those working on land rights issues, to conduct their work without hindrance or intimidation, including safeguarding freedom of assembly and association.

## **RECOMMENDATIONS**

### **Recommendations to the Government of Cambodia**

- Government should adopt the BHR scorecard standard to assess private sector agricultural investments;
- Conduct capacity building for government officers on land laws and dispute resolution mechanisms;
- Government should expedite land title registration;
- A land use plan must be adopted by the Provincial-Municipal State Land Management Committee and land use should be consistent with the plan;
- Accelerate indigenous communal land registration by simplifying the process and increase political will to support the indigenous people’s communities;
- Restore democratic space and support the human and land right defenders;

- Apply an immediate moratorium on all ELCs due to widespread human rights violations;
- When registration as legal entities or collective titling has not been secured, provide preliminary recognition and grant interim protection measures to indigenous communities which may be potentially affected by economic projects, as per Article 23 of the 2001 Land Law; the Inter-ministerial Circular on Interim Measures should be reviewed so as to ensure full compliance with the land law as well as with international law;
- Ensure adequate and meaningful consultation and participation of communities affected by ELCs, including the free, prior and informed consent of affected indigenous people;
- Facilitate rapid registration of the concerned communities as indigenous people, in collaboration with actors already involved such as the local NGOs and community-based organizations; in case registration is not completed, provide documentary evidence to communities whose registration is pending so that they have some legal back up;
- Undertake a contractual compliance review of all concessions, and as per Article 37 of the Sub-decree on ELC, and suspend those found to be operating unlawfully until they comply with national and international law;
- Establish an independent, multi-sectoral monitoring mechanism on large scale agribusiness to guarantee the respect for human rights standards and responsible agro-investment;
- Explore alternatives to large scale investment and monoculture plantations to protect the right to food, ensure sustainable development and reduce poverty; and,
- Ensure the independence of the judiciary so it can provide an effective remedy in case of rights violations.

### **Recommendations to the private sector**

- Corporate investments in Cambodia should apply BHR and government laws in all stages of operations;
- Suspend operations of all companies with ongoing disputes with communities (relating to fallow land, compensation, resettlement, labor, etc.) until these are resolved to the documented satisfaction of the community members involved;
- Disclose to the public all master plans, ESIAAs, and other relevant documents relating to the ELC concessions;
- Ensure regular communication with affected communities on the progress of investment projects and the implementation of compensation and redress measures;
- Effectively implement measures recommended by the 2010 *Guide on by-law development and issues related to indigenous peoples in Cambodia*, including particular measures to protect the traditions of the IP

- community and to ensure the sustainability of their livelihoods, as well as recommendations to ensure the adoption of a gender-sensitive approach;
- Assist the IP communities to gain legal registration and subsequently, collective ownership, giving the local people the unused portion of the concessions;
  - Ensure sub-contractors act with due diligence in order to avoid, to the greatest extent possible, any adverse impact. In particular, an ELC should ensure sub-contractors operating bulldozers are aware of the location of spiritual and burial ground sites; and,
  - Review compensation provided to all affected families to ensure compliance with national and international standards on adequate and fair compensation.

### **Recommendations to NGOs and the donor community**

- NGOs should facilitate conflict resolution for affected communities;
- Public consultations between the government and communities should be conducted regularly; and,
- Donors should support CSOs working on land dispute resolution.

### **Recommendations to local communities**

- Local people should cooperate closely with local authorities and government agencies in the conduct of conflict resolution activities at the grassroots level;
- Local people should improve their awareness and understanding on the legal framework on land rights; and,
- Local people should optimize existing conflict-resolution mechanism. ○

## **ACKNOWLEDGMENTS**

STAR Kampuchea (SK) would like to express its deep appreciation to all those who participated in the focus group discussions, and interviews, especially with the Provincial Department of Land Management, Urban Planning and Construction in Kompong Chhnang province, commune council members and local people in Kdol Senchey Commune, Teukphos District, Kompong Chhnang Province to provide important information and document for the completion of the report.

## LIST OF ACRONYMS

ADHOC	Cambodian Human Rights and Development Association
ANGOC	Asia NGO Coalition for Agrarian Reform and Rural Development
BHR	Business and Human Rights
CSO	civil society organization
CCHR	Cambodian Center for Human Rights
ELC	Economic Land Concession
ESIA	Environment and Social Impact Assessment
FPIC	Free, Prior, and Informed Consent
HRD	Human Rights Defender
MAFF	Ministry of Agriculture, Forestry and Fishery
MLMUPC	Ministry of Land Management, Urban Planning, and Construction
NARLD	National Authority for the Resolution of Land Disputes
NGO	non-governmental organization
RFA	Radio Free Asia
RGC	The Royal Government of Cambodia
SK	STAR Kampuchea
UNGP BHR	United Nations Guiding Principles on Business and Human Rights

## REFERENCES

- Development and Partnership Action (DPA). (2012). *Lessons learnt of communal land titling for indigenous community in La In Village Ratanakiri Province, Northeast Cambodia*. Phnom Penh: DPA.
- Front Line Defenders. (12 July 2018). *UPR Submission - Cambodia 2018*. Retrieved from <https://www.frontlinedefenders.org/en/statementreport/upr-submission-cambodia-2018>
- International Labour Organization (ILO). (5 September 1991). *Indigenous and Tribal Peoples Convention, 1090 (No. 169)*.
- Ministry of Agriculture, Forestry and Fisheries (MAFF). (n.d.). *ELC Profile*. Retrieved from <http://www.elc.maff.gov.kh/en/profile/18-mdkhtml>
- Ministry of Agriculture, Forestry and Fisheries (MAFF). (2010). *Overall status of economic land concession in Cambodia*. Retrieved from <http://www.elc.maff.gov.kh/en/news/12-elc-status.html>.
- Ministry of Justice and MLMUPC. (26 November 2003). *Joint Prakas No. 3 on Determination of Competence of the Court and Cadastral Commission Regarding Land Disputes*.



- Ministry of Land Management, Urban Planning and Construction (MLMUPC). (n.d.). [Website]. Retrieved from <http://www.mlmpc.gov.kh/>.
- Open Development Cambodia. (2016). *Economic land concessions*. Retrieved from <https://opendevdevelopmentcambodia.net/profiles/economic-land-concessions/>.
- Radio Free Asia (RFA). (n.d.). [Website]. Retrieved from <https://www.rfa.org/khmer/>.
- Royal Government of Cambodia. (February 2000). *Sub-decree on Forestry Concession Management. No. 05/ANK/BK*.
- Royal Government of Cambodia. (13 August 2001). *Land Law*.
- Royal Government of Cambodia. (31 August 2002). *Forest Law*.
- Royal Government of Cambodia. (August 2002). *Sub-decree and Prakas on the Guidelines and Procedures of the Cadastral Commission. No. 112 DNS/BrK*.
- Royal Government of Cambodia. (25 March 2002). *Sub-decree on the Decentralization of Power, Roles and Duties to the Commune/Sangkat Councils. No. 22 ANK/BK*.
- Royal Government of Cambodia. (16 December 2005). *Sub-Decree on Economic Land Concession. No. 146 ANK/BK*.
- Royal Government of Cambodia. (26 February 2006). *Royal Decree on the Establishment of National Authority for Solving Land Disputes. NS/KT/0206/097*.
- Royal Government of Cambodia. (9 June 2009). *Sub-decree on Procedures of Registration of Land of Indigenous Communities. No. 83 ANDK.BK*.
- Sophorn, S., Errico, S., and Phalla, C. (2010). *Guide on by-law development and issues related to indigenous peoples in Cambodia*. Programme to Promote ILO Convention No. 169 (PRO169) Support to Indigenous Peoples in Cambodia. Phnom Penh: ILO.
- Sun, N. (30 June 2017). Land titles help to prevent conflict. *Development and Cooperation*. Retrieved from <https://www.dandc.eu/en/article/why-land-disputes-have-become-serious-and-persistent-issue-cambodia>
- United Nations General Assembly. (2 October 2007). *The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). A/RES/61/295*. Retrieved from <https://www.refworld.org/docid/471355a82.html>.
- United Nations General Assembly. (2017). *Report of the Special Rapporteur on the situation of human rights in Cambodia. Human Rights Council. Thirty-sixth session. 11-29 September 2017*. Retrieved from [http://cambodia.ohchr.org/sites/default/files/Annual-reports/SR%20Report%20\(G1722562\).pdf](http://cambodia.ohchr.org/sites/default/files/Annual-reports/SR%20Report%20(G1722562).pdf)



---

# India

## Land Conflict Monitoring Report<sup>1</sup>

---

By Sajal Babu, Paritosh Bisen, Ayushi Narayan, Ridhi Soni, and Achyut Tewari, Centre for Legislative Research and Advocacy (CLRA) and Ekta Parishad (EP)

### INTRODUCTION

India is a very large country in terms of land and population. The composition of its land is varied – including fertile plains, dense forest, mountainous areas, and some barren land. This vast and varied land has enabled the population to sustain and live. However, recent years have seen the country skewing towards development in a highly unsustainable form. This has taken a toll on people and environment in many ways. It is evident from the way people protest and resist such violations on their habitat.

For the most part, these conflicts pit communities against the government, or against corporate entities and other private parties. As it is mostly a struggle between the powerless against the powerful, it is the former who have the history of losing and of being subjected to brutality. Once the land is taken away, landlessness leads to a whole other set of violations.

When it comes to forest and other common land, it is the rights of the traditional forest dwellers that hold the most significance. It was only recently that their right to the place they depend on was recognized. It

---

<sup>1</sup> This is an abridged version of the paper “Land Conflict Monitoring Report in India” prepared by the Centre for Legislative Research and Advocacy (CLRA) for Ekta Parishad, for the project “Defending Land Rights and Human Rights Defenders.” For more details and information, contact: [ektaaneesh@gmail.com](mailto:ektaaneesh@gmail.com) and [vinudirect@gmail.com](mailto:vinudirect@gmail.com)

#### Citation:

Babu, S., Bisen, P., Narayan, A., Soni, R., and Tewari, A. (2019). India Land Conflict Monitoring Report. In ANGOC (Ed.) *In defense of land rights: A monitoring report on land conflicts in six Asian countries* (pp. 73-82). Quezon City: ANGOC.

was this lack of recognition that had led to conversion and depletion of the most important forest lands in the country. However, even after recognition of their rights by legislation, these rights are far from being secure.

Hence, the major purpose of this study is to collate, describe, and analyze the various land conflicts occurring in the country today. The characteristics and dynamics of the conflicts – the parties involved, the type of lands covered, and the causes of conflict – are all part of the inquiry. For this purpose, there is an analysis of major land conflicts in sample States in each region of the country.

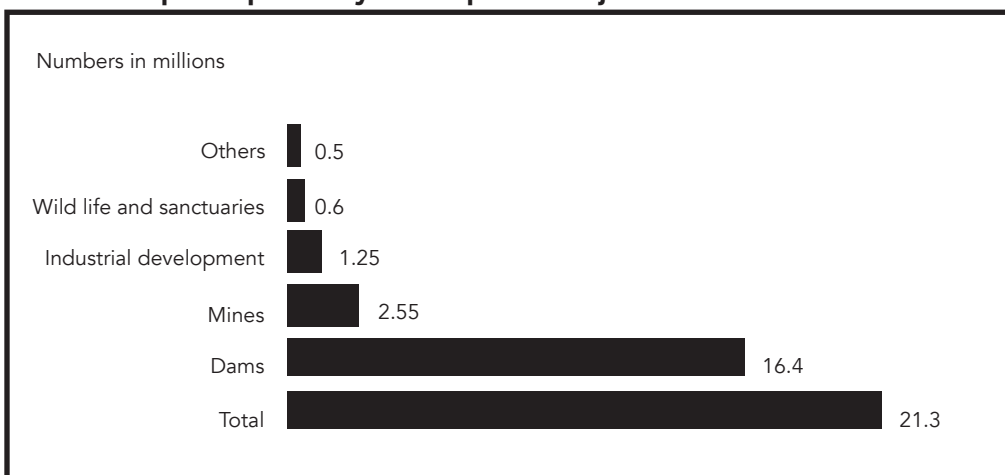
## **RESEARCH METHODOLOGY**

This study relied on secondary sources of data, with the major source being the Land Conflict Watch portal (<https://www.landconflictwatch.org/>) which is a network of researchers and journalists across India that records all the major ongoing land conflicts in the country. It has an account of 600 plus of such ongoing conflicts in the country. Further, other major studies analyzing data relating to land conflicts and corresponding newspaper reports were also utilized. This study analyses all ongoing land conflicts in the selected sample States in India. Hence, the time frame for the data collected are the ongoing land conflict cases from around 1970 to 2018. The graphs and tables provided in this report were a product of data compiled as provided in the website of Land Conflict Watch which were corroborated by newspaper articles and reports on the issue as far as available.

The States of the country are categorized into the regions of the North, South, East, West, Central, and North-East. The data of some of the States from these regions are taken as sample data for the analysis. These data are further analyzed along certain parameters such as the duration of the conflict, type of land involved, etc.

## **HISTORICAL BACKGROUND**

India is a country where a large population depends on agriculture for their livelihood. However, the major portion of the land is already occupied or owned either by landowners or farmers. Thus, when the government needs to carry out any developmental work, it has to acquire land from the landowners or the farmers. In the history of land acquisition in India, the first instance was in the context of introducing railways to serve the interests of the British under the Bengal Regulation Act of 1824. However, the major development came with the Act of 1894, which was amended in 1923 and then enforced until 2013. But again, it was conceived with the idea of serving the interests of the British, and failed to look into the interests of farmers/landowners. There were

**Table 1. People Displaced by Development Projects**

Source: Lok Sabha

no provisions for rehabilitation and resettlement. It also offered very low rates of compensation not based on actual market rates. This caused huge losses to persons who had to give up their land and simultaneously, their livelihood. Even after India achieved independence, it adopted this archaic legislation.

Reforms were instituted in 2013, with the enactment of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (also known as the Land Acquisition Act of 2013). Under this Act, except for when land is acquired for “public purpose,” informed consent is to be taken from 80 percent of people affected in case the land is acquired for private companies, and 70 percent when it is acquired for public-private projects. In cases of acquisition, the affected families have to be compensated with four times the market value of the land in rural areas and with two times the land market value in the urban areas. Further, the government is obligated to conduct Social Impact Assessments for each project to assess the benefit of the project against the probable social impact it will cause. In spite of such a progressive law, a large number of conflicts over land acquisition still come up.

Currently, transfer is done in accordance with the doctrine of *eminent domain*. This doctrine means that the land can be acquired by the State for “public purposes” and adequate compensation has to be given.

### **CONCEPT OF “PUBLIC PURPOSE”**

Section 2(1) of Land Acquisition Act of 2013 provides a very broad, inclusive definition of the term “public purpose.” “Public purpose,” according to the Act, includes provision for village sites, town planning, planned development

of land from public funds, strategic purposes and for further development of land for a corporation owned and controlled by the State, carrying out certain schemes of government like education, health, housing, slum clearance, and any other scheme of development sponsored by government or for locating any public office. However, acquiring land for private companies would not come under the purview of “public purpose” in section 2(1) of the Act.

Since independence, land has been acquired from people, particularly from farmers, for the purpose of expanding towns/cities by converting agricultural land into non-agricultural land. In the name of industrialization, large portions of land are being acquired from people for “public purpose” and “development” and later handed over to private companies (Jeyaraj, 2008).

Under the enormous power available to the government by virtue of eminent domain, many blatant abuses have been committed. For example, the West Bengal Government acquired fertile agricultural lands in West Medinapur for the Tata Metaliks Company in 1992, dispossessing small and marginal farmers, even when equally-suitable waste land was easily available. State governments have not hesitated to take over the land even by employing draconian emergency powers available under the Act (Ahmed, 2000). The main philosophy behind the Act is *eminent domain* – the sovereign power of the State over land and natural resources.

The very broad, inclusive definition of public purpose has caused great confusion and facilitated all sorts of abuse.

## **RIGHTS OF THE TRIBALS AND FOREST DWELLERS**

According to 2011 census data, *adivasis* or tribals constitute 8.6 percent of the total Indian population. Though they are a minority in India, their number is by far larger than in many other countries. This population has needs different from that of other citizens of the country. As their life revolves around forests and its products, any unwanted interference with forests means that they are also getting substantially affected. It was during the colonial era that the Indian Forest Act of 1927 was enacted. Under the Act, the government could consolidate and reserve all the forest cover in the country to regulate the transit of forest produce and to levy duties of timber. This legislation was used by the government keep the tribals from accessing the forest and to thereby indiscriminately exploit the resources of the forest. Even after independence, the same legislation persisted.

Since tribals were considered as encroachers, forests and other common lands were easy targets for land for conversion. As a result, it is estimated

that 40 percent of all the people displaced by government projects are tribal people in the country (Kumar, 2017). It was then that the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006, commonly known as the Forest Rights Act (FRA), was adopted. It was enacted to recognize and record the rights of the scheduled tribes and other forest dwellers over the forests and its products. Broadly, there are three types of rights given to them under the Act – title rights, use rights, and right to protect and conserve.

Once the rights have been recognized, the government has to follow certain procedures while acquiring forest areas. Section 4 of the FRA allows the government to resettle the forest rights holders for wildlife conservation projects only under the conditions that – (1) all the claims for the rights have been settled; (2) a proper rehabilitation and compensation package has been provided and the informed consent of Gram Sabha has been obtained; and, (3) that it is that last and the only option available. The first two conditions are significant as they are the ones always violated by the government.

One of the recent trends in the exploitation of forest lands is the Compensatory Afforestation<sup>2</sup> drive. With the increased global concerns over climate change, the new initiative of using forests as carbon sinks has emerged. However, it needs to be determined whether afforestation is also used as a shield for the authorities to exploit the forest. This process is governed by the Compensatory Afforestation Fund (CAF) Act of 2016, which requires that clearance of any forest has to be accompanied by the acquisition of equivalent non-forest land or twice the amount of forest land for afforestation. According to this Act, only *consultation* and not *consent* of the affected people is required for land acquisition, hence allowing arbitrary acquisitions. According to a report, this process has been used as an excuse to get around the proper process of land resettlement under FRA and there is no proper mechanism of monitoring whether the acquired land is actually used for afforestation purposes (Karthik and Kodiveri, 2018). According to a survey conducted by Community Forest Rights-Learning and Advocacy (CFR-LA), an advocacy group, many “ghost plantations” were seen in the areas acquired for the compensatory afforestation program (CFR-LA, n.d.). According to the study, some projects in Chhattisgarh and Madhya Pradesh were discovered wherein funds were invested for afforestation, but no plantation activities were commenced even after several years.

Many environmentalists now assert that afforestation is leading to an effect opposite to what was intended. A tree plantation (as opposed to natural

<sup>2</sup> Afforestation is the establishment of a forest or stand of trees (forestation) in an area where there was no previous tree cover.

vegetation) affects the entire ecosystem of the forests. The tribal people and traditional forest dwellers are the ones who have, over the years, learnt to live by depending on the forest and conserving it at the same time.

## CONFLICT ANALYSIS BY REGION

For this study, data was taken from seventeen States across the six regions of India – Northern, Eastern, Western, Central, North Eastern, and Southern regions. The 17 States consist of the following:

- Northern Region - Punjab, Himachal Pradesh, Uttar Pradesh;
- Eastern Region - Jharkhand, Orissa, West Bengal;
- Western Region - Rajasthan, Gujarat, Madhya Pradesh;
- Central Region - Madhya Pradesh, Chattisgarh;
- Northeastern Region - Assam, Arunachal Pradesh, Manipur; and,
- Southern Region - Kerala, Tamil Nadu, Andhra Pradesh.

The table below summarizes key characteristics of land conflict in India, broken down by region and using key States per region as focal points:

**Table 1: Regional breakdown of land conflict in India (with selected data)**

Region	No. of Conflicts Analyzed	Types of Disputed Land	Primary Causes of Conflict	Major Violations	Parties Often Involved
Northern Region	93	<ul style="list-style-type: none"> <li>• Private land (55%);</li> <li>• Non-Forest Common Land (26%)</li> </ul>	<ul style="list-style-type: none"> <li>• Infrastructure (71%)</li> </ul>	<ul style="list-style-type: none"> <li>• land encroachment</li> <li>• displacement of IPs</li> <li>• harassment</li> <li>• unfair compensation</li> <li>• livelihood loss</li> </ul>	Community and Government (75%)
Eastern Region	116	<ul style="list-style-type: none"> <li>• Forest Land (58%)</li> <li>• Non-Forest Common Land (15%)</li> </ul>	<ul style="list-style-type: none"> <li>• Plantation (37%)</li> <li>• Power (15%)</li> <li>• Infrastructure (13%)</li> <li>• Industry (13%)</li> </ul>	<ul style="list-style-type: none"> <li>• land grabbing</li> <li>• evacuation of forest dwellers</li> <li>• psychological harm</li> <li>• loss of livelihood</li> <li>• unfair compensation</li> </ul>	Community and Government (81%)
Western Region	90	<ul style="list-style-type: none"> <li>• Private land/ Farmlands</li> </ul>	<ul style="list-style-type: none"> <li>• Industry (44%)</li> <li>• Infrastructure (38%) - mostly roads</li> </ul>	<ul style="list-style-type: none"> <li>• illegal acquisition of farmlands</li> <li>• loss of livelihood</li> </ul>	Community and Government (91%)

Central Region	No data	<ul style="list-style-type: none"> <li>• Forest Land</li> </ul>	<ul style="list-style-type: none"> <li>• Infrastructure (35%)</li> <li>• Mining (22%)</li> <li>• Industry (21%)</li> </ul>	<ul style="list-style-type: none"> <li>• Forest Rights violations (poor implementation of FRA)</li> <li>• loss of livelihood</li> </ul>	Community and Government
Northeastern Region	24	<ul style="list-style-type: none"> <li>• Forest Land (46%)</li> <li>• Non-Forest Common Land (43%)</li> </ul>	<ul style="list-style-type: none"> <li>• Infrastructure</li> <li>• Industry</li> </ul>	<ul style="list-style-type: none"> <li>• displacement of tribes</li> <li>• physical violence</li> </ul>	Community and Government (92%)
Southern Region	74	<ul style="list-style-type: none"> <li>• Private Land (40%)</li> <li>• Non-Forest Common Land (39%)</li> </ul>	<ul style="list-style-type: none"> <li>• Infrastructure (51%)</li> <li>• Power (13%)</li> <li>• Industry (11%)</li> </ul>	<ul style="list-style-type: none"> <li>• displacement of tribal community</li> <li>• poor implementation of Land Reform Act</li> <li>• psychological harm</li> </ul>	<ul style="list-style-type: none"> <li>• Community and Government (64%)</li> <li>• Community and Business (24%)</li> </ul>

Source: Data collected from Land Conflict Watch

At least 397 cases of land conflict were analyzed. The most number of cases gathered was from the Eastern Region (116 cases), followed by the Northern Region (93), Western Region (90), Southern Region (70), and Northeastern Region (24)<sup>3</sup>.

In four of the six regions, a majority of the land disputes involve forest lands, thus affecting tribal groups or indigenous peoples. The number of cases involving forest lands range from 46 percent (Northeastern Region) to 58 percent (Eastern Region). Non-forest common lands also comprise a significant percentage of the disputed lands, ranging from 15 percent (Eastern Region) to 43 percent of the cases analyzed (Northeastern Region). For the Western and Southern Regions, private lands or farmlands comprise many of the disputed areas, with farmers as the aggrieved party.

In the land conflict cases analyzed for this study, the government is considered as the primary party in the dispute, together with the aggrieved communities and individuals. In some cases, the government seems to act in behalf of the private/business sector. As can be seen in Table 1 above, many of the conflicts involved the set-up of infrastructure projects over the disputed lands. In the Eastern and Southern regions, power projects (power plants, dams, etc.) also account for a significant percentage of land disputes. In the Western Region, however, industrial projects and the construction of roads in private lands constituted the majority of the land conflict cases.

<sup>3</sup> No data on the number of cases was provided for Central Region.

There are laws enacted in India that are meant to protect the rights of the indigenous groups and farmers. These laws include the Forest Rights Act of 1927, Land Acquisition Act of 2013, the Nazool Land (Transfer) Rules of 1956, and the Punjab Village Common Land Act of 1961. However, poor implementation of these laws seems to be the major complaint of the affected parties and land reform advocates. Weak implementation results in land rights violations. The most common violations are encroachment on tribal lands, land grabbing, and illegal acquisition of private and community-owned lands. These result in the evacuation and displacement of farmers and forest dwellers, denying them of their habitat and source of livelihood. In some cases, physical and psychological human rights violations are also committed, such as harassment, damage to property, and even killings.

## **THE ECONOMICS OF LAND CONFLICT AND CONCLUSION**

According to a 2016 study by Rights and Resources Initiative (RRI) and Tata Institute of Social Sciences (TISS), around 12 trillion rupees (approximately US\$ 170M) worth investment was tied-up in various land conflicts in India. According to another study by RRI and Bharti Institute of Public Policy, Indian School of Business (ISB), 14 percent of almost 40,000 projects initiated between January 2000 and October 2016 were stalled due to land acquisition conflicts. This study notes that projects most likely to be stalled are power projects (including dams), followed by various industrial projects and mining activities (RRI and ISB, 2016).

While most of the conflicts analyzed in this study have been going on for up to ten years, there are also many conflicts that have been festering for decades. Such long delays usually lead to the huge increases in the costs incurred by the companies making the investment. Further, out of the entire initial cost of a project, proper land acquisition should not cost more than two to five percent. However, this aspect is often overlooked, and new methods are devised to get around with the rights of the people under the Land Acquisition Act of 2013.

Also, whenever a development project is being undertaken by ignoring the rights of people, a new class of landless poor population is created in the country. Landlessness pushes people into poverty and most of the time, they remain as targets for displacement again and again. Although land investment projects lead to higher GDP, the real situation in terms of per capita income remains very bleak. This is one of the most important factors behind the widening economic inequality in the country.

The government is trying to attract as much foreign investment as possible, and for this reason it is always trying to circumvent policies that defend the



rights of the people affected. Instead, government should be focusing on implementing the Land Acquisition Act of 2013 in letter and spirit. Through better and more transparent land acquisition, the government can ensure that rural people are not pushed into poverty, and investments do not become costly and cumbersome. ○

## ACKNOWLEDGMENTS

Ekta Parishad and CLRA express their appreciation to the research team composed of Sajal Babu, Paritosh Bisen, and Ayusin Narayan. Additional research assistance was provided by Ridhi Soni and Achyut Tewari towards the completion of the report.

## LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
ALG	Alternative Law Group
CAF	Compensatory Afforestation Fund
CFR-LA	Community Forest Rights-Learning and Advocacy
FRA	Forest Rights Act
ISB	Bharti Institute of Public Policy, Indian School of Business
LDA	Lucknow Development Authority
MNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
RRI	Rights and Resources Initiative
SC	Supreme Court
SEZ	Special Economic Zone
TISS	Tata Institute of Social Sciences
UNHCR	United Nations High Commissioner on Human Rights

## REFERENCES

- Ahmed, R. (2000). Land Right & the Eminent Domain. *58 Social Action* (pp. 266 – 267). New Delhi: Indian Social Institute.
- Behera, A. (2016). *Maoist Conflict in Odisha*. NIAS Backgrounder on Conflict Resolution. Bengaluru: National Institute of Advanced Studies. Retrieved from <http://eprints.nias.res.in/1024/1/B10-2016-Anshuman-Behera.pdf>
- Chandran, R. (25 May 2018). Deadly disputes over land, environment in India's wealthiest states. *Reuters*. Retrieved from <https://www.reuters.com/>

- article/us-india-landrights-industry-analysis/deadly-disputes-over-land-environment-in-indias-wealthiest-states-idUSKCN11Q1DJ
- Community Forest Rights-Learning and Advocacy (CFR-LA). (n.d.) Analysis of Findings. *Compensatory Afforestation*. Retrieved from <https://indiacaf.wixsite.com/mysite/findings>
- Dhar, D. (14 May 2018). As Land Acquisition Continues Unabated, Gujarat Farmers Seek Permission to Die. *The Wire*. Retrieved from <https://thewire.in/agriculture/land-acquisition-gujarat-farmers-mass-euthanasia>
- Environmental Justice Organisations, Liabilities, and Trade (EJOLT). (5 August 2015). The Vedanta Case in India. *EJOLT – Mapping Environmental Justice*. Retrieved from <http://www.ejolt.org/2015/08/vedanta-case-india/>
- Jeyaraj, X. (2008). An SEZ with a Difference. *58 Social Action* (pp. 270 – 282). New Delhi: Indian Social Institute.
- Karthik, M. and Kodiveri, A. (30 January 2018). The Great Indian Land Grab Being Carried out in the Name of Compensatory Afforestation. *The Wire*. Retrieved from <https://thewire.in/environment/great-indian-land-grab-carried-name-compensatory-afforestation>
- Kumar, R. (30 November 2017). #From Policy To People - How Governments are Thwarting The Forest Rights Act (Part II). *Bar & Bench*. Retrieved from <https://barandbench.com/policy-people-forest-rights-act/>
- Land Conflict Watch, Mapping Land Conflicts in India. (n.d.). [Website]. Retrieved from <https://www.landconflictwatch.org/>
- Majumder, B. (22 March 2018). 26 cases across 11 states: How govts in India are violating forest rights. *Business Standard*. Retrieved from [https://www.business-standard.com/article/current-affairs/26-cases-across-11-states-how-govts-in-india-are-violating-forest-rights-118032200209\\_1.html](https://www.business-standard.com/article/current-affairs/26-cases-across-11-states-how-govts-in-india-are-violating-forest-rights-118032200209_1.html)
- Rights and Resources Initiative (RRI) and Bharti Institute of Public Policy, Indian School of Business (ISB). (November 2016). *Land Disputes and Stalled Investments in India*. Retrieved from [http://rightsandresources.org/wp-content/uploads/2016/11/Land-Disputes-and-Stalled-Investments-in-India\\_November-2016.pdf](http://rightsandresources.org/wp-content/uploads/2016/11/Land-Disputes-and-Stalled-Investments-in-India_November-2016.pdf)
- Rights and Resources Initiative (RRI) and Tata Institute of Social Sciences (TISS). (16 November 2016). *Land conflicts in India, an interim analysis*. Retrieved from <https://rightsandresources.org/en/publication/land-conflicts-india-interim-analysis/#.XCNGZlwza00>
- Vora, R. (29 May 2018). Gujarat farmers on warpath over land acquisition. *Business Line*. Retrieved from <https://www.thehindubusinessline.com/news/gujarat-farmers-on-warpath-over-land-acquisition/article24027119.ece>

---

# Indonesia

## Monitoring Report of Agrarian Conflicts for 2017-2018<sup>1</sup>

---

By **Konsorsium Pembaruan Agraria (KPA)**

### BACKGROUND

**A**grarian reform is one of the priority programs of the Joko Widodo presidency in order to reduce the land tenure gaps and bring about more just economic development. Approximately nine million hectares are targeted for distribution and legalization of ownership.

Agrarian reform is being implemented today because the people have long demanded it, because the Indonesian constitution mandates it, and because the government now vows to pursue it.

Assessing the track record of the Jokowi administration in addressing agrarian problems is not easy. The significant number of agrarian conflicts, land expropriations, and violent evictions perpetrated by the government that promised agrarian reform undermines the hope and belief that progress will be achieved. The work of resolving agrarian structural inequality remains to be done.

This report is based on the monitoring activity conducted on agrarian conflicts which occurred in Indonesia during the period January 2017 to August 2018.

---

<sup>1</sup> This is an abridged version of the paper "Land Conflict Monitoring Report of Agrarian Conflicts in Indonesia (2017-2018)" prepared by the Konsorsium Pembaruan Agraria (KPA) for the project "Defending Land Rights and Human Rights Defenders." For more details, contact [kpa@kpa.or.id](mailto:kpa@kpa.or.id)

#### **Citation:**

Konsorsium Pembaruan Agraria (KPA). (2019). Indonesia Monitoring Report of Agrarian Conflicts for Year 2017-2018. In ANGOC (Ed.) *In defense of land rights: A monitoring report on land conflicts in six Asian countries* (pp. 83-95). Quezon City: ANGOC.

## **AGRARIAN CONFLICT**

### **Structural agrarian conflict**

For purposes of this report, the term “agrarian conflict” is defined as structural agrarian conflict, i.e. the kind which is extraordinary in size, affecting significant numbers of victims and having extensive social, economic, and political impacts. They arise from government actions and policies which affect control over resources and livelihoods, and usually involve human rights violations.

Therefore, ordinary land disputes such as the ones involving inheritance, or conflicts between individual claimants, are not covered in this study.

The 1960 Basic Agrarian Law (UUPA 1960) defines “agrarian” as “concerning earth, water and aerial space”.

### **Methodology and indicators of conflict**

The data indicator used in this report is the agrarian conflict case, which is an incident of natural resource conflict collected and recorded in the period monitored. Given such an indicator, a conflict recorded in one year can be recorded again if it recurs in another year.

This data on conflicts is drawn from: (a) agrarian conflict victims who report the agrarian conflict events directly to the KPA either through its National or Regional Secretariats (KPA members, Regional KPA and National Council); (b) victims who report the occurrence to the KPA’s national or regional networks, and whose cases become subjects of agrarian assistance or case documentation; (c) data collection results in localities; (d) agrarian conflict case investigations in the field; (e) results of monitoring mass media (press and electronic); and, (f) contributions of conflict data from organizations within the agrarian reform network.<sup>2</sup>

The figures presented by the KPA are perhaps only a fraction of the actual number of agrarian conflict cases, considering that not all cases in all regions are observed, either by the organizational structure of the KPA or by the mass media.

<sup>2</sup> In 2017, the KPA collaborated with the Koalisi Rakyat untuk Keadilan Perikanan (KIARA) for improving data monitoring in coastal areas.

## INDONESIAN AGRARIAN CONFLICT CASES IN 2017-2018<sup>3</sup>

In the KPA's record, 2017 witnessed at least 659 agrarian conflict cases in all districts and provinces in Indonesia, comprising 520,491.87 hectares of land area.

These conflicts involved at least 652,738 families. From January to August 2018, 278 cases were recorded, involving 624,239.30 hectares of land and affecting 58,505 families. From January 2017 to August 2018 therefore, there was a total of 937 cases involving 711,243 families.

### **Agrarian conflicts per sector**

For identifying kinds and causes of agrarian conflicts in Indonesia, the KPA categorizes them into seven sectors, i.e. 1) plantation; 2) infrastructure; 3) property; 4) forestry; 5) mining; 6) coastal area and maritime; and, 7) agriculture.

In 2017, the highest number of conflicts was recorded in the plantation sector, with 208 conflicts constituting 32 percent of total conflicts. This was followed by the property sector (199 cases, 30 percent), infrastructure sector (94 cases, 14 percent), agricultural sector (78 cases, 12 percent) forestry (30 cases, 5 percent), coastal area and maritime (28 cases, 4 percent), and finally the mining sector (22 cases, 3 percent).

The January to August 2018 period witnessed 278 agrarian conflict cases, with almost half of them taking place in the plantation sector (100 cases). This was followed by the property sector, with 86 cases, agricultural sector (40 cases), mining (20 cases), forestry (13 cases), coastal area and maritime (10 cases), and finally the infrastructure sector (nine cases). In total, the January to August 2018 period had 937 cases.

Although the number of agrarian conflicts in forest areas is not high, conflicts in the plantation and mining sectors originate from the forestry sector. Plantation and mining operations in Indonesia obtained their sites from the leasing of forest areas into plantations, and use rights licenses for mining operations. That is why the national agrarian inequality is rooted in the forestry sector.

From the above data, it is clear that the highest number of conflicts in 2017-2018 occurred in the plantation sector.

<sup>3</sup> Cited from the 2017 End-year Records of the KPA and the Agrarian Conflicts Monitoring up to August 2018

In terms of commodity, the kind of plantation that contributed the highest number of agrarian conflict cases in 2017 is the oil palm plantation. Although it is the plantation commodity that yielded the highest foreign exchange revenue to the State, palm oil has a dark record of agrarian conflicts. The government's license moratorium for oil palm plantations failed to reduce and resolve agrarian conflicts for it was not followed by a thorough review of issued licenses.

In the last ten years, the area of palm oil plantations increased by an average of 5.9 percent. By 2016, the area of oil palm plantations in Indonesia was 11.67 million hectares.<sup>4</sup> This pace of expansion was not accompanied by improvements in location license, business license systems and comprehensive impact studies of such plantations. Review of issued licenses is therefore now urgent.

Aside from the plantation sector, it is worth noting that there has been a significant increase in conflicts in the property sector, which is linked to the development of toll roads, airports and railway networks in certain regions. It has been found that the provision of access facilities (roads, railroads, etc.) in an area is usually followed by property development in the form of housing projects, shopping malls, hotels, etc.

The acquisition of land for infrastructure development by the government is worth noting too, for the Jokowi administration is pushing itself to complete all planned infrastructure constructions such as airports, highways, railways, and seaports. The planning is unfortunately not accompanied with pro-people land system and policy, so that conflicts erupt with them and local people are frequently evicted from their lands.

There are five main causes of the agrarian conflicts in land acquisition: (1) the planning process of projects do not welcome any public participation, resulting in problems on the site settlement; (2) land prices are set out in such a manner that landowners receive irrational payments for their lands; (3) corruption and blackmail in the acquisition process; (4) the mobilization of thugs, police and military personnel; and, (5) alternatives of compensation such as stipulated in the No. 2/2012 law for evicted people such as replaced lands, rehousing, capital distribution (share ownership), and other forms which are agreed upon by both parties.

---

<sup>4</sup> Data from the General Directorate of Plantation of the Agricultural Ministry, 2016.

## **Agrarian conflict-affected area per sector**

Of the total land area of 520,491.87 hectares affected by agrarian conflicts in 2017, some 194,453.27 hectares were in the plantation sector. Of all the sectors, this sector constitutes the largest land area affected by land conflicts. From this figure, oil palm plantations contributed the largest area with 95,565.27 hectares or 49 percent of the total in the plantation sector. Including the conflicts recorded up to August 2018, the agrarian conflict affected area totals 444,277.02 hectares.

Forestry sector conflict cases comprised an area of 137,204.47 hectares in 2017. From January to August 2018, the conflict area consisted of 63,504.52 hectares.

In the infrastructure sector, conflicts comprised a total area of 52,607.90 hectares in 2017, and 4,577.62 hectares from January to August 2018. The mining sector conflicts covered 45,792.80 hectares in 2017 and 22,681.60 hectares from January to August 2018.

The coastal and maritime sector conflict area was 42,109.47 hectares in 2017 and 54,052.60 hectares from January to August 2018. In the agricultural sector, the figures are 38,986.24 hectares (2017), and 22,450.69 hectares (January to August 2018).

Finally, the property sector conflicts covered 10,337.72 hectares (2017) and 12,567.44 hectares (January to August 2018).

## **VICTIMS AND PERPETRATORS ON AGRARIAN CONFLICT**

### **Victims of violence and criminalization**

In Indonesia, agrarian conflicts frequently involve brutal violence perpetrated by State security apparatus or by companies against local people who resist eviction. Almost every year, tens of people are killed for defending their land. For purposes of identifying violence victims, KPA makes use of four categories: i) killed, ii) persecuted, iii) shot, and iv) criminalized (imprisoned).

In 2017, there were 13 people killed, six shot, 369 criminalized (351 males and 18 females), and 224 injured (170 males and 54 females). Thus, a total of 612 citizens were victimized in agrarian conflicts. In the period January to August 2018, nine people were killed, six shot, 152 put in jail, and 94 beaten (81 males and 13 females).

In 2017, out of a total 659 agrarian conflict cases, there were 289 which were between private companies and local peoples. 140 cases were between government and locals, while 112 cases were conflicts between communities. Also, there were 55 cases of local people versus State-owned enterprises, and 28 cases between State apparatus and local people.

During the period January to August 2018, most conflicts were between local inhabitants and private enterprises (164 cases). Locals versus government conflicts accounted for 35 cases, followed by peoples versus peoples (28), people versus State-owned enterprises (22) and finally people versus police/military (14).

### **Perpetrators of violence and criminalization**

Violence and criminalization is perpetrated directly against local people on site. In Indonesia, the KPA identifies the perpetrators of such violent actions: military, police and private security personnel.

In 2017, the police was the perpetrator of the most violence and criminalization with 21 cases, followed by private company security (15 cases), and the military (12 cases). Meanwhile, from January up to August 2018, private company security personnel were involved in 16 cases, and the police were the perpetrators in 10 cases.

### **CAUSES OF STRUCTURAL AGRARIAN CONFLICT**

The causes of structural agrarian conflict are complex, varied and in many cases, intertwined. There is a “jungle of laws and regulations” on land and natural resource administration, often overlapping and sometimes contradictory. This is compounded by lack of coordination and capacity among the various government agencies, as well as differing perspectives on the agrarian problem. Predictably, the results are gaps between policy and implementation, particularly the lack of law enforcement and affirmative action against company and State violence, malpractice and corruption. Agrarian conflict resolution mechanisms and efforts have also been largely ineffective.

At the core of the problem is the liberalization development paradigm which views land as a commodity. Aligned with this is the global trend towards agricultural business and monoculture cropping. These trends lead to elimination of people’s rights/access to land and livelihoods, as well as environmental destruction. Also at the core of the problem is discrimination against indigenous peoples, peasants and other marginalized groups.



## AVAILABLE MECHANISMS, EFFECTIVENESS, CSO POSITION

The table below presents the various conflict resolution mechanisms available in the country, and assessment of the effectiveness of each.

**Table 1. Available conflict resolution mechanisms and their effectiveness**

Level	State institutions, formal/informal mechanisms	Assessment of effectiveness
Village	Village Government/Mechanism: Village assembly and/or caucuses based on local context governance	<ul style="list-style-type: none"> <li>■ Depends on the position of village government/apparatus (community vis a vis the village government/apparatus)</li> </ul>
District	District Government	<ul style="list-style-type: none"> <li>■ Political or conflict interest/opportunity</li> <li>■ Short term agenda, time consuming</li> <li>■ Capacity, knowledge, and awareness</li> </ul>
	District Parliament (institution, elites/politician)	<ul style="list-style-type: none"> <li>■ Political or conflict interest/opportunity</li> <li>■ Short-term agenda</li> <li>■ Capacity, knowledge, and awareness</li> <li>■ Authority in execution, recommendation</li> <li>■ Budget issue</li> </ul>
	Police and/or Court System	<ul style="list-style-type: none"> <li>■ Litigation, criminal-approach (law bias, formal rights)</li> <li>■ Time consuming</li> <li>■ Expensive</li> <li>■ Expert witness issue</li> <li>■ Gap between court decision and execution</li> </ul>
	National Land Agency	<ul style="list-style-type: none"> <li>■ No breakthrough regulations (clear &amp; clean approach)</li> <li>■ Depends on national mechanism and decision</li> <li>■ Time consuming</li> <li>■ Limited sectoral focus/ "sectoral ego"</li> </ul>
	Task Force on Conflict Resolution	<ul style="list-style-type: none"> <li>■ Political interest/opportunity</li> <li>■ Short term agenda/will</li> <li>■ Capacity, knowledge and awareness</li> <li>■ Budget issue</li> </ul>
Province	Provincial Government	<ul style="list-style-type: none"> <li>■ Strong political interest/opportunity</li> <li>■ Short term agenda/will, time consuming</li> <li>■ Capacity, knowledge and awareness</li> <li>■ Authority in execution (national dependency), recommendation only</li> </ul>
	Provincial Parliament (institution, elites/politicians)	<ul style="list-style-type: none"> <li>■ Strong political interest/opportunity</li> <li>■ Short term agenda/will</li> <li>■ Capacity, knowledge and awareness</li> <li>■ Limited authority in execution, recommendatory</li> <li>■ Budget issue</li> </ul>

Province (cont.)	Police and Court System	<ul style="list-style-type: none"> <li>■ Litigation, criminal-approach (law bias, formal rights)</li> <li>■ Time consuming</li> <li>■ Expensive</li> <li>■ Expert witness issue</li> <li>■ Gap between court decision and execution</li> </ul>
	National Land Agency	<ul style="list-style-type: none"> <li>■ No breakthrough regulations (clear &amp; clean approach)</li> <li>■ Dependent on national mechanism/decision</li> <li>■ Time consuming</li> </ul>
	Task Force of Conflict Resolution	<ul style="list-style-type: none"> <li>■ Political interest/opportunity</li> <li>■ Short term agenda/will</li> <li>■ Capacity on knowledge and awareness</li> <li>■ Budget issue</li> </ul>
National	Ministry of Agrarian Affairs: Department on Land Dispute Settlement	<ul style="list-style-type: none"> <li>■ Lack of coordination</li> <li>■ No breakthrough regulations; clear &amp; clean approach</li> </ul>
	Ministry of Environment and Forestry	<ul style="list-style-type: none"> <li>■ Reactive approach; case by case basis</li> <li>■ Time consuming</li> <li>■ Changes in officials</li> </ul>
	Ministry of Agriculture	<ul style="list-style-type: none"> <li>■ Transparency of relevant data/information</li> <li>■ Bias on definition or terminology</li> </ul>
	Police and Supreme Court	<ul style="list-style-type: none"> <li>■ Litigation, criminal-approach (law bias, formal rights)</li> <li>■ Time consuming</li> <li>■ Expensive</li> <li>■ Expert witness issue</li> <li>■ Gap between court decision and execution</li> </ul>
	National Commission on Human Rights	<ul style="list-style-type: none"> <li>■ Less authority (recommendatory role)</li> <li>■ Investigation, mediation</li> <li>■ Bias on human rights violence perspectives</li> </ul>
	Ombudsman	<ul style="list-style-type: none"> <li>■ Less authority (recommendatory role)</li> <li>■ Investigation</li> <li>■ Maladministration/procedural approach</li> </ul>
	Corruption Eradication Commission	<ul style="list-style-type: none"> <li>■ Mainstreaming corruption on land related issues</li> <li>■ Evidence based approached/on the spot violence</li> </ul>
	President Executive Office <ul style="list-style-type: none"> <li>■ Task Force on Agrarian Conflict Resolution</li> <li>■ Online complaint/reporting mechanism</li> </ul>	<ul style="list-style-type: none"> <li>■ Complaint handling mechanism</li> <li>■ Facilitating and coordinating related parties for dialogue/mediation process, investigation</li> </ul>
	National Parliament <ul style="list-style-type: none"> <li>■ Commission 2 (Land Affairs)</li> <li>■ Commission 3 (Police Affairs)</li> <li>■ Fractions: complaints and reporting mechanism</li> <li>■ Elites, politicians</li> </ul>	<ul style="list-style-type: none"> <li>■ Complaint handling mechanism</li> <li>■ Facilitating and calling related parties for clarification or mediation process</li> <li>■ Investigation</li> <li>■ Political interest/opportunity</li> <li>■ Short term agenda/will</li> <li>■ Capacity, knowledge and awareness</li> <li>■ Time consuming</li> </ul>

## PROPOSALS TO RESOLVE AGRARIAN CONFLICTS (policy and institutions)

The following are the proposals of civil society on resolving agrarian conflicts:

- Implementation of Basic Agrarian Law 1960 and House Assembly Decree No. IX/2001; there is a need for the State's corrective action against sectoral or contradictory laws/regulations;
- Establishment of a comprehensive and systematic conflict resolution mechanism from national to local level; led directly by the President through a special and ad-hoc institution/commission on conflict resolution; with multi-sectors and multi State-actors; and with people's participatory involvement;<sup>5</sup>
- Paradigm change on land and agrarian resources definition;
- Conflict resolution through agrarian reform implementation; urgency to address land conflict areas; bottom up approach (LPRA) should be recognized; implementation of Presidential Decree 86/2018;
- Formation of Task Force on Agrarian Reform (national to district level) within three (3) months after the issued decree; implementation of Presidential Decree 86/2018;
- Conflict resolution through recognition of IPs; customary forest recognition: and, implementation of Constitution Court Ruling No.35 on Customary Forest Recognition; and,
- Adoption of alternative development models/approaches that prioritize the protection and respect over peoples' rights to land and livelihood.

## CONCLUSION

After four years, the process of conflict resolution in the agrarian reform framework of the Jokowi-Jusuf Kalla era does not seem to show any significant progress. On the other hand, various investments and developments projects seem to have accelerated, without any enhancement in people's land tenure security.

In short, land investments are at the center of national land policy. The effect is that agrarian conflicts are increasing, and repressive procedures continue to be used in containing them. Casualties and other forms of violence are inevitable.

Agrarian reform requires political will. While the current government favors agrarian reform, it is not firm and consistent enough. This can be seen in the

<sup>5</sup> CSO proposals have included (1) the creation of a *Komisi Nasional untuk Penyelesaian Konflik Agraria* (KNuPKA, or National Commission for Agrarian Conflict Resolution) during the Megawati Administration, and (2) the establishment of a *Pembentukan Unit Kerja Presiden untuk Penyelesaian Konflik Agraria* (UKP2KA, or Presidential Work Unit for Agrarian Conflict Resolution) under the Jokowi Administration.

fact that the necessary laws supporting agrarian reform implementation have not yet been passed after three (3) years of this administration.

Various deadlocks are easily identified in the process of land reform. These can be found in areas in which conflicts erupt involving State-Owned Enterprises (BUMN), State Plantation Enterprises (PTPN), State Forest Enterprises (Perhutani), abandoned lands, and forest area extraction. Such conflicts were easily identified during the years 2017 and 2018. Unfortunately, one of the main tasks of land reform – which is the resolution of land conflicts – cannot be said to be progressing.

The ideal government-sponsored land reform is a restructuring that is rapid, drastic, and systematic. It is not supposed to be partial, for it is meant to be the cure for the chronic infirmity in land tenure and ownership in a country.

These principles should be the foundation for conflict resolution, and not simple land certificates distribution which does not touch the essential problem of agrarian conflicts. More powerful and non-partial legal and institutional instruments are needed so that the resolution of old and new agrarian conflicts can be the main focus for the realization of agrarian reform.

The President has to assure that land reform can be implemented for curing structural inequality and solving agrarian conflicts. It is hoped that the President will convene all Ministries which share the responsibility to implement land reform. He should examine the commitment of the Agrarian Reform Team to work under the supervision of the Coordinating Ministry for Economic Affairs and its three task forces including other related ministries and agencies (Presidential Staff Office of the Republic of Indonesia, Ministry of State-Owned Enterprises, Ministry of Agriculture, Ministry of Finance, and the Indonesian National Police). Regional governments are also need to be mobilized to support the agrarian reform agenda and the efforts to resolve agrarian conflicts.

Most importantly, the Jokowi administration needs to deal with assault on the fundamental rights of citizens over their lands and livelihoods. The dark record of agrarian conflict, violence, evictions, and criminalization perpetrated against farmers, customary communities and fisherfolk in 2017 and 2018 has to be reversed through real land reform.

Severe legal punishment has to be applied to corruptors in the agrarian sector, officials who are negligent in issuing licenses or concessions, big speculators and land middlemen, and domestic and foreign investors who have evicted people from their communities and villages.

The goal of this 2017-2018 agrarian conflicts monitoring is to emphasize to everyone that the agrarian reform program in Indonesia has to be accelerated and rectified. ○

## ACKNOWLEDGMENTS

KPA would like to thank all parties who have contributed to the preparation of this land conflict monitoring report, including those institutions and networks that have supported the agrarian reform agenda carried out by KPA.

Our gratitude to the network of journalists and mass media who have provided news and information about agrarian conflicts in Indonesia. We acknowledge the People's Coalition for Fisheries Justice (KIARA) for strengthening the conflict data available on the coastal and marine sectors. Similarly, thanks to Rights Resource Initiative (RRI) and the National Committee for Agrarian Reform (KNPA) for providing data on criminalization and violence toward land rights defenders.

Special thanks to the government agencies that provided inputs during the consultation: Presidential Staff Office (KSP), Ombudsman of The Republic of Indonesia, National Commission of Human Rights (Komnas HAM RI), Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Kementrian ATR/BPN), and CSO partners.

## LIST OF ACRONYMS

AMAN	Indigenous People's Alliance of the Archipelago
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
BIJB	Kertajati/West Java International Airport
BUMN	State-Owned Enterprise
CSOs	civil society organizations
IPs	Indigenous Peoples
JKPP	Indonesian Community Mapping Network
Kementrian ATR/BPN	The Minister of Agrarian and Spatial Planning
KIARA	People's Coalition for Fisheries Justice
KLHK	The Minister of Forestry and Environment
KNPA	National Committee for Agrarian Reform
KNuPKA	National Commission for Agrarian Conflict Resolution
Komnas HAM RI	National Commission of Human Rights

KPA	Consortium for Agrarian Reform
KSP	Presidential Staff Office
LPRA	Agrarian Reform Locations Priority
NYIA	New Yogyakarta International Airport
PTPN	State Plantation Enterprise
RRI	Rights Resources Initiative
SP	Women's Solidarity
TNI	Indonesian National Armed Force
TORA	Land as an Object of Agrarian Reform
UKP2KA	Presidential Works Unit for Agrarian Reform Resolution
UPT	Settlement Unit on Transmigration Programs
UU P3H	Law on Forest Destruction Prevention and Eradication
UUPA 1960	The Indonesian Basic Agrarian Law

## REFERENCES

- Kartika, D. (2017). Siaran Pers: Selamatkan Laut Takalar dari Rencana Ambisius Reklamasi Teluk Makassar. *Konsorsium Pembaruan Agrarian*. Retrieved from <http://www.kpa.or.id/news/blog/siaran-pers-selamatkan-laut-takalar-dari-rencana-ambisius-reklamasi-teluk-makassar/>.
- Konsorsium Pembaruan Agraria [Consortium for Agrarian Reform] (KPA). (2017). *Consortium for Agrarian Reform 2017 End Year Report*. Jakarta: KPA.
- Kresna, M. (2017). *Sengketa Lahan di Bandung, Warga Dago Elos: Apa untuk Apartemen?* Retrieved from <https://tirto.id/sengketa-lahan-di-bandung-warga-da-go-elos-apa-untuk-apartemen-cBBy>
- Minister of Agrarian and Spatial Planning/Head of National Land Agency. (2 March 2016). *The Regulation of the Minister of Agrarian and Spatial Planning/National Land Agency of the Republic of Indonesia (ATR/BPN-RI) No. 11/2016*.
- Republic of Indonesia. (17 August 1960). *Basic Agrarian Law [Act No. 5 of 1960]*.
- Republic of Indonesia. (30 September 1999). *Law No. 41 1999 on Forestry*.
- Republic of Indonesia. (9 November 2001). *MPR Decree Number IX/MPR/2001 on Agrarian Reform and Management of Natural Resources*.
- Republic of Indonesia. (16 July 2012). *Constitution Court Ruling No.35 on Customary Forest Recognition*.
- Republic of Indonesia. (14 January 2012). *Law No. 2/2012 on Land Procurement for Public Utilities Construction*.
- Republic of Indonesia. (6 August 2013). *Law No. 18 2013 on Forest Destruction Prevention and Eradication*.

- Republic of Indonesia. (17 October 2014). *Law No. 39 2014 on Plantation*.
- Republic of Indonesia. (24 September 2018). *Presidential Decree 86/2018 on Agrarian Reform*.
- Sunandar, R. (2018). HUKUM DAN KRIMINAL Sengketa Tamansari: Optimisme Warga dan Dampak Buruk Proses Pembangunan. *Suaka Online*. Retrieved from <http://suakaonline.com/12320/2018/02/28/sengketa-tamansari-optimisme-warga-dan-dampak-buruk-proses-pembangunan/>
- Wulansari, I. and Sigit, R. (2016). Industri Kelapa Sawit dan Perjalanan Politik Komoditas Ini di Indonesia. *Mongabay*. Retrieved from <http://www.mongabay.co.id/2016/04/18/industri-kelapa-sawit-dan-perjalanan-politik-komoditas-ini-di-indonesia/>

# Nepal

## Land Conflict Monitoring Report<sup>1</sup>

By Community Self-Reliance Centre (CSRC)

### INTRODUCTION

Land has become one of the most contested natural resources in Nepal over the last few decades. Since it has high material value and is directly related to social, economic and political power, land is a common source of conflict within families, within and among communities, and between communities and the State. An escalation of land prices over the past few decades, population growth, combined with a lack of land use plans and the inheritance law (which makes children automatic heirs of parents, with each child getting a portion of the parental property), led to fragmentation of land. This has, in turn, put increased pressure on a fixed stock of land, leading to an increase in the number of land-related conflicts (IOM, 2016).

### Study objectives

This study aims to answer the following three questions:

- What is the nature and context of land and land- related conflicts in Nepal?
- What are the drivers and outcomes of land conflict?

---

<sup>1</sup> This is an abridged version of the paper “Land Conflict Monitoring Report, Nepal” prepared by the Community Self-Reliance Centre (CRSC) for the project “Defending Land Rights and Human Rights Defenders.” For more details, contact [deujaj@csrcnepal.org](mailto:deujaj@csrcnepal.org)

#### Citation:

Community Self-Reliance Centre (CRSC). (2019). Nepal Land Conflict Monitoring Report. In ANGOC (Ed.) *In defense of land rights: A monitoring report on land conflicts in six Asian countries* (pp. 96-105). Quezon City: ANGOC.



- What kinds of conflict resolution mechanisms are in place? Which mechanism work and why?

### Study methodology

Data for the study was gathered mainly through literature review and focus group discussions (FGDs). The literature review consisted of content analysis of the following main documents:

- Annual Report of the Supreme Court
- Land conflict reports in four major newspapers
- Reports from 12 CSRC District Land Rights Forums
- National Human Rights Commission reports
- Other published and unpublished reports from government and NGOs

A focus group discussion was conducted with government agency representatives, NGOs involved in land rights issues, media and other advocates and experts.

### Limitations of the study

Firstly, the study covered only 12 districts and information was collected for a six-month period only. Even within 12 districts, it is possible that the study did not cover all the land related conflicts that occurred during the period.

Secondly, this study is heavily based on secondary sources of information. This is mainly because of the limited availability of information on the study subject.

## OVERVIEW OF LAND AND RESOURCE CONFLICTS IN THE COUNTRY

### Nature of the conflicts

In Nepal, the most common forms of land-related conflicts include conflict over boundaries and land demarcation, conflict between tenants and landlords, encroachment of public land, control of *guthi*<sup>2</sup> land and its revenues, land registration and cancellation, and conflict over inheritance (Sharma et al., 2014). Squatting, expropriation of land for infrastructure, and land reform issues, are other common causes of conflict.

In Nepal's case, informal tenure has been problematic in terms of securing the rights of cultivators and inhabitants. Informal tenure may or may not have

<sup>2</sup> *Guthi* refers to land allocated for religious purposes.

some legal basis and social recognition but it has no formal registration therefore the tenure is not fully recognized. This lack of clarity is another source of conflict.

Customary tenure in Nepal is dying. In this form of tenure, customary social institutions regulate the land use practices and decisions. Most of the shifting cultivators acquired their land rights through customary tenure. To some extent, this practice still endures among different ethnic groups, particularly in hilly regions. One example of customary tenure is *Kipat*, where a major criteria of land allocation is lineage or clan.

### **Recent developments/Emerging issues**

The new Nepalese Constitution of 2015 and the Local Government Operation Act of 2017 have recognized the rights of agricultural workers and also granted autonomy to local governments, including authority to manage the land, water and forest resources under their jurisdiction. However, since Nepal is still in the process of State restructuring, most local government units are still unaware of the vast natural resources under their control, as well as the revenue that these can generate. Local governments also have the power to resolve land disputes, but do not have the trained personnel for this.

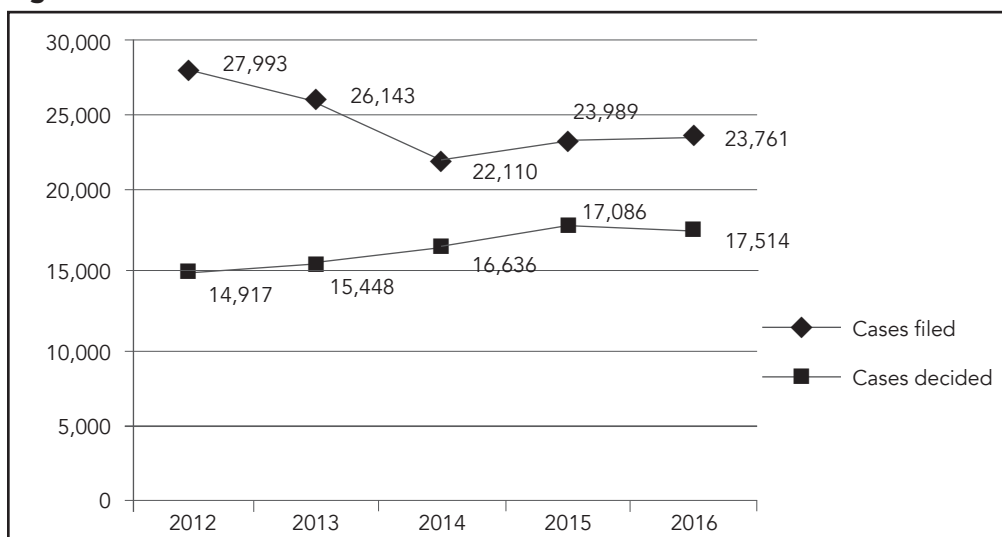
At the national level, a major source of conflict is the displacement of communities due to mega-development projects and the expansion of army camps. Another concern is the ongoing debate between the State and ethnic communities, who are demanding their right to continue customary land practices like *Kipat*, which have now been abolished.

### **Mapping conflicts**

During the period 2012-2016, over twenty-thousand land-related cases were filed in various courts in the country. Around 70 percent of these cases have been decided. Compared to the years 2012 and 2013, the number of cases filed has been decreasing, as a result of increased land literacy among the people, as well as the expanded reach of mediation programs.

At the same period from 2012-2016, approximately one-fourth of all cases filed in Nepalese courts were land-related.

The courts are frequently criticized by the wider public for failing to deliver efficient and timely justice to ordinary citizens at reasonable cost. Hundreds of land-related cases languish in the courts for many years. Limited human resources, lack of a land tribunal, and the slow-paced hearing and decision-

**Figure 1. Land cases in court**

Source: The Annual Reports for 2012-2016 of the Supreme Court of Nepal

making process are reported as core reasons behind the inefficiency of the formal justice system in resolving land disputes.

As of 2017, more than 146,900 cases between landlords and tenants remain in land reform offices.

This six-month monitoring initiative further recorded the following:

- one conflict between a landless community and the army in one district;
- nine cases of eviction due to construction of large infrastructure projects in nine districts;
- 10 cases of land mafia titling of lands occupied by communities for over 20 years, in seven districts; and,
- Conflicts between three parks and nine local communities.

## Implications

Given the major political changes in the country, the commencement of large commercial and infrastructure projects and the erosion of informal and customary tenure, rural communities have become worse-off in many ways. Landless and marginal land holders' families suffer from semi-feudal oppression, resulting in lack of land to work on and extreme poverty and hunger. Production and productivity has decreased, as productive lands remain either uncultivated or under-cultivated. This, among other things, results in unemployment or underemployment. Discrimination, injustice and debt bondage are prevalent. Given this situation, it is not surprising that violence is occurring at family, community, and State levels.

## ANALYSIS OF LAND CONFLICTS

### Drivers of land conflict

Land distribution in Nepal is still very uneven. Over half the country's population (53 percent) is comprised of smallholder farmers owning less than 0.5 hectare of land, which is not enough to support a family. Around 26.1 percent of agricultural households are ethnic minorities, indigenous people, and *Dalits*, that do not have land to farm on. These families are sharecroppers, tilling other people's land and paying very high rent, which ensures that they remain in poverty. *Dalits* own just one percent of Nepal's arable land, while only three percent of *Dalits* own more than a hectare of land. Households from 'low castes' are also landless: nearly 79 percent of the *Musahar*<sup>3</sup> and 41 percent of Muslims are landless. *Terai Dalits* have the highest proportion (28 percent) of households solely dependent on rented-in land for agriculture. There are very few landless households in the hills, but size and quality of land varies significantly among caste and ethnic groups. Food self-sufficiency is much lower among the *Dalit* and *Janajati*<sup>4</sup> groups.

At the heart of the problem is a government controlled by elites, and policymakers who do not understand the profound relationship that people have with their land.

Pressure from changing social, technological, and economic contexts (e.g., urbanization) is also a factor.

### Historical roots of land conflict

Land has historically been a source of conflict in Nepal. Exclusion from land, and the denial of other socio-economic rights of large segments of society contributed to the escalation of conflict, beginning in the 1940s. Neither the Nepali Congress Party's short-lived victory and calls for land reform in 1959, nor the changes declared by the 1964 Land Reform Act did much to alleviate these pressures. As a result, peasant movements in the twentieth century focused on unfair rent policies and exploitation, sometimes leading to violent clashes with the government. The People's Movement (*Jana Andolan*) in 1990 and the installation of a multi-party constitutional democracy ushered in new hope for land reform, but this soon faded when it became clear that the promises would not be implemented.

<sup>3</sup> *Dalit* is a Hindu scheduled caste found in the Terai region.

<sup>4</sup> *Janajati* is an ethnic group living in the Kathmandu Valley.

From 1996 to 2006 the Maoist insurgency, which led to the end of the world's last Hindu kingdom, was a conflict for control over land and resources. In the aftermath of the conflict, the Interim Constitution provides the most robust human rights protections to date in Nepal. Land reform remains on the agenda, but the highly politicized nature of the debate has thus far impeded any real change.

## LAND CONFLICT RESOLUTION MECHANISMS

### Formal and informal mechanisms

A number of formal and informal mechanisms are available for resolving land-related conflicts in Nepal. The formal mechanisms are those that must follow official procedures and are guided by government rules, regulations and laws. The formal mechanisms are further subdivided into two categories. The first is the court system and the second includes quasi-judicial organizations such as government offices concerned with resources, police, and local administration. The formal mechanisms are generally slow, taking up to five years, and pursuing cases require significant financial resources (Upreti, 2004).

There are other practices of resolving land conflicts beyond the formal justice system, particularly through the local governments, which began during the *Panchayat* system. For example, Village Panchayat Act 2018 BS (1962 AD) with amendments 2021 BS (1965 AD) and 2035 BS (1978 AD), gave authority to local governments to resolve disputes related to public land, boundaries, wages, trespassing, sources of water and pasture land and collection of grass and firewood. Unfortunately, local governments were not effective in this role because the elected officials of the system fueled socioeconomic and political conflict, perpetuated feudalism and failed to work for the poor (Khanal, 2003).

Mediation is a form of Alternate Dispute Resolution (ADR) and serves as a complementary mechanism to the formal and informal dispute resolution mechanisms. It allows the disputants to select a panel of trained mediators available in the community who will provide a neutral and confidential venue for dialogue between the parties. In this sense, community mediation programs are considered as a democratic forum for resolving disputes. These programs started in Nepal as an intervention targeting those who could not easily access the formal justice system. Community mediation programs have helped reduce the frequency of disputes in targeted communities and have helped improve understanding, coordination and cooperation among community members.

Despite the availability of various dispute resolution mechanisms, there are difficulties in getting justice to those who are poor or small farmers, as they

have no access to or understanding of the court and land administration systems (FAO, 2010). Field interviews indicate that poor people and small farmers have limited knowledge with regards to approaching the courts or land offices for conflict resolution and protection of rights. The poor are also unable to initiate dialogue with the landowners, for fear of being evicted from the land which they have been cultivating for a long period of time. In sum, lack of confidence among poor people and small farmers inhibits them from making use of State institutions or initiating negotiations with landowners.

Finally, a number of land conflicts in Nepal are highly political in nature and thus demand political solutions. However, due to lack of political consensus and willingness to find inclusive solutions, political actors have failed to resolve a number of land issues, particularly those related to land reform at the national political level and a number of politically linked and politically motivated land conflicts at the local level.

### **Gaps in dealing with land conflicts**

The major challenge in land conflict management in Nepal is the inadequate institutional and financial capacity of the government. This manifests itself in, among other issues, insufficient and unskilled human resources. It is also seen in the backlog of land-related cases in the courts. Lack of coordination and collaboration among government agencies is also a problem.

## **RECOMMENDATIONS**

Land conflict, water insecurity, and food insecurity are closely interlinked and therefore, a holistic response is required. Improvement in resource governance can minimize land conflict. The following recommendations are provided in order to resolve protracted land issues and minimize land-related conflicts in Nepal:

- Full implementation of the 2015 Constitution of Nepal which include the pro-poor and gender responsive provisions, and guarantees of equal rights for *Dalits*, peasants, women and the landless.
- Crafting of a new "National Land Policy" that not only treats land as a mere economic asset, but also recognizes its socio-cultural aspects and protects tenure accordingly.
- Based on the new Constitution, expansion of the powers of provincial and local governments to formulate and implement locally appropriate policies and programs related to land use and tenure. The policy makers in the central government have to realize that "one size does not fit all."
- Policy recognition of the tenure diversity in the country. Some tenure systems are not properly documented, recognized and protected.

- Amendment of the Land Related Act 1964 to include provisions aimed at ending the remaining cases of dual ownership in Nepal. The Act should include provisions for the recognition of unregistered tenants and protect them against forced eviction. This will be instrumental in addressing the land-related conflicts between the landlords and the tenants.
- Hastening of the adoption of legislation for effective implementation of land use policies. The lack of land use plans in the country is causing haphazard urban sprawl, fragmentation of agricultural areas, reduced agricultural productivity and food security, and conflict between different groups and communities.
- Government review of all three reports developed by the High-Level Land Reform Commissions formed in the past. Furthermore, government should conduct consultations with the poor and vulnerable communities of Nepal to solicit their views and concerns and ensure that future land reform protects their rights over land as well as boosts agricultural productivity and economic development in the country.
- Training on conflict sensitive approaches, ADR and gender sensitivity for government staff working at the district land offices. There is a need to enhance their capacity to deal with the growing number of local level land-related disputes and conflicts.
- Conduct of outreach programs to educate the affected communities, particularly women and vulnerable groups, regarding their entitlements to and rights over land.
- Establishment of Land Tribunals to deal with the backlog of cases at the courts. This will contribute to the swift resolution of land-related conflicts.
- Development of mechanisms for the establishment of mediation centers throughout the country. Awareness campaigns should be conducted to inform the communities that most of the civil cases, including land-related conflicts can be settled through mediation.
- Establishment of an electronic cadastral and land registration system in the country.
- Capacity enhancement of Local Judicial Committee. ○

## ACKNOWLEDGEMENTS

Community Self-Reliance Centre (CSRC) is grateful to the many institutions and individual who contributed to this study. We would like to thank Asian NGO Coalition (ANGOC) for the technical and logistical support. We are pleased and privileged to have worked with the Ministry of Land Management, Cooperatives and Poverty Alleviation, as well as with the National Land Rights Forum (NLRF) and their district and village organizations. Our appreciation goes to the local community people from various districts for their cooperation and contribution during the various stages of developing this paper.

We acknowledge the lead researcher Dr. Suresh Dhakal, Central Department of Anthropology, Tribhuvan University for designing and carrying out this study. We also thank Chandra Prakash Giri, Former Director, Department of the then Land Reform and Management (DoLRM) for his help during the study. Finally, CSRC would like to thank its administrative and finance team for providing the necessary support during the study period.

## LIST OF ACRONYMS

ADR	alternative dispute resolution
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CSRC	Community Self-Reliance Centre
DoLRM	Department of Land Reform and Management
FGD	focus group discussion
NGO	non-government organization
NLRF	National Land Rights Forum

## REFERENCES

- Adhikari, J. (2006). *Land Reform in Nepal: Problems and Prospects*. Kathmandu: NIDS.
- Basnet, J. (2007). Comprehensive land reform: debating the current situation. *The Himalayan Times*. Retrieved from <http://thehimalayantimes.com/opinion/comprehensive-landreform-debating-the-current-situation/>.
- Buckles, D. (ed.). (1999). *Cultivating Peace: Conflict and Collaboration in Natural Resource Management*. Ottawa and Washington: International Development Research Centre and World Bank Institute.
- Central Bureau of Statistics (CBS). (2011). *National Population and Housing Census 2011* (National Report). Kathmandu: CBS.
- Community Self Reliance Centre (CSRC). (2005). *Annual Reflection: Land Rights Movement in Nepal*. Kathmandu: CSRC.
- Community Self Reliance Centre (CSRC). (2009). *Land and land tenure security in Nepal*. ANGOC and Land Watch Asia. Retrieved from [www.csrcnepal.org/uploads/publication/y6nhKRavwrhsbVf2AeCIUdDUkcd-M7F8.pdf](http://www.csrcnepal.org/uploads/publication/y6nhKRavwrhsbVf2AeCIUdDUkcd-M7F8.pdf).
- Community Self-Reliance Centre (CSRC) and NGO Federation of Nepal (NFN). (2012). Land grabbing: threats for farmers and community rights in Nepal. In *Lok Niti, Journal of the Asian NGO Coalition*, Vol. 18, No. 1 (pp. 62–67). Quezon City: ANGOC.
- Community Self-Reliance Centre (CSRC). (2009). *Empowering the Disempowered Tenant Farmers: A Study of the Impact of People-Centred Advocacy for Land Tenancy People in Nepal*. Kathmandu: CSRC.



- Community Self-Reliance Centre (CSRC). (2011). *Land issues in Nepal*. Retrieved from [www.csrcnepal.org/pages/details/csrc/issue](http://www.csrcnepal.org/pages/details/csrc/issue)
- Community Self-Reliance Centre (CSRC). (2009). *Asserting freedom from central control, Nepal Country Paper*. ANGOC and Land Watch Asia. Retrieved from [www.angoc.org/wp-content/uploads/2012/09/06/securing-the-right-to-land-anoverview-on-access-to-land-in-asia-2nd-edition/Nepal\\_Country\\_Report2.pdf](http://www.angoc.org/wp-content/uploads/2012/09/06/securing-the-right-to-land-anoverview-on-access-to-land-in-asia-2nd-edition/Nepal_Country_Report2.pdf).
- Dhakal, S. (2008). *Land Tenure and Agrarian Reforms in Nepal*. Kathmandu: CSRC.
- International Organization for Migration (IOM), Nepal. (2016). *Microdynamics of Land Conflict and Land Conflict Resolution in Nepal*. Kathmandu: IOM, Nepal.
- Khanal, R. (2003). *Conflict Resolution in Local Governance Provisions in Local Self-Government Act 1998*. Retrieved from [www.nepaldemocracy.org/conflict\\_resolutionConflict%20Resolution%20in%20Local%20Governance.pdf](http://www.nepaldemocracy.org/conflict_resolutionConflict%20Resolution%20in%20Local%20Governance.pdf).
- Parlevliet, M. (2009). *Land Reform and Conflict Sensitivity*. [Presentation at Danida HUGOU Head Office, Lazimpat, Kathmandu].
- Sharma, S. R., Upreti, B. R., and Müller-Böker, U. (2014). Negotiating Access to Land in Nepal In *Journal of Contemporary Asia*, Vol. 44, No. 3 (pp. 521–539).
- Upreti, B. (2001). *Conflict Management in Natural Resources: A Study of Land, Water and Forest Conflicts in Nepal*. Wageningen: The Wageningen University.
- Upreti, B.R., Sharma, S. R. and Basnet, J. (Eds.) (2008). *Land Politics and Conflicts in Nepal: Realities and Potentials for Agrarian Transformation*. Kathmandu: CSRC, Nepal Centre for Contemporary Research, Human and Natural Resources Studies Centre-Kathmandu University.

---

# Philippines:

## Land Conflicts and Land Rights Defenders in the Philippines<sup>1</sup>

---

By Timothy Salomon, Asian NGO Coalition  
for Agrarian Reform and Rural Development (ANGOC)

### BACKGROUND AND OBJECTIVES OF THE STUDY

Land and natural resources have always been sources of conflict. At the heart of the matter is the inequitable distribution of rights over resources, wherein the rural poor try to survive on the meagre land and natural resources afforded them by the State. In contrast, businesses and influential families are allowed to amass vast expanses of land, their ruinous exploitation of natural resources largely left unchecked. The rural poor are thus forced to contend with large businesses, influential families, and against each other for land and resource rights.

Aggression against land and environment rights defenders, as well as rural poor communities has been on the rise in connection with land and resource conflicts. The Philippines is considered as Asia's deadliest country, and second deadliest country in the world, for land and environment defenders (The Guardian, 2018). Violations range from killings, disappearances, detention, injuries and grave threats against land and

---

<sup>1</sup> This is an abridged version of the paper prepared by Timothy Salomon of ANGOC, with inputs from Antonio Quizon, Nathaniel Don Marquez, Dave de Vera, Maricel Almojuela-Tolentino, Marianne Jane Naungayan, Denise Hyacinth Joy Musni, Michele Robin Esplana, Danilova Molintas, James Alim, Maria Liza Almojuela, and Antonio Samaniego. This document also summarizes the major issues and recommendations emanating from a multi-stakeholder forum jointly organized by ANGOC and the Commission of Human Rights of the Philippines (CHRP) to discuss the study. For more details, contact [angoc@angoc.org](mailto:angoc@angoc.org).

#### Citation:

Salomon, T. (2018). Land Conflicts and Rights Defenders in the Philippines. In ANGOC (Ed.) *In defense of land rights: A monitoring report on land conflicts in six Asian countries* (pp. 106-123). Quezon City: ANGOC.

environment defenders. Rural poor communities experience forced evictions from their homes, displacement, damages to their livelihoods and property, even severe hunger and poverty. They are also exposed to geophysical and health hazards and risks, which are further complicated by natural disasters and climate change. In some cases, long-standing community relations are fractured or polarized, further weakening their capacity to adapt to land and resource conflicts.

To serve as a point of engagement with critical duty-bearers in land and resource conflicts, the ANGOC, through the regional initiative *“Defending Land Rights and Human Rights Defenders”* has embarked on a study. The purpose is to gather evidence to substantiate and flesh out the realities that characterize and shape land and resource conflicts in the Philippines. Through this study, ANGOC wishes to contribute towards a better understanding of land and resource conflicts in the country, and to highlight human rights issues in the context of these conflicts.

Specifically, the objectives of this study are to:

- discuss the nature and prevalence of land and resource conflicts, including the violation of the rights of land and environment defenders, and rural poor communities;
- identify the nature, causes and impacts of land and resource conflicts, and land-human rights violations;
- assess the effectiveness of available conflict prevention, response, and resolution mechanisms; and,
- recommend actions towards the prevention and resolution of such conflicts.

### **Scope and approach**

This study focuses on land and resource conflicts that occurred from January 2017 to June 2018. Case monitoring was used as the primary approach of the study, in conjunction with policy monitoring and events-based monitoring. Institutional analysis was also conducted to assess the effectiveness of mechanisms employed to manage violence, de-escalate conflict, and address the substantive issues that lead to sustained conflict.

Cases, policy and institutional documents were gathered from six National Government Agencies, 10 Civil Society Organizations (CSOs), and 14 online/media sources using the purposive sampling method. Some 352 land and resource conflict cases were studied and analyzed, with 59 percent (208) of the documented cases taking place in Mindanao, 23 percent (82) occurring in Luzon, and 18 percent (62) transpiring in the Visayas region.

## Conceptual framework

**Conflict** in this study is defined as “a situation wherein two or more stakeholders compete for control over resources, decision-making and truth.” More specifically, this study looks into **land and resource conflicts**, which is defined as a “situation where two or more stakeholders compete for control over the use, decision-making, and transfer of land and resource rights.” Land and resource conflicts threaten the enjoyment of tenure rights of stakeholders particularly those with less power, such as rural poor communities. Some land conflicts hinder the transfer of land rights, others deny the full range all land rights, while still others reduce rights to lower levels of enjoyment.

*Use rights* enable a rights holder to have access to land, extract resources from the land, and exploit resources for economic purposes. *Decision-making rights* empower a rights holder to plan the future uses of land and to control the entry of people into the land. Finally, *transfer rights* enable a rights holder to relinquish and pass the rights on said land and natural resources through lease/rental, bequeathment and/or sale. These land rights are not absolute, and are inter-related in a continuum.

In the Philippines, there are a number of tenure instruments issued by the government. The table on page 109 shows various Philippine tenure instruments relevant to this study, plotted against the continuum of land rights.

## THE NATURE OF CONFLICT

The interaction of stakeholders determines how a conflict situation unfolds through time. All conflicts start as **latent conflict** – “a situation wherein stakeholders are unaware or are aware, but not taking action on how their aspirations, goals and interests are competing over resources, decision-making and/or truth.” When stakeholders become aware of a conflict situation, they can choose from a wide range of responses. Inaction and withdrawal make the conflict stay latent, while the pursuit of integrative solutions and compromise provides space for issues to be addressed peacefully. One form of peaceful response that facilitates an integrative solution or compromise is the use of a **third party facilitator** or “an individual, group or entity that has authority and is respected by stakeholders in a conflict situation, tasked to facilitate the de-escalation of the conflict situation and to seek an integrative solution or compromise.”

When third party facilitators are unavailable, or when stakeholders are not able to secure acceptable outcomes from engaging with each other or with third party facilitators, stakeholders may be pushed to engage in **violence** or

**Table 1: Philippine tenure instruments in the continuum of land rights**

Issued by	Tenure instrument	Description	Period of tenure	BUNDLE of RIGHTS						
				Access	Harvest	Use	Exclude	Inherit	Lease	Sell
DAR	EP	Land transfer certificate in agricultural lands for ARBs	Subject to amortization	✓	✓	✓	✓	✓	After 10 years	
	CLT			✓	✓	✓	✓	✓		
	CLOA			✓	✓	✓	✓	✓		
Private parties	Agri Leasehold	Lease contract	Based on agreement	✓	✓	✓	✓	✓		
DENR	IFMA	Individual/ Corporate Lease management for public lands	25 years, renewable	✓	✓	✓	✓			
	CBFMA	Collective Lease management for public lands	25 years, renewable	✓	✓	✓	✓			
NCIP	CADC	Recognized claim for ICCs/IPs	Perpetuity	✓	✓	✓	✓	✓		
	CADT	Collective title for ICCs/IPs	Perpetuity	✓	✓	✓	✓	✓	✓	
	CALT	Individual title for ICCs/IPs	Perpetuity	✓	✓	✓	✓	✓	✓	Only among CADT holders

Source: Quizon, 2018.

“a show of force, an imposition of will on another to achieve control through destructive means.” The most extreme form of violence is physical violence such as killing, maiming, torture, detainment and displacement. It can also come in the form of psychological violence (e.g. grave threats, harassment, defamation, etc.), economic violence (e.g. denial of access to resources, services and opportunities, or subjecting stakeholders to exploitative arrangements), or political violence (e.g. denial of the right to self-determination and the denial of access to decision-making processes).

Amidst violence, conflicts escalate and may lead to situations where violence may recur. Only when peaceful means are pursued and the issues that caused the conflict are substantively addressed, will conflict situations reach settlement.

## **SUMMARY OF FINDINGS**

### **Prevalence and duration of conflicts**

Land and resource conflicts are prevalent in the Philippines. Three hundred fifty-two (352) cases of conflicts documented in this study are concentrated in four percent of the total territory of the Philippines (30,291,561 hectares). Nearly half (48 percent) of this number were conflicts between communities and business establishments. A significant percentage (36 percent) occurred between and among community members, while the remaining percentage (16 percent) is comprised of conflicts between community members and the government. The duration of conflict ranges from less than a year to sixty eight years, with a mean of 14 years.

### **Human rights violations in land and resource conflicts**

Some 431 instances of human rights violations (HRV) were found in 233 of the conflict cases studied. Majority of these HRV incidents (272 incidents or 63 percent of total HRVs) occurred in Mindanao. Violations came in the form of killings, disappearances, injuries, detention, displacement, damage to property, unfair contracts and labor practices, intrusion into territories without FPIC, and criminalization. There were 61 killings perpetrated during the period January 2017 to June 2018. More than 90 percent of those killed were affiliated with civil society organizations (CSOs) and social movements. Furthermore, 66 percent of the killings were committed by the military in the guise of anti-insurgency campaigns that subsequently emboldened landowners to resist CARP coverage, or facilitated investments in ancestral domains. These investments were owned by influential families, particularly cronies of the late dictator Ferdinand Marcos, and/or prominent legislators and local chief executives. Other perpetrators of killings were guns for hire, private armed groups, rebel groups and paramilitary groups employed by businesses, and community members in cases of ownership conflicts.

On top of the killings, there were six individuals that disappeared; eight individuals maimed and 17 individuals illegally detained. All these, except one case of maiming, were committed by the military.

### **Impacts on rural communities**

Rural communities bear the brunt of the impacts of land and resource conflicts. HRVs committed at the community level involved displacement, damage to livelihood, unfair/exploitative economic arrangements, criminalization of actions of community leaders and members, forcible entry without FPIC,

and denial of participation in decision-making processes affecting land and resource rights.

A sizeable number of households have experienced displacement as a result of land and resource conflicts. There were 99 cases involving displacement and 29 cases with threats of displacement. Cases of displacement included the eviction of 17,000 households from their residence, and damages to livelihood or displacement from their sources of livelihood for nearly 75,000 households. Business investments, particularly in mining and forestry indirectly caused more than 47,000 livelihoods to be damaged by pollution, or caused land and natural resources used for livelihood to become vulnerable to natural disasters.

Threats of displacement were also documented. More than 47,000 households experienced threat of eviction from their residence and close to 44,000 households experienced threat of displacement from or damage to their sources of livelihood.

Economic violence in land and resource conflicts was observed to have also been committed against rural communities, with 56 incidents documented. A majority (89 percent) of the incidents of economic violence found in the study involved businesses manipulating farmers to enter into unfair Agribusiness Venture Arrangements (AVAs). Such arrangements deprive the farmers of land rights and/or bury them in debt. Other forms of economic violence are labor issues in *haciendas*/plantations and the refusal to pay royalties by mining operations in ancestral domains.

Data analysis also showed one hundred twenty six (126) incidents of forcible entry into ancestral domains without FPIC. A majority (78 percent) of these incidents occurred in Mindanao. These violations were committed by businesses or migrants wanting to claim ownership and/or use of land for purposes not properly discussed with the existing Indigenous Political Structure (IPS) in the area. Other forms of political violence documented were criminalization of activities of community leaders and members, and the denial of access to decision-making processes affecting land and resource rights.

### **Impact on the environment**

Damage to the environment is considered a pronounced yet indirect effect of land and resource conflicts arising from investments. Some investments have major impacts on public health such as contamination of bodies of water, while others are felt by communities by way of damage to biodiversity. The clearing of forests makes communities vulnerable to natural disasters and

climate change, resulting in hundreds of deaths. Mining operations weaken the integrity of soil, leading to siltation and landslides.

## Causes and trends of land conflicts

There were three main causes of land and resource conflicts identified: (1) resistance to agrarian reform; (2) overlapping claims; and (3) land investments. The table below provides a summary of the causes of conflict, descriptions of each, including the process involved and the impact on land and resource rights.

**Table 2: Analysis of land and resource conflicts**

Cause	Stakeholders	Description	Process	Impact on Land and Resource Rights
Resistance to agrarian reform	DAR Landowner ARB/ARBO	Agrarian Reform is mandated by the 1987 Constitution and launched as a program to institute <b>social justice</b> . It aims to <b>redistribute productive agricultural land to tillers</b> to provide secure tenure and livelihood to otherwise landless rural workers. There are also provisions for just compensation for landowners whose lands will be taken away.	<b>Coverage:</b> landholding is covered under the CARP  <b>Acquisition and Distribution:</b> DAR acquires land and transfers legal ownership to ARB/ARBO  <b>Installation:</b> ARB/ARBO physically occupies landholding	The CARP aims to transfer ownership of land rights from landowners to ARBs/ARBOs. When landowners resist coverage under the program, they <b>prevent the transfer of ownership</b> guaranteed by the Constitution and by law.
Overlapping claims	<ul style="list-style-type: none"> <li>Community vs Community</li> <li>Government Agency vs Government Agency</li> </ul>	There are <b>overlapping and conflicting laws and policies</b> on land and natural resources in the Philippines. Different programs of government compete for the same parcels of land, resulting in overlapping claims and/or titles between different claimants/landowners.	<b>Delineation:</b> claimants lay boundaries of claims  <b>Mapping:</b> claims are given to the government for conciliation  <b>Awarding/ Segregation:</b> land is awarded to the owner or partitioned among claimants	Claimants compete for control over ownership or use of land and natural resources. Often, this ends in which of the claimants are more relentless in the <b>expulsion of their opponent</b> or in litigation, which claimant is registered.



Cause	Stakeholders	Description	Process	Impact on Land and Resource Rights
Land investments	<ul style="list-style-type: none"> <li>• Community</li> <li>• Business</li> <li>• Government</li> </ul>	Land investments undergo a <b>permitting/contracting process</b> between a business and landowner. Such process should undergo sufficient <b>consultation following standards of FPIC</b> with affected communities, and should be under the <b>supervision of the appropriate government agency.</b>	<p><b>Negotiation:</b> an investor applies to use land for an investment</p> <p><b>Development:</b> investor removes exiting structures and changes the use of the land</p> <p><b>Closure:</b> turnover of land to the government or its owner</p>	Land investments <b>deprive communities of prior rights</b> to the use of land and natural resources. In some instances, damage to the environment during and/or after the investment <b>expose communities to hazards and risks.</b>

Of all causes of land and resource conflicts, *resistance to agrarian reform* was the most violent in terms of killings. Resistance occurs in 62 percent of agrarian reform conflicts, mostly during the latter stages of installation (the third and last stage of the land distribution process). It is in this stage that landowners pursue desperate means to thwart the redistribution of land to Agrarian Reform Beneficiaries (ARBs). Apart from depriving ARBs of land to till, landowner resistance results in HRVs such as killings, injuries, detention, grave threats, and criminalization.

*Overlapping claims*, the second cause of land conflict, are symptoms of the fundamental problem of overlapping land laws and programs of the government. A majority of land conflict caused by overlapping claims relate to ancestral domains. The key issue is the poor security of tenure afforded by the State to ICCs/IPs over their traditional territories. Tremendous delays occur in the issuance of Certificates of Ancestral Domain Titles (CADTs) and Certificates of Land Titles (CALTs), and their registration with the Land Registration Authority (LRA). On the other hand, government programs for land titling, distribution, and investments are unhampered. As a result, the encroachment of property claimants within ancestral domains is legitimized. More than 7,000 households have been evicted from their residence due to overlapping claims, the most number in all causes of land and resource conflicts in this study.

*Land investments* as a source of conflict account for 55 percent of the 352 cases of conflict analyzed in this study. Most of these cases are conflicts between businesses and communities, and some are between government and communities. In terms of type of investment, conflicts arose most frequently in plantations (101 cases of conflict), mining (44), infrastructure (40), and forestry (7).

Plantation investments involve the use of land for agricultural production. There were three (3) modes through which plantation investments were undertaken: (1) engagement in Agribusiness Venture Agreements (AVAs); (2) land grabbing by a company from a community; and, (3) engagement with tenant farmers as hired labor. Data revealed 101 conflicts associated with plantation investments. Of these cases, 99 were for cash crops such as oil palm (47), banana (36), pineapple (8), and, others (9). More than 118,000 hectares of land are being contested under this conflict category.

The impacts of AVAs were felt by farmers who entered into unfair contracts with agribusiness companies. The nine cases of land grabs in agribusiness investments were all in ancestral domains – all of which involved the military. These cases of land grabbing resulted in the killing of 16 IPs, the disappearance of six, and the detainment of one. Further, four cases of land grabs resulted in the displacement of an estimated 4,800 families. Two of the plantations have current proposals for expansion, threatening the displacement of an additional 400 families.

Mining or extraction investments involve earth-moving activities to gather raw materials. There are 44 cases covering 450,470 hectares of land. Of the 44 cases, 29 are extraction investments for metals, seven for coal, five for sand/gravel, and one for natural gas. Extraction investments are among the most violent, with 15 conflict cases resulting in fatalities. An estimated 16,000 farming and fishing livelihoods were also compromised, exacerbating poverty and food insecurity in rural communities. It must be noted, though, that since the suspensions of mining activities ordered by the former Environment and Natural Resources Secretary Gina Lopez, violence has declined.

As for infrastructure investments, 40 cases have been found, covering 188,791 hectares of contested area. Eighteen of the conflict cases involved private infrastructure investments and twenty two were public or government infrastructure investments. Private investments account for 26,794 hectares of land, while public investment constitutes 161,997 hectares of contested land. Of the 18 private infrastructure investments, seven are in power generation, seven in real estate, three in tourism and one in industry. For the public infrastructure investments, five are for water systems; three for economic zones; two each for power, residential and government buildings; and one each for road, school, landfill, and tourism. Infrastructure investments often lead to land use changes that are irreversible. Such changes become the precursors for further land use changes in adjacent areas often brought about by industrialization and urbanization.

Infrastructure investments pose the greatest threat of displacement. These accounted for 64 percent of total households threatened with eviction and displacement/damage to livelihoods (28,010 households). Such potentially ruinous infrastructures consist of the construction of dams intended to provide hydro-electric power and water supply to cities in exchange for displacement of rural communities, mostly consisting of ICCs/IPs living adjacent to urban centers.

Forestry investments involve the use of forest resources that are considered public lands under Philippine law. There were seven cases that cover 115,100 hectares, all of which involved encroachment on ancestral domains.

### **Stakeholder responses to land conflicts**

Responses to conflict can be categorized into four: (1) yielding; (2) violence; (3) peaceful claim-making; and, (4) conflict resolution. Yielding involves stakeholders surrendering their claims and allowing their opponent's goals and interests to prevail. It was found that many rural poor communities were forced to yield to the interests of investors and migrants because of their poor adaptive capacity to situations of conflict and sheer fear in the midst of the vast resources available to their opponents. Of the 14 cases wherein rural poor communities yielded to the demands of investors, five cases resulted in the community members seeking employment in the enterprise that displaced them due to extreme poverty.

For the rural poor under threat, the risks involved in claim-making often outweigh the potential benefits. In many instances, they are forced to yield initially to the interest of their opponents. Later, they pursue other courses of action when opportunities to assert their claims become available. Investors only yielded to rural poor communities in four cases when the government enforced decisions in favor of the communities.

One particularly maladaptive form of response to conflict is engaging in acts of violence. Violence is often caused by poor access to justice, when stakeholders (particularly the rural poor), do not have the means to pursue their claims through peaceful means. When a conflict turns violent, damage to lives, health, livelihood, and people's sense of security and normalcy are sustained by both direct and indirect stakeholders. However, the brunt of the damage is usually borne by those who have the least capacity to engage in violence. Violent responses can come in the form of acts of revenge, the installation of barriers to prevent access to land/resources under contention; and the mobilization of armed groups. Violence only further escalates conflict and breeds a vicious cycle of retaliation.

In many cases, stakeholders eventually realize the need to assert their claim over their land and resource rights through peaceful means. This is often conducted with the aid of support groups such as CSOs and social movements, and sometimes, with the aid of the government. Peaceful claim-making builds the confidence of rural poor communities and allows them to build alliances and consolidate their resources towards asserting their land and resource rights. Initiatives such as dialogues and mediation fall under this type of response. This response is the only approach capable of achieving settlement of the issues that caused and sustained the conflict. Arriving at settlement is protracted (if successful at all) because conflict resolution processes are encumbered by legal and policy issues that are impervious to change.

### Conflict management mechanisms

In the bigger picture, the Philippines is internationally recognized for progressive legislations such as the CARL and the IPRA, which were won by the concerted efforts of community leaders, CSOs and their allies in Congress. These laws though, are implemented at a sluggish pace, with the CARL reaching its 30<sup>th</sup> year of implementation and the IPRA its 21<sup>st</sup>. The DAR and the NCIP, respective agencies imbued with the mandate to implement land and resource reform have been unable to exercise the full power provided them under law. As such, the socio-economic and political structures these progressive laws aim to change generally remain unchallenged. Government remains dominated by the landed elite and corporate interests, while the basic sectors and their allies through time have begun to be fragmented by ideological and political differences. As a result, gains achieved in the past have become vulnerable to reversal.

Amidst the slow implementation of land and resource reform programs, the government has been pursuing initiatives to streamline land investments in energy, agribusiness, and infrastructure. Currently, investments in forestry and to a certain extent, mining are strictly monitored by the government.

**Table 3: Streamlining initiatives for land investments**

Agency	Business	Threat
Department of Energy (DOE)	Mining and Infrastructure	Given the shortage and expensive cost of energy in the Philippines, the DOE has released EO 30 that expedites extraction of energy resources and the construction of infrastructures for energy production and distribution (DOE, 2018). In fact, the Bangko Sentral ng Pilipinas (BSP) has released a report that for 2017, there is a 1,000 percent increase in foreign direct investments on energy from 2016.

Department of Agrarian Reform (DAR) and the Department of Agriculture (DA)	Agribusiness	The DAR and DA are currently encouraging agribusinesses to invest in Filipino farmers. This is being conducted in the absence of a legally-binding framework for the assessment of AVAs (FAO, 2016).
	Private Infrastructure	Despite legal mandates to protect and limit conversion of irrigated and irrigable lands, agricultural lands are still being converted to other uses, particularly for real estate (ILC-NES, 2017).
Department of Public Works and Highways (DPWH)	Public Infrastructure	The current administration has embarked on the Build-Build-Build program, a massive program on infrastructure projects as preparation for the integration with Association of Southeast Asian Nations (ASEAN) mostly financed by bilateral loans (PAKISAMA, 2018).

When parties pursue conflict resolution, legal battles are generally time-consuming and resource-draining with litigation lasting from 3-17 years. Legal battles are especially costly for the rural poor. Quasi-judicial bodies and local dispute resolution mechanisms are available and deliver quicker resolution of conflicts, but there is no available data on whether the decisions made through these mechanisms are favorable to rural poor communities or to landowners/investors.

Conflict-prevention mechanisms are also embedded in land and resource governance. Procedural safeguards such as permits, licenses and other government requirements can sometimes prevent land and resource conflicts. Representation and participation mechanisms, when utilized properly, allow poor sectors and communities to register their concerns to decision-making processes in governance. However, in certain instances, these only serve as rubber stamps for land investments. There are cases wherein representatives to governance bodies are beholden to the government officials who appointed them and are not necessarily held accountable by the sectors/communities they supposedly represent. Freedom of information (FOI) policies are in place, but do not necessarily translate to public access to data on land.

Given all this, recourse is often fleeting if not totally absent. The government is often caught in fundamental conflicts of interest, which comes in two forms. First, various agencies imbued with their respective mandates and programs compete for jurisdiction over the same parcels of land and natural resources. In the absence of clear harmonization of overlapping laws, land and resource conflicts often turn violent and persist unresolved. This renders the tenure of land and natural resource stakeholders, particularly rural poor communities, insecure and perennially contested. Consequently, their lives are beset with danger.

The second form of conflict of interest can be seen in the deliberate policies of government to expedite investments in the name of “ease of doing

business” and “readiness for integration.” In many cases of land investments, the government is a facilitator or even a direct partner. Thus, the government often fails to perform its mandate to regulate business, particularly when the rights of people and communities are being trampled upon.

Finally, there is a dearth of responsive mechanisms to address land and resource conflicts. Only with aggressive and sustained lobbying and advocacy can these conflicts be addressed and prevented. One way to interpret this is that this is a result of bureaucratic inefficiency or a lack of political will to address legal, administrative, and judicial hindrances towards the completion of land and resource reforms, and the harmonization of agency jurisdictions. However, another way to interpret this is that the multitude of loopholes and bottlenecks have been deliberately installed to enable the reversal of gains in land and resource reform, and to facilitate the entry of corporate interests in land and resource governance. After all, impunity has characterized the rule of law in Philippine society in recent times. It is in these times that the barrel of the gun has been pointed at the very people in need of the most protection.

## RECOMMENDATIONS

Based on the findings and analysis during the joint ANGOC-CHR forum, the following recommendations are put forward:

### For Government:

- Address the root causes of land and resource conflicts: complete land and resource reform programs and ensure tenure security for the rural poor.
- Institute an effective and efficient mechanism to resolve overlapping claims on land.
- Ensure the integrity of safeguard mechanisms that regulate land investments by integrating the UN Guiding Principles on Business and Human Rights (UNGPs) in land and resource governance.
- Enhance the awareness of government on land rights as human rights especially the military.

### For Businesses:

- Comply with government regulations to ensure the sustainability of their investments.
- Engage business on discussions related to the UNGPs on BHR.

### For CSOs and social movements:

- Unite under a common goal and program of responding to the needs of rural poor communities.
- Organize and empower the rural poor to enable them to effectively defend their rights.
- Improve on existing reporting and protection mechanisms, and widely disseminate these so that they and the rural poor can utilize these in cases of violations of their rights.
- Sustain and strengthen non-violent struggle to hold rights violators accountable for their actions. ○

### ACKNOWLEDGEMENTS

ANGOC expresses its gratitude to the CHR, particularly Commissioner Roberto Cadiz, Jesus Torres and the Economic-Social-Cultural Rights Center (ESCRC) for their openness to engage civil society organizations (CSOs) and their willingness to support CSO actions towards mainstreaming land rights as human rights. We also express our gratitude to the national government agencies who have provided information that formed part of this study: the Department of Interior and Local Government (DILG), the Department of Agrarian Reform (DAR), the Department of Environment and Natural Resources (DENR), the National Irrigation Administration (NIA), and the National Commission on Indigenous Peoples (NCIP). We also thank CSOs who contributed to the data and the analysis of this study: Alternative Law Groups (ALG), Alyansa Tigil Mina (ATM), Center for Agrarian Reform and Rural Development (CARRD), Haribon Foundation, Kaisahan tungo sa Kaunlaran ng Kanayunan at Repormang Agraryo (Kaisahan), Land Matrix Initiative (LMI), Legal Rights and Natural Resources Center/Kasama sa Kalikasan/Friends of the Earth-Philippines (LRC/KsK/FOE-P), Mediator's Network for Sustainable Peace (MedNet), Non-Timber Forest Products- Exchange Programme (NTFP-EP), the Oblates of Notre Dame Hesed Foundation, Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA), Plan International, Serve the Children and Older Persons Foundation, Tebtebba Foundation, Unbound, and Xavier Science Foundation (XSF).

Special thanks to the community leaders who shared their stories during the *Multi-Stakeholder Forum on Land Conflicts and Rights Defenders* conducted last 30 October 2018: Sabang-Poocan Farmers and Fishermen Association, Inc. (SAPOFFA) from Caluya Island, Antique, and the Dumagat-Remontado Indigenous Peoples Organizations: *Kolo Ka Koloy* and *Sukatan Lupang Ninuno* from Montalban and Tanay, Rizal.

## LIST OF ACRONYMS

ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
ARB	agrarian reform beneficiary
ARBO	agrarian reform beneficiary organization
ASEAN	Association of Southeast Asian Nations
AVA	agribusiness venture arrangement
BSP	Bangko Sentral ng Pilipinas (Central Bank of the Philippines)
CADC	Certificate of Ancestral Domain Claim
CADT	Certificate of Ancestral Domain Title
CALT	Certificate of Ancestral Land Title
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CHR	Commission on Human Rights
CLOA	Certificate of Land Ownership Award
CSO	civil society organization
DA	Department of Agriculture
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
DICT	Department of Information and Communications Technology
DILG	Department of Interior and Local Government
DOE	Department of Energy
DOF	Department of Finance
DOJ	Department of Justice
DPWH	Department of Public Works and Highways
DTI	Department of Trade and Industry
ESCRC	Economic-Social-Cultural Rights Center
FMB	Forest Management Bureau
FOI	Freedom of Information
FPIC	free and prior informed consent
HRD	human rights defender
HRV	human rights violation
ICC	indigenous cultural community
IFMA	Integrated Forestry Management Agreement
ILC	International Land Coalition
IPs	indigenous peoples
Kaisahan	<i>Kaisahan tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan</i> (Solidarity towards the Development of Rural Areas and Agrarian Reform)
LAO	Legal Affairs Office (DAR)



LGU	Local Government Unit
LMB	Land Management Bureau (DENR)
LMI	Land Matrix Initiative
LRA	Land Registration Authority
LRC/KsK/FOE-P	Legal Rights and Natural Resource Center/Kasama sa Kalikasan/Friends of the Earth-Philippines
MGB	Mines and Geosciences Bureau (DENR)
NCIP	National Commission on Indigenous Peoples
NTFP-EP	Non-Timber Forest Products-Exchange Programme
PAKISAMA	<i>Pambansang Kilusan ng mga Samahang Magsasaka</i> (National Federation of Farmers' Organizations)
UNGP BHR	United Nations Guiding Principles on Business and Human Rights
XSF	Xavier Science Foundation

## REFERENCES

- Alternative Law Groups. (2017). *Monitoring research findings in the Environmental Defense Program*. [Presentation during a forum on Lawyering for the Environment in Quezon City].
- Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). (2017). *Farmers and indigenous peoples defend their right to land: stories from the field*. Quezon City: ANGOC and Joint Action for Land Rights.
- Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). (2018). *From the farmland to the table: exploring links between tenure and food security*. Quezon City: ANGOC and Global Land Tool Network.
- Bangko Sentral ng Pilipinas. (2017). *Foreign direct investments dashboard*. Quezon City: BSP.
- Republic of the Philippines. (2009). *Comprehensive Agrarian Reform Program with Extension and Reforms of 2009*. Republic Act 9700.
- Department of Agrarian Reform. (2018). *Annual Report 2017*. Quezon City: DAR.
- Department of Energy. (2018). *DOE presents EO 30 streamlining energy projects processing*. Manila City: DOE.
- Department of Interior and Local Government. (2018). *Data on barangay dispute resolution mechanisms*. Quezon City: DILG.
- De Vera, D. (2017). *The Joint Administrative Order No. 1 series of 2012: a policy review*. Quezon City: ANGOC.
- Environmental Justice Atlas. (2018). [Website]. Retrieved from <https://ejatlas.org/>

- Food and Agriculture Organization (FAO). (2012). *Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security*. Rome: FAO.
- Food and Agriculture Organization (FAO). (2016). *Multi-sectoral study on the agribusiness ventures arrangement policy and implementation under the Comprehensive Agrarian Reform Program*. Rome: FAO.
- Republic of the Philippines. (1997). *Indigenous Peoples Rights Act*. Republic Act 6757.
- International Land Coalition National Engagement Strategy (ILC-NES) in the Philippines (2017). *TIPANAN: official publication of the ILC-NES Philippines*. Quezon City: ILC-NES.
- Republic of the Philippines. (2012). *Joint DAR-DENR-LRA-NCIP Administrative Order 1, Series of 2012*.
- Mediator's Network for Sustainable Peace (MedNet). (2017). *Annual Report for 2017*. Quezon City: MedNet.
- Montiel, C., Rodil, R., & de Guzman, J. (2012). The Moro struggle and the challenge to peace-building in Mindanao, Southern Philippines in D. Landis & R. Albert (Eds). *Handbook of ethnic conflict: International Perspectives* (pp. 71-92).
- National Commission on Indigenous Peoples (NCIP). (2018). *Annual Report for 2017*. Quezon City: NCIP.
- National Economic Development Agency (NEDA). (2017). *Philippine Development Plan 2017-2022*. Pasig City: NEDA.
- National Irrigation Administration (NIA). (2018). *Status of irrigation development*. Quezon City: NIA.
- Office of the President of the Philippines. (2016). *Executive Order No. 02, Series of 2016: Operationalizing in the Executive Branch the people's Constitutional right to information and the state policies to full public disclosure and transparency in the public service and providing guidelines thereof*. Manila: Official Gazette.
- Pambansang Kilusan ng mga Samahang Magsasaka (PAKISAMA). (2018). *Stop the Centennial Dam: a case brief*. Quezon City: PAKISAMA.
- Philippine Statistics Authority. (2015). *Special report – highlights of the 2012 Census of Agriculture and Fisheries*. Retrieved from <http://psa.gov.ph/content/special-report-highlights-2012-census-agriculture-2012-ca>
- Salcedo, R. G. (November 2016). The Palawan Oil Palm: The Aborlan Coco Farmers- Agumil Case. Xavier Science Foundation-Institute of Land Governance. [Unpublished case brief].
- Salomon, T. (2018). *Land data and its governance: a scoping study on the Philippine Statistical System in the context of SDG indicator 1.4.2*. Quezon City: ANGOC.

- The Guardian. (2018). *At what cost? Irresponsible business and the murder of land and environmental defenders in 2017*. Retrieved from <https://www.globalwitness.org/en/campaigns/environmental-activists/at-what-cost/>
- Quizon, A. (2018). *State of Land and Resource Tenure Reform in the Philippines*. ANGO and ILC-NES. [Manuscript copy].
- Quizon, A. & Pagsanghan, J.I. (2014). *Review of selected land laws and the governance of tenure in the Philippines: discussion paper in the context of the Voluntary Guidelines on the Governance of Tenure (VGGT)*. Quezon City: Philippine Development Forum - Working Group on Sustainable Rural Development.
- United Nations High Commissioner on Human Rights. (2018). *Mindanao Displacement Dashboard*. Retrieved from <http://www.unhcr.org/ph/protection-cluster/mindanao-displacement-dashboards>

# Land Watch Asia Working Group for Mainstreaming Land Rights as Human Rights



Founded in 1979, the **Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)** is a regional association of national and regional networks of civil society organizations (CSOs) in Asia actively engaged in food security, agrarian reform, sustainable agriculture, participatory governance and rural development. ANGOC network members and partners work in 10 Asian countries together with 3,000 CSOs and community-based organizations (CBOs). ANGOC actively engages in joint field programs and policy discussions with national governments, intergovernmental organizations (IGOs) and international financial institutions (IFIs).

ANGOC is a member of the Global Land Tool Network (GLTN), Global Forum on Agricultural Research (GFAR), Indigenous Peoples' and Community Conserved Areas and Territories (ICCA) Consortium and the International Land Coalition (ILC).

33 Mapagsangguni Street, Sikatuna Village  
Diliman, 1101 Quezon City, Philippines  
P.O. Box 3107 QCCPO 1101, Quezon City, Philippines  
Tel: +63-2-3510581  
Fax: +63-2-3510011  
Email: [angoc@angoc.org](mailto:angoc@angoc.org)  
URL: [www.angoc.org](http://www.angoc.org)



**People's Campaign for Agrarian Reform Network, Inc. (AR Now!)** is an advocacy and campaign center for the promotion of agrarian reform and sustainable development. Its vision is to achieve peasant empowerment, agrarian and aquatic reform, sustainable agriculture and rural development.

38-B Mapagsangguni St., Sikatuna Village  
Diliman, 1101 Quezon City, Philippines  
Phone : (632) 433 0760  
Fax : (632) 921 5436  
Email: [arnow.inc@gmail.com](mailto:arnow.inc@gmail.com)



**Association for Realisation of Basic Needs (ARBAN)**, a non-government development organization concerned with the fundamental rights and the basic needs of landless agricultural laborers, sharecroppers and marginalized people, was founded on 18 February 1984. It works with the rural-urban poor and powerless and indigenous people for their socio-economic, cultural, and political empowerment and emancipation from all forms of bondages including injustices, inequalities and dispossession by promoting and practicing democratic values and participatory development processes at all levels through implementing various projects and programs.

House #6/2, Block #B, Lalmatia, Mohammadpur  
Dhaka-1207 Dhaka, Bangladesh  
Phone: +880 811-1321  
Email: [arban1984@yahoo.com](mailto:arban1984@yahoo.com)  
Website: <https://www.facebook.com/mis.arban.org/>



**Community Development Association (CDA)** is a non-government development organization that has been facilitating the rural poor, landless and marginal farmers, the plain land Indigenous people (IP) including differently able men, women, and rural youth with a view to empower, ensure access to land rights and mobilize the people-centered land governance and agrarian reform upon the contextual needs and demands led by 700 village-based peoples organizations in the north-western part of Bangladesh.

Community Development Association (CDA)  
Upa-Shahar, Block # 1, House # 51 Dinajpur-5200, Bangladesh  
Email: [edcda08@gmail.com](mailto:edcda08@gmail.com)  
Phone: +880531-64428, Cell: +88(0)1713195000  
Skype: jinnah1950  
Web: [www.cdalop.org](http://www.cdalop.org)



**Community Self Reliance Centre (CSRC)** has been at the forefront of land and agrarian rights campaign in Nepal. CSRC educates, organizes, and empowers people deprived of their basic rights to land to lead free, secure, and dignified lives. The organization's programs focus on strengthening community organizations, developing human rights defenders, improving livelihoods, and promoting land and agrarian reform among land-poor farmers. Since its establishment, CSRC has constantly worked to transform discriminatory and unjust social relations by organizing landless, land poor and marginalized communities to claim and exercise their rights.

Dhapasi, Kathmandu, Nepal  
Phone: 0977 01 4360486 / 0977 01 4357005  
Fax: 0977 01 4357033  
Email: [landrights@csrcnepal.org](mailto:landrights@csrcnepal.org)  
Website: [csrcnepal.org](http://csrcnepal.org)



Established in 1994, the **Consortium for Agrarian Reform (KPA)** currently consists of 153 people's organizations (peasants, indigenous peoples, rural women, fisherfolk, urban poor) and NGOs in 23 provinces in Indonesia. KPA fights for agrarian reform in Indonesia through advocacy and the strengthening of people's organizations. KPA's focus on land reform and tenurial security, and policy advocacy on these issues has put the coalition at the forefront of the land rights struggles of Indonesia's landless rural poor, especially with indigenous peoples in several areas in Outer Java. KPA encourages a participatory and pluralistic approach which recognizes the development of different systems of land use and tenure to ensure land rights. KPA is a people's movement that has an open and independent character.

Komplek Liga Mas, Jl. Pancoran Indah I No.1 Block E3  
Pancoran, South Jakarta 12760, Indonesia  
Phone: (021) 7984540  
Fax: (021) 7993834  
Email: kpa.seknas@gmail.com  
Website: <http://www.kpa.or.id/>



**Ekta Parishad** is a people's movement dedicated to non-violent principles of action, which aims to see India's poorest people gain control over livelihood resources, especially land, water and forest. Ekta Parishad is a federation of approximately 11,000 community-based organizations with thousands of individual members. It is currently operating in 10 States working for the land and livelihood rights of India's most marginalized communities.

Ekta Parishad National Office  
Gandhi Bhavan, Shyamla Hills  
Bhopal 462 002  
Madhya Pradesh, India  
Tel: +91 / 755 422 38 21  
Fax : +91 / 755 422 38 21  
Email: [epnationaloffice@ektaparishad.com](mailto:epnationaloffice@ektaparishad.com)



**Social Development Foundation (SDF)** was founded in October 1998 with an aim to strengthen the autonomous grassroots movements, build secular democratic leadership among the most marginalized communities and develop scientific temper among people. The organization reached the most marginalized communities and started the land literacy campaign among them. SDF focuses on land reforms with right-based approach. Though the organization was constituted in Delhi, its main grassroots operations are mainly in the Uttar Pradesh and Uttarakhand States. SDF also provides necessary support to engage with policy makers, social movements, academics, lawyers, and civil society organizations.

4/46, II Floor, Malviya Nagar, New Delhi-110017, India  
Email: [sdfindia@gmail.com](mailto:sdfindia@gmail.com)



**STAR Kampuchea (SK)** is a Cambodian non-profit and non-partisan organization established in 1997 dedicated to building democracy through strengthening of civil societies. SK also provides direct support to communities suffering from resource conflicts like land-grabbing and land rights abuses through capacity building and legal services.

No. 71, Street 123, Sangkat Toul Tompoung1,  
Khan Chamkar Morn, Phnom Penh, Kingdom of Cambodia  
Phone: (855) 23 211 612  
Fax: (855) 23 211 812  
Email: [star@starkampuchea.org.kh](mailto:star@starkampuchea.org.kh)  
Website: [starkampuchea.org.kh](http://starkampuchea.org.kh)



**Xavier Science Foundation, Inc. (XSF)** is a non-political, non-stock, non-profit organization established and designed to encourage, support, assist, and finance projects and programs dedicated to the pursuit of social and educational development of the people in Mindanao. It is a legal and financial mechanism generating and managing resources to support such socially-concerned and development-oriented projects and programs.

Manresa Complex, Fr. Masterson Avenue,  
Upper Balulang, 9000 Cagayan de oro City, Philippines  
Phone: (088) 853 9800  
Email: [xsf@xu.edu.ph](mailto:xsf@xu.edu.ph)  
Website: [xsfoundation.org](http://xsfoundation.org)



Monitoring reports were prepared in six Asian countries to understand the nature, causes, and impacts of land and resource conflicts, and to highlight the human rights issues intertwined with them.

This publication likewise provides an overview of some of the available conflict response and resolution mechanisms in Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines, and outlines recommended actions for addressing land conflicts.

INTERNATIONAL  
**LAND**  
COALITION

ASIA

**The International Land Coalition (ILC)** is a global alliance of civil society and intergovernmental organizations working together to put people at the center of land governance. Their shared goal of ILC's over 200 members is to realize land governance for, and with people at the country level, responding to the needs and protecting the rights of women, men and communities who live on and from the land.

ILC Global Secretariat:  
c/o International Fund for Agricultural Development (IFAD)  
Via Paolo di Dono 44  
00142 - Rome, Italy  
Tel.: +39 06 5459 2445  
Website: [info@landcoalition.org](mailto:info@landcoalition.org)  
Email: [asia@landcoalition.info](mailto:asia@landcoalition.info)

ILC Regional Coordination Unit:  
c/o Konsorsium Pembaruan  
Agraria (KPA)  
Komplek Liga Mas, Jl. Pancoran  
Indah I No. 1 Block E3  
Pancoran, South Jakarta  
12760 Indonesia  
Tel: +62217984540