

IN DEFENSE OF LAND RIGHTS

Volume 2

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. Thus, the ANGOC network shall advocate and promote land and resource rights, smallholder agriculture, and human rights and civic participation, by serving as a platform for Asian CSOs to generate knowledge, share tools, and conduct constructive policy dialogues.

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.

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Foreword

The United Nations Office of the High Commission on Human Rights reiterated in 2015 a universal truth, that land is essential for the enjoyment of other rights, from shelter and food to human dignity and security. And as many people and communities attach their collective identity on the land, it also carries dearly held social, political and cultural rights.

It is unfortunate that many social conflicts are rooted in issues related to land and resource rights. This is a fact recognized globally, as stated in the *UN Secretary General Guidance Note on Land and Conflict* released in 2019.¹

In Asia, land conflicts 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 (Quizon, 2018).

While a huge portion of land and resource conflicts occur in the context of State development or corporate interest (i.e., mining, plantations, economic zones), many conflicts also occur when policies over the same parcels of land overlap or when laws are poorly implemented. Forms of structural land conflict include land grabbing, intrusion into indigenous peoples' lands, eviction of entire communities from large-scale infrastructure projects pushed by both the government and the private sector, and corporate takeover of common lands long used and managed by communities.

Land conflict is an indicator, and its existence raises questions about the state of land governance. Land conflicts result in loss of livelihoods, violations of human rights, loss of lives, and should thus signal an urgency for government and other stakeholders to act.

Thus, in 2018, the Land Watch Asia Working Group on Land Rights as Human Rights (LWA WG LRHR) produced country reports on land conflicts² in Bangladesh, Cambodia, India,

¹ In response to the increasing competition and conflict over land, the United Nations Secretary General developed a guidance note to help the UN system to achieve a sustained and strategic approach to addressing the emerging needs of its Member States and population. See <https://gln.net/download/the-united-nations-and-land-and-conflict-march-2019/?wpdmdl=14731&refresh=5e4b953a64c3f1582011706>

² In 2018, monitoring reports were prepared in six Asian countries to understand land and resource conflicts and to highlight the human rights issues intertwined with them. See <https://angoc.org/portal/land-conflicts-in-six-asian-countries-portal-asian-ngo-coalition/>

Indonesia, Nepal, and the Philippines, in order to contribute towards a better understanding of such conflicts. In particular, the studies discussed the nature and causes of land and resource conflicts, their impacts on local communities and land rights defenders, and action taken in response to them.

This **second** volume of the publication “*In Defense of Land Rights*” is a progression from the 2018 report. Recognizing that the use of different methodologies limited the scope for consolidation, comparison and analysis of data at national and regional levels, a common and more systematic way to gather data and to report on land conflicts was employed in 2020.

Based on the monitoring methodology of Konsorsium Pembaruan Agraria (KPA) in Indonesia, a regional database and monitoring system was initially developed by ANGO and KPA. The objectives, outline, methodology, and tools were then discussed and finalized during the LWA Regional Planning Meeting and Regional Training on Land Conflict Monitoring, conducted in Jakarta, Indonesia in March 2020.

The LWA WG LRHR partners applied the tools, utilizing different approaches to suit their country contexts. The bulk of data-gathering work occurred from March to December 2020, where partners received and followed-up on land conflict reports from communities, monitored news outlets and social media, then drafted the country land conflict monitoring reports in early 2021. Findings and initial recommendations were presented to community-based organizations and CSOs for feedback, analysis, and verification. In Indonesia, Nepal, and the Philippines, the reports were also presented during multi-stakeholder dialogues involving government agencies and National Human Rights Institutions/Commissions (NHRIs/NHRCs). For India, the report was based mainly on available data from Land Conflict Watch, a network of researchers and journalists reporting on land conflicts across the vast country. Data and analyses from the six countries were then compiled into a regional report summarizing the main findings and key recommendations from the country papers. Details of the methodology and processes undertaken in preparing the reports are found in the article “Framework and Methodology of the 2020 Land Conflict Monitoring Initiative” (see pages 11 to 20) of this publication.

The summary report was validated with the LWA WG LRHR and subsequently presented and discussed during the thematic learning workshop organized by ANGO in conjunction to the *Asia Land Forum* convened by the International Land Coalition – Asia last 27 October 2021. Based on the inputs received from said workshop which was participated by around 70 individuals from local and international civil society organizations across Asia, the summary report was finalized.

From January to December 2020, the Land Watch Asia partners gathered at least **1,371 reported cases** of land and resource conflicts in the six Asian countries, covering **6.47 million hectares**, and affecting **2.37 million households**. Over three-fourths of the

affected community sectors were small farmers and indigenous peoples. Among the key findings of this 2020 report are:

- The main drivers in 70 percent of land conflict cases are private investments and government projects. In many cases, State agencies were reported as the main adversaries in land conflict with communities, brought about by government infrastructure and development projects.
- Many cases (23 percent) involve conflict over common resources such as water and fishery resources, coastal areas, forests, national parks, and protected areas.
- Many land conflicts have led to incidents of violence. There were 712 individual victims of violence and human rights violations (HRVs) in the 664 reported cases of land conflict in Bangladesh, Cambodia, Indonesia, Nepal, and the Philippines.
- In four countries (Bangladesh, Cambodia, Nepal, Philippines), there were 189 cases of violence committed against communities. These incidents directly affected 80,216 households, of which 29,507 households became victims of forcible eviction and displacement. They were driven away from their homes and lands, and in some cases, their houses were demolished, and crops destroyed.
- Yet many impacts of land conflicts remain invisible and go unreported, e.g., effects on women and domestic abuse, schooling of children, and others.
- In Bangladesh, Cambodia, Nepal, and the Philippines, a large portion of the affected communities (40 percent of the responses) involved political actions such as protests and demonstrations while others resorted to negotiation (20 percent), judicial courts/legal action (18 percent), government administrative bodies (16 percent) and local/customary systems (three percent).
- While some corrective action were taken by governments (in 23 percent of cases) and by companies (in three percent of cases), no action was deemed taken in 71 percent of all cases. At the same time, the present database is not able to capture the information on whether communities are satisfied with the corrective actions instituted.

The recommendations in the Report are framed towards addressing the roots of land conflict, requiring a fundamental shift in development thinking and approach in order to achieve more equitable, just, and sustainable outcomes.

Governments have a fundamental responsibility to protect basic human rights in their policies and actions. The protection of human rights, and not economic investments, should be their utmost priority.

National Human Rights Institutions and Commissions should investigate human rights abuses in the context of land conflicts, and provide paths to remedy and redress for the victims, most of whom are poor and marginalized.

The private sector, for its part, should not be content in just complying with existing laws and policies. As duty bearers, companies have the responsibility to exercise due diligence

to prevent human rights abuses, and be accountable for any negative direct and indirect impacts which their operations might have on vulnerable populations.

For their part, civil society organizations (CSOs) must serve as a bridge between affected communities and other stakeholders for effective dialogue and engagement. They must continue to lobby for policies that will protect, respect, and ensure human and land rights.

We would like to thank the lead researchers of the country reports: Community Development Assistance (Bangladesh), STAR Kampuchea (Cambodia), Centre for Legislative Research and Advocacy (CLRA), Konsorsium Pembaruan Agraria (Indonesia), Community Self Reliance Centre (Nepal) and ANGO (Philippines). Special thanks to Denise Hyacinth Joy Musni for writing the description of the framework and methodology used in this report as well as consolidating the country datasets, and to Antonio “Tony” Quizon for writing the summary report “Land Conflicts and Human Rights Violations Amidst a Pandemic” (see pages 21 to 48) of this publication. Finally, our appreciation to the production team for compiling all the articles into this publication. ■

Nathaniel Don E. Marquez
Executive Director, ANGO

Framework and Methodology of the 2020 Land Conflict Monitoring Initiative¹

Background of the Initiative

Land as a valuable and limited resource continues to be the source of many conflicts. At the surface, these conflicts are borne out of competing interests. While for some, land is key to securing wealth, for many including the rural poor, land is a vital part of individual and community survival. States play a key role in deciding who controls and benefits from land and other natural resources. In numerous occasions, State decisions have led to capital-driven utilization of land and resources that led to economic gain for a few but left many in poverty.

At its roots, land conflicts occur due to complex issues such as enduring historical injustices, misappropriation of resources, faulty or weak reforms, overlaps in tenure systems, and even a general disregard for the rights of vulnerable sectors.²

The presence of land conflicts indicate that something is amiss with land governance – they present clues to unjust access to, control over, or ownership of land and resources. Land conflicts also result in loss of livelihoods, violations of human rights, loss of lives, and should thus signal urgency for government and other stakeholders to act.

The growth of land conflicts in number, coverage, and intensity in recent years have prompted civil society organizations (CSOs) to investigate them further.

In this context, partner CSOs of the Land Watch Asia (LWA) campaign from Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines, formed the Working Group on Land Rights as Human Rights³ (LWA WG LRHR) in 2018, and produced land conflict monitoring reports covering the six countries, using methodologies that were most convenient for each country.⁴ This effort was inspired by the experiences of the Konsorsium Pembaruan Agrarian (KPA) or the Consortium for Agrarian Reform⁵ in monitoring land

¹ Written by Denise Hyacinth Joy Musni in behalf of the LWA WG LRHR and the Asian NGO Coalition for Agrarian Reform and Rural Development.

² See: Quizon, A. (2018). *A Perspective Overview of Land Conflicts in Six Asian Countries*. In *Defense of Land Rights: a monitoring report of land conflicts in six Asian countries*. (pp. 10-45). ANGOC.

³ The overall goal of the LWA WG LRHR is to have *right to land* recognized as a human right as land rights organizations and communities become part of the regional and country dialogues in at least six Asian countries. The Working Group is composed of 10 CSOs in Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines.

⁴ The 2018 report may be downloaded through this link: https://angoc.org/wp-content/uploads/2019/02/In_Defense_of_Land_Rights.pdf

⁵ Also a member of the LWA WG LRHR.

conflicts and attacks against smallholders in Indonesia since 2003, in order to inform CSO campaigns on priority areas for agrarian reform. However, while the 2018 reports proved to be useful for painting a picture on land conflicts and their effects on communities and land rights defenders for informed advocacies, the use of different methodologies limited the scope for consolidation, comparison, and analysis of data at national and regional levels.

Thus in 2020, building on the work done in 2018 and learning from previous experiences, the LWA WG LRHR implemented a more systematic way to monitor land conflicts and their effects on individuals and communities. The 2020 Land Conflict Monitoring Initiative consists of six country and regional summary reports.

Objectives

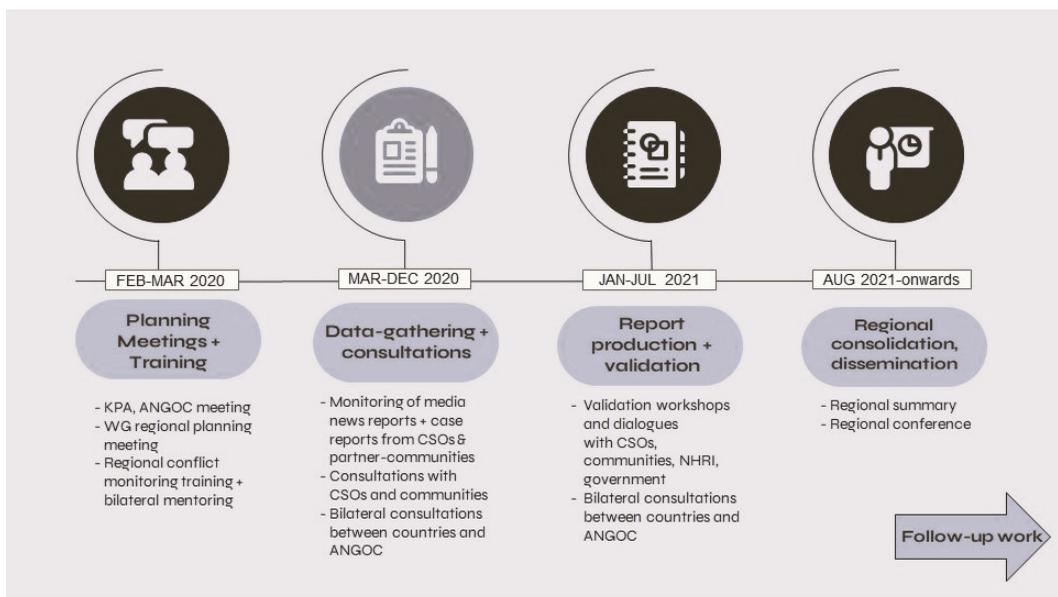
The main objective of the 2020 Land Conflict Monitoring Initiative is to implement a *common yet flexible* system for collecting data and information on land conflicts. The specific objectives of the country and regional reports are as follows:

- To describe the *prevalence and types* of land and natural resource conflicts;
- To examine the *nature and causes* of land and resource conflicts and to discuss their *impacts and outcomes* on communities, as well as on land rights defenders; and,
- To draw up *recommendations* based on the study findings and consultations.

Overall Research Process

The overall research process is summarized in the graphic below.

Figure 1. Summary of the overall research process for the 2020 Land Conflict Monitoring Reports



In February 2020, ANGO, in consultation with KPA, initiated the creation of tools and outlining of methods to be used for monitoring land conflicts in Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines.

The objectives, outline, methodology, and tools were then discussed and finalized during the Regional Planning Meeting and Regional Training on Land Conflict Monitoring, conducted in Jakarta, Indonesia in March 2020. During the preparatory stage, LWA WG LRHR members also agreed on the focal organizations who will lead the implementation of the land conflict monitoring initiative within the six countries.⁶ ANGO then conducted several bilateral meetings with the focal organizations, for mentoring sessions on the use of the tools, to respond to concerns and queries from researchers, and to provide guidance on how to proceed with data gathering and interpretation.

The bulk of the data gathering occurred from March to December 2020. During these months, members of the LWA WG LRHR received and followed-up on conflict reports from communities, monitored mainstream news outlets and social media, and started to piece together the data to form initial analyses.

Country reports which incorporated the data gathered were drafted in early 2021. Findings and recommendations were presented to community-based organizations and civil society organizations for feedback, further analysis, and for refinement. In Indonesia, Nepal, and the Philippines, the studies were also presented during multi-stakeholder dialogues which involved government agencies and National Human Rights Institutions/Commissions (NHRIs/NHRCs).

Data and analyses from the six countries were then compiled into a regional report which summarizes the main findings and key recommendations from the country papers. This regional report was validated with the LWA WG LRHR on 13 October 2021. Subsequently, it was further discussed during the thematic learning workshop organized by ANGO in conjunction to the *Asia Land Forum* convened by the International Land Coalition – Asia last 27 October 2021, attended by around 70 individuals from local and international civil society organizations across Asia.

Implementing Methodologies that are Common but not Uniform

There are several key commonalities in methods implemented in the six countries, although focal organizations had also adjusted the methods based on feasibility given the restrictions brought on by the COVID-19 pandemic. Methods were also modified to suit focal organizations' capacities and country-specific objectives.

⁶ The focal organizations are: Community Development Association (CDA) – Bangladesh; STAR Kampuchea (SK) – Cambodia; Centre for Legislative Research and Advocacy (CLRA) – India; Konsorsium Pembaruan Agraria (KPA) – Indonesia; Community Self Reliance Centre (CSRC) – Nepal; and, ANGO – Philippines.

Definitions

For the land conflict monitoring in 2020, LWA WG LRHR members agreed on operational definitions to standardize the scope of research and analysis of findings. Definitions used are mostly from official/international sources.

LWA WG LRHR members defined *land conflict* as “a situation wherein two or more stakeholders compete for control over land and/or resources, including decision-making and truth. Also called *structural conflicts* wherein the conflicts emanate from: a) loopholes and contradictions in law, b) difference in paradigms of competing tenure systems, and/or, c) weak enforcement of legal and customary tenure systems.” From this definition, the monitoring initiative thus agreed that the scope of coverage could be so-called *structural conflicts* and that the conflicts to be observed may also include resources such as forests and waters.

Some key definitions applied in the country and regional reports are found in Box 1 below.

Box 1. Definitions of Some Terms Used

Land conflict. A situation wherein two or more stakeholders compete for control over land and/or resources, including decision-making and truth. Also called “structural conflicts” wherein the conflicts emanate from: a) loopholes and contradictions in law, b) difference in paradigms of competing tenure systems, and/or, c) weak enforcement of legal and customary tenure systems.

Case. A set of competitive relationships within a single or connected storyline/s and/or landscape/s.

Conflict relationship. A set of competitive interactions between two or more stakeholders that define a conflict.

Conflict incident. An event or string of events that indicate an ongoing conflict. All manifest conflicts have conflict incidents.

Land rights holder. A stakeholder whose rights to the land under contestation are held under law, tenure reform/s, or custom, and whose relationship to the land is inherent to their survival and identity.

Land rights defender. Stakeholders who may be land rights holders or support groups assisting land rights holders to defend their land rights.

Aggressor (also sometimes referred to as Duty Bearer). A stakeholder whose claim over land under contestation is not inherent to their survival and identity.

Scope

The monitoring covered *structural land conflicts* in rural areas, although the team from the Philippines also covered some peri-urban and urban conflicts. Common conflict information collected may be classified under the following:

- a) Information about the case or the basic components of the conflict’s storyline – ex. type of land/resource contested, size of contested area, location;
- b) Information about the *relationships* or the stakeholders involved in a land conflict and their actions – ex. affected communities, aggressors; and,
- c) Information about *incidents* or violent events that are markers for ongoing conflicts – ex. victims and perpetrators of violence, types of violence.

The occurrence of violent incidents are how most conflicts are brought to the attention of the media and/or the public. Therefore, most of the conflicts included in the monitoring are those that were recently *manifest* or had violent incidents in recent history.

There are also many *latent* conflicts covered in the monitoring. Latent conflicts do not have recent traces of violence but involve communities who are actively challenging the ownership or control of other actors, or who continue to face threats of dispossession or displacement due to the ongoing conflict. These conflicts also include instances wherein community discontentment remains even after the cases have been officially resolved.

Lastly, the monitoring also covers violence against *land rights defenders* who are not usually attached to just one specific case. These are incidents wherein land rights and environmental activists or members of organized groups are targeted for working with communities and/or for expressing opposition against projects or policies.

In terms of the time frame, the monitoring initiatives in each country covered one calendar year – from 1 January 2020 to 31 December 2020. This means that cases covered were ongoing (either *manifest* or *latent*) as of 1 January 2020, and incidents monitored occurred within the year.

Due to variations in approach to data gathering, some of the in-country monitoring reports covered conflicts at a national level, while others were more restricted to conflicts reported by immediate partner-communities (See Table 1).

Data Sources and Validation

Information on the cases and the attacks came from secondary sources.⁷ Nearly 47 percent of all cases monitored by partners in Bangladesh, Cambodia, Nepal, and the Philippines were informed by mainstream media reports (print and digital media reports) while 21 percent came from civil society organizations. Other secondary sources include social media (10 percent) and professional organizations/academe (eight percent).

Meanwhile, six percent of cases reported by the four countries were informed by community reports. It must be noted that only Cambodia, Indonesia, and Nepal were able to reach partner-communities for this monitoring initiative. Other countries were heavily restricted by travel and gathering restrictions in place to contain the COVID-19 pandemic. Partners who relied on secondary data were encouraged to seek information from at least two independent sources for each case. However, in instances wherein having more than one source was not possible because of the dearth of available reports, the cases were still included in the database. In several instances, reports from CSOs were considered *validated* at the community-level. Organizations such as who were able to reach partner-communities, were able to validate information from the ground. KPA, for example, has

⁷ For each case, the *types of sources used* were recorded. For example, if information from a case came from two newspaper reports and three civil society reports, the case used **two** types of sources – mainstream media and NGO/CSO. There was a total of 624 types recorded for Bangladesh, Cambodia, Nepal, and the Philippines – the countries that used the common database.

long-implemented a system of collecting conflict reports from partner-communities, followed by on-ground field investigation.

Adopting a Community-based Perspective

The monitoring initiatives at the country and regional levels largely reflect the perspectives of communities of land rights holders. This decision to adopt the perspectives of communities is a conscious effort to highlight voices and narratives that are often overlooked. Although land and resources are inherent to the survival of land rights holders, in many instances, they are in a position of less power compared to aggressors. Consequently, the version of the “truth” that prevails echoes the views of aggressors.

Adopting this community-based perspective is vital when identifying who the aggressors in a conflict are and who allegedly perpetrates violence. Similarly, the monitoring takes on the views of land rights holders contesting State actions, in instances wherein rights defenders, activists, or community leaders are maliciously labeled (as rebels, communists, or terrorists) or are criminalized.

Storing and Analyzing Data

A common Excel template for the recording of information on *conflicts, conflict relationships, and conflict incidents* was used in Bangladesh, Cambodia, Nepal, and the Philippines.

This template incorporates the indicators used during 2018 country conflict monitoring studies and partly takes after the structure of the monitoring database being employed by KPA in Indonesia. The file also has built-in pivot tables to allow users to quickly run summaries, frequency tables, and cross tabulations to analyze the data.

ANGOC, in consultation with KPA, initiated the creation of the template. The Excel file, including the data fields and indicators, was then refined during the training on land conflict monitoring in Jakarta. Detailed guides on how to use the Excel template was produced by ANGOC and KPA. In a subsequent training course among the LWA WG LRHR members, the said template was finalized by ANGOC. Box 2 contains the fields of the common Excel template.

Box 2. Information that may be Logged Onto the Common Excel Template

<p><i>Information on the case</i></p> <ul style="list-style-type: none"> ■ When the conflict started ■ Resolution date (if resolved in 2020) ■ Duration of the conflict ■ Land category as per actual use of communities ■ Total area contested ■ Location ■ Whether there was a problem with FPIC (for countries using this concept) ■ Number of households affected ■ Other remarks on the case (free text) <p><i>Information on the relationships</i></p> <ul style="list-style-type: none"> ■ Rightsholder/s involved ■ Aggressor/s or Duty-Bearer/s involved
--

<ul style="list-style-type: none"> ■ Conflict typology ■ Response of community to the conflict ■ Whether corrective action was taken by government, the company, or other parties <p>Information on the incidents</p> <ul style="list-style-type: none"> ■ Date of incident ■ Name/s of victim/s (or identifier) - only to be recorded if consent was given by the victim/s ■ Organization of victim/s ■ Gender of victim/s ■ Whether there was individual physical violence, and the specific type of violence ■ Whether there was individual psychological violence, and the specific type of violence ■ Whether there was individual economic violence, and the specific type of violence ■ Whether there was individual political violence, and the specific type of violence ■ Whether there was individual cultural violence, and the specific type of violence ■ Other types of individual violence ■ (Alleged) perpetrator/s of individual violence ■ Whether there was community violence, and the specific type of violence ■ Other types of community violence ■ Whether there was ecological violence, and the specific type of violence ■ Description of the effects of the ecological violence ■ Number of households affected by the community/ecological violence ■ (Alleged) perpetrators of community/ecological violence ■ Sources of information ■ Cause of conflict (free text) ■ Brief description of the incident (free text)
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Focal organizations were given the freedom to modify the template as necessary. As in the case of the Philippines, several columns were added to the database to aid researchers' analysis during the piloting phase.

To facilitate the consolidation at the regional level, the LWA WG LRHR members agreed to use a common outline for the country report. Further, common summary tables were also provided to standardize the presentation of data at the country level – Bangladesh, Cambodia, Nepal, and the Philippines utilized these templates as well.

Variances in Approach

The methods employed by each focal organization were *common but not uniform*. The different approaches to data gathering and reporting are reflected in the table below.

Significant methodological deviations were employed by the Indonesia and India teams. For Indonesia, KPA continued to use the methods and tools that they have initiated and have been continually refining since 2003. But since the indicators, common Excel template, and common table templates also incorporated elements from KPA's existing methods, it was still possible to integrate data from Indonesia into the regional summaries.

For India, Land Conflict Watch (LCW), a national network of journalists and researchers is already working on monitoring conflicts in all Indian states. Summaries from LCW's live database and particular information on the cases are published in their portal.⁸ So as not to duplicate existing efforts, and due also to the travel and meeting limitations brought on by pandemic protocols, the focal point for India – CLRA analyzed LCW's existing data.

⁸ Their portal may be accessed at www.landconflictwatch.org

Figure 2. Snapshot of the Common Excel Template used by four countries

	A	B	C	D	E	F	G	H	I	J	K		
1	INFORMATION ON THE CASES WITH ONGOING CONFLICT												
2	Case #	Start year (when the case started)	Resolution date (when the case was resolved)	Duration in years	Land use based on actual use of community	Other land use	Total area contested (hectares)	Country	FPIC problem <i>only for countries using this concept</i>	# of households affected by the case	Remarks/ progress (other information not captured by the excel or case progress)		
3													
4													
5													
6													
7	1												
8	2												
9	3												
	4												
	5												
	L	M	N	O	P	Q	R	S	T	U			
	INFORMATION ON RELATIONSHIPS												
	Relationship #	Type of stakeholder 1 (Community)	Other type of stakeholder 1	Stakeholder 2	Other type of stakeholder 2	Conflict typology	Specific type of conflict (in country)	Corrective action					
								Response of community to conflict	Was corrective action taken by government, company, or the other party?	Describe corrective action taken by government, company, or other party			
	V	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG	AH
	INFORMATION ON T												
	Incident #	Date of incident (date, month, year)	Individual Violence										
			Name of Victim (or identifier)	Org of Victim	Gender of Victim	Individual physical violence	Individual psych. violence	Individual economic violence	Individual political violence	Individual cultural violence	Other violence	Perpetrator of individual violence	Other perpetrator of individual violence
	AI	AJ	AK	AL	AM	AN	AO	AP	AQ	AR	AS	AT	AU
	E INCIDENTS CAUSED BY CONFLICTS												
	Community Violence	Other Community Violence	Ecological Violence	Describe the effects of Ecological Violence	Number of households affected by the violence	Perpetrator of violence	Other perpetrator of violence	Source 1 (type)	Source 2 (type)	Source 3 (type)	Description and/or links to sources	Cause of conflict	Brief description of the incident (WHAT, WHO, WHERE, WHEN, WHY, HOW), follow-ups, additional remarks

CLRA then provided more qualitative analyses of the trends and effects of land conflicts, using 36 cases selected from the LCW database.

Table 1. Variances in scope, data gathering and reporting approaches, by country

Country	Cases Covered	Main sources of data, approaches to data gathering and reporting
Bangladesh	35	Collected available information on conflicts from 36 mainstream media sources (online news portals and/or newspapers). Used the common Excel template and common summary tables to analyze and present data.
Cambodia	78	Gathered conflict cases from partner-communities and reports from mainstream media. Used the common Excel template and common summary tables to analyze and present data.
India	36	For the analysis in the report, CLRA selected 36 cases from Land Conflict Watch's (LCW) database. LCW is a network of researchers and journalists reporting on land conflicts across the country. As of 8 September 2021, there are 776 cases in LCW's public repository.
Indonesia	241	Collected reports of ongoing conflicts with violent incidents from national network of partner-communities. For continuity, KPA used their own methods and tools that they have employed since 2003.
Nepal	19	Gathered conflict cases from partner-communities (District Land Rights Forum) and used some secondary data. Used the common Excel template and common summary tables to analyze and present data.
Philippines	223	Collected reports of conflicts and attacks against smallholders from publicly accessible online sources, with some cases taken from CSO reports. Leads to several cases came from the 2018 land conflict monitoring database. Used the common Excel template and common summary tables to analyze and present data.

Limitations and Areas for Improvement

The land conflict monitoring exercise in 2020 was the first time that the LWA WG LRHR attempted to implement “standardized” methods for monitoring and analyzing conflicts. During this pilot phase, several limitations have been observed.

Many land conflicts are unreported or undocumented. The exhaustiveness of each country report varies, depending on references available, the skills of implementing partners, their resources, and networks. Compounding these limitations are additional barriers brought on by the COVID-19 pandemic. Recognizing these, the 2020 monitoring initiative does not claim to be a repository of *all* land conflicts. Rather, it attempts to present the ongoing trends based on readily available information.

The variances in approach to data gathering and reporting affect the number of land conflicts and incidents reported in each country. The regional consolidated data should therefore be seen with this limitation, as it does not provide the basis for a comparative analysis of the differences in scope of land conflicts across the six countries. Contextualization is a must – results should be interpreted with the country context and methods employed in mind.

There were also differences in the understanding of certain concepts used in monitoring. For example, information on *cultural violence* was collected, but as country researchers started to analyze the data, they found this indicator to be rather vague. In hindsight, this is a subject that might be better understood through more in-depth studies.

Finally, as the methods employed were *common but not uniform*, this thus begs the question: in complex cross-country monitoring efforts, how much flexibility in methods is acceptable in order to produce sound and comparable results?

Moving forward, the LWA WG LRHR recognized that this initiative must be sustained, while addressing some areas for improvement:

- Involved organizations must work closer together to refine the methods used. This action point includes the simplification of concepts and tools, to make their use and the analysis of data easier. This will consequently make the monitoring results more accessible to a wider audience.
- Country networks must also be expanded beyond present community and civil society partners, in order to broaden the scope of future monitoring initiatives rooted in community experiences.
- Civil society organizations must continue to improve both qualitative and quantitative research and analysis capacities.
- Finally, digital security in storing and transferring data must seriously be considered and improved, given the sensitive nature of conflicts and out of respect for these conflicts' victims. ■

2020 Land Conflict Monitoring Report for Six Asian Countries

Land Conflicts and Human Rights Violations Amidst a Pandemic¹

Land is essential for the enjoyment of other rights – shelter, food, freedom, human dignity, and security. For many people, land is a source of livelihood, and is central to economic rights. Land is also often linked to peoples’ identities, and so is tied to social and cultural rights (UN-OHCHR, 2015).

Conflict over land can have deep and far-reaching implications for the wellbeing, development, and identities of communities (Worsdell and Shrivastava, 2020). Land conflicts are a key indicator of the state of land governance and of land rights.

Types of land conflict

The more common forms of land conflicts include inheritance rows among family members, boundary disputes between neighbors, the allocation of rights over community resources, disputes between individual landowners and tenants, and disagreements between parties over land transactions and contracts. These cases involve single parties; they are often brought to local mediation bodies, or to village or municipal councils, administrative bodies, and civil courts for adjudication within the existing legal framework.

IN THIS SUMMARY

1. Introduction and working context
2. Land conflict cases in six countries
3. Individual victims of human rights violations (HRVs)
4. Community victims of land conflict
5. Responses to land conflict
6. Main findings
5. Recommendations

¹ Written by Antonio B. Quizon, with the assistance of Nathaniel Don Marquez, Denise Hyacinth Joy Musni, and Marianne Jane Naungayan, in behalf of the Land Watch Asia Working Group on Land Rights as Human Rights (LWA WG LRHR), and the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). This is based on in-country monitoring reports prepared by: CDA (Bangladesh), SK (Cambodia), KPA (Indonesia), CLRA (India), CSRC (Nepal) and ANGOC (Philippines).

Citation: Quizon, A.B. (2021). *2020 Land Conflict Monitoring Report for Six Asian Countries: Land Conflicts and Human Rights Violations Amidst a Pandemic*. Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC).

Although these land cases often go unreported by media, they are significant by their sheer magnitude and numbers. In Bangladesh, land is the source of an estimated 60 percent of litigations in formal courts; in 2015 the number of cases pending with courts stood at 1.8 million (TIB, 2015). In Nepal, approximately one-fourth of all cases filed in court between 2012 to 2016 were land-related, although the numbers have gradually gone down in recent years (CSRC, 2019). In the Philippines, by the end of 2017, there were over 14 thousand agrarian disputes pending for administrative decision from a caseload of 44 thousand disputes, and about a thousand agrarian cases pending before judicial courts from a caseload of 1,500 cases (DAR Legal Affairs Office, 2018).

By contrast, there is another type – i.e., *structural* land conflicts – that involve competing claims to larger areas of land by communities and institutions, of a breadth and depth not easily resolved within existing law. There is often no consensus on the rules to be applied and contending parties may have different understandings of the nature of the conflict. There is tension and the underlying threat of violence. This type of case involves not just individuals, families, and groups, but affect entire neighborhoods and communities in significant numbers, causing physical and psychological harm with extensive impacts on their social, economic, and political life. Forms of structural land conflict may include cases of land grabbing, intrusion into indigenous peoples' lands, eviction of communities in large-scale infrastructure projects, and the takeover by corporations over public land used and managed by communities.

The cases in this study focus on *structural land conflicts*. These cases raise questions about land governance – as they challenge existing laws and contradictory policies, the lack of equity in the distribution of land, and government priorities in the allocation, use and management of land. They raise questions about the systems by which competing interests in land are managed and resolved, and highlight the need to protect the human rights of poor communities that depend on land for subsistence and survival. The cases also point to the need for greater social responsibility of private corporations and government in land-based investments and projects.

It should be noted that even where just laws exist, enforcement is crucial, as there is no tenure security if the legitimate land rights of people are not enforced or protected. Moreover, unclear or non-existent implementation guidelines and contradictory legislation often worsen the situation. Poor regulatory institutions are also responsible for land ownership as well as land use conflicts.

Use of the case approach²

A land conflict case is defined as an instance in which two or more parties contest the use of, access to, or control over land and its associated resources. This includes conflict over water resources, trees, forests, minerals, and natural resources.

² A full write-up of the methodology of the land conflict monitoring reporting is found in the earlier section of this publication under “Framework and Methodology of the 2020 Land Conflict Monitoring Initiative.”

This study considers only those cases in which a community or group of households comprise at least one party involved in the conflict.

The cases included in this study are based largely on in-country monitoring of reports from mainstream media (newspapers and online), civil society organizations (CSOs), and local partner-communities.

The monitoring period covered 12 months, from January to December 2020. These involved CSO research teams from five countries: Bangladesh, Cambodia, Indonesia, Nepal, and Philippines. The monitoring report for India was accessed mainly from the database of Land Conflict Watch (LCW), a network of researchers and journalists reporting on land conflicts across the country.

“Land is not just a commodity, but an essential element for the realization of human rights.”

Although a common approach was applied in monitoring, there were some variations in the scope and systems for data gathering and data reporting among countries.³ Having a common approach allows for the aggregation of several types of data sets; however, the different scope and systems used for data gathering limit the latitude for analysis, i.e., comparing the incidence of land conflicts between countries. In addition, the nature of cases varies widely, given the different country contexts.⁴

Four out of the six country reports used the same system for monitoring and data reporting, i.e., Bangladesh, Cambodia, Nepal, and Philippines. Hence, this allowed more datasets to be aggregated among these four countries in this Regional Summary Report. Meanwhile, land conflict data from India and Indonesia are included only for those tables/datasets for which the information was tracked and recorded.

With the predominant use of media sources for monitoring, the country studies focus largely on land cases with *manifest* conflicts, as opposed to *latent* conflicts. Manifest conflicts reveal themselves through “incidents” within the period of study; they are the very reason why the land conflict cases get to be reported in the first place.⁵ These incidents may consist of confrontational events such as land evictions and public protests, or even attempts to resolve the conflict such as the filing of cases and claims, court rulings, and negotiations between parties.

This contrasts with *latent* conflicts, where the parties may be unaware or unwilling to take more determined action on their competing land claims. Latent conflicts may include those cases where communities have no legal recognition on their land, but whose tenures were not overtly threatened or challenged within the given monitoring period. This does not

³ See Table 1 in the introductory article “Framework and Methodology of the 2020 Land Conflict Monitoring Initiative” for a comparative view of the different scope and sources used by country teams in monitoring.

⁴ Refer to the specific country monitoring reports for the different contexts of land conflict. Also, see: Quizon, A. (2019). A Perspective Overview of Land Conflicts in Six Countries. In *Defense of Land Rights: a monitoring report of land conflicts in six Asian countries*. (pp. 10-45). Quezon City: ANGOC.

⁵ Incidents are defined as “an event or string of events that indicate an ongoing conflict.”

mean the absence of land conflict; rather, the conflict is not readily observable. In such cases, there is often an underlying uncertainty or discontentment, and the lack of a sense of tenure security.

This regional report thus provides a partial yet significant picture of the full scope, nature, and impacts of land conflict in six Asian countries. It is crucial to note that many land conflict cases go unnoticed or unreported.

The context of a pandemic in 2020

The in-country monitoring of land conflict cases was implemented amid a virus-driven global disaster. The COVID-19 pandemic and related restrictions between March to December 2020 affected media reporting in many countries and limited the physical access of CSO researchers to local communities and other partner groups.

Pandemic-response lockdowns in the early part of 2020 made farmers and indigenous people more vulnerable. Farmers were unable to tend to their fields, and some indigenous communities were kept from forests because of restrictions on movement, making it easier for illegal loggers and companies to encroach on the land. Yet, government measures to protect vulnerable populations, including from evictions, were ignored in certain places. Compounding this situation, vulnerable groups had less access to mediation and judicial systems for recourse.

With government and public attention focused elsewhere, some private companies reportedly moved ahead with their controversial operations. In Indonesia, two farmers were killed in March in clashes over a long-standing land dispute with a palm oil firm in South Sumatra province. In the Philippines, five farmers were killed in Sorsogon province to the south of Manila in early May 2020 in a territory dispute. The lockdown made it difficult for people even to resist the threats to their land. Moreover, with police and security forces engaged in enforcing lockdowns, cases of illegal logging were reported in Nepal, Myanmar, Cambodia, and Indonesia (Chandran, 2020).

In Eastern Cambodia, an agribusiness company Hoang Anh Gia Lai (HAGL) cleared swathes of land in Rattanakiri Province that belonged to indigenous farming communities. Despite pledges to return the land to local farmers (under a mediated agreement in 2015), the company bulldozed sacred sites, burial grounds, traditional hunting areas, farmlands, wetlands, and old-growth forests, while local residents sheltered at their home due to COVID-19 (Fox, et al., 2020). This case has been a decade-long dispute between the company and 12 ethnic minority communities in Rattanakiri Province.

Governments reportedly pushed through with controversial government projects like dams that threatened indigenous community lands. In the Philippines, communities near

the site of the planned Kaliwa River Dam reported an increased military presence, while the Alyansa Tigil Mina (Alliance to Stop Mining) cautioned against moves to ramp up new mining permits as well as illegal mining during the pandemic.

Landless agricultural workers were left without work due to travel restrictions and border checkpoints. In Bangladesh, the return of unemployed urban workers to their hometowns caused rural wages to fall (BRAC, 2020).

Meanwhile, across several Asian countries, civilians and social activists alike pointed out disturbing instances of increased State militarization and aggressive policing, with crackdowns on dissent, media, and free speech. In the Philippines, a controversial Anti-Terrorism Act of 2020 was hurriedly legislated in July 2020 without public scrutiny while the country was under a pandemic lockdown. Many believe this law was enacted to stifle opposition to the government. In many places, public protests were banned or suppressed under quarantine protocols and physical distancing rules.

Media was hard hit. In the Philippines, the country's largest broadcasting and news group was denied a franchise renewal – heavily affecting public access to independent news. In Bangladesh, Amnesty International reported that at least 38 journalists and more than 400 other people were detained during the first half of 2020 under the Digital Security Act, based on the Bangladesh government's official statistics (Maracani, 2020). The US-based Committee for the Protection of Journalists reported that 2020 was unprecedented in terms of the number of journalists jailed worldwide, particularly by authoritarian governments (Toms, 2020).

Land rights and environmental activists faced heightened risk. As stated by Michel Forst, the former United Nations Special Rapporteur for Human Rights Defenders: “Land and environmental defenders are sitting ducks... If their lives were at risk before, this pandemic has only exacerbated an already difficult situation” (Chandran, 2020).

Four main parameters

The analysis of land conflict in this summary report pivots on four key parameters: a) populations and areas affected by conflict; b) adversarial claimants on the land; c) cases of violence and human rights violations against individuals and communities; and, d) responses to address conflict.

Affected populations refer to households and communities who hold or claim rightful tenure over the contested land or depend on it for their livelihood. In forests and common land, affected people include those who have a stake on the land and the related services that the land provides. They are identified by their sector or by livelihoods that describe their use of the land.

Affected areas refer to the land under contestation, measured in hectares. In forests and common lands, the conflict areas often cover landscapes that include portions of rivers and inland water bodies.

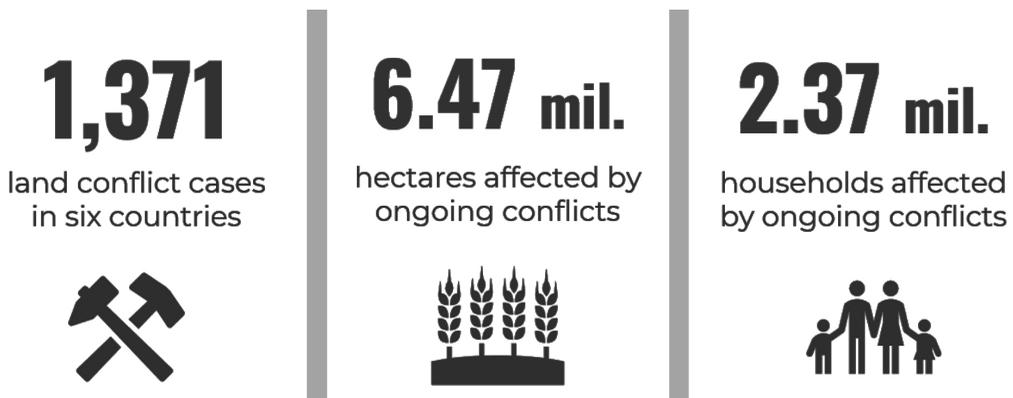
The country reports also identify the *adversarial claimants* of the land. These refer to individuals or groups usually from outside the community, with a contested claim on the land. They may consist of government, State enterprises, business corporations, and other sectors. These claimants usually come from a different social position. Hence, the country studies also refer to them as “aggressors,” “duty-bearers,” and “interested parties.” In a few cases, however, the conflict is between different poor communities with competing land claims.

The immediate and direct impact of land conflicts is reported through violent *incidents* that serve as markers for ongoing conflicts. These may be committed against individuals and communities. The most observable forms of human rights violations (HRVs) are *physical* – such as killings, injuries, arrests, evictions, and demolitions of houses and crops. Other forms of HRVs are equally destructive and have long-term effects, yet these are often unseen and unreported by media. These include threats, accusations, discrimination, and many forms of social and psychological abuse.

Finally, the reports look into *responses* taken by different stakeholders to address the conflict, as reported by the media or by local partner-communities. These responses take on different forms; they may be *informal* (e.g., direct negotiation between parties), *legal* (e.g., filing of administrative and judicial cases), or *extra-legal* (e.g., petitions and public protests).

Land conflict cases may take years before they are fully resolved and there is always a threat of escalating violence if tensions are not immediately addressed. However, it should be noted that all land conflicts, no matter how peaceful or violent they are, produce negative consequences for individual people as well as for the entire society.

Figure 1. Land Conflicts in Bangladesh, Cambodia, India, Indonesia, Nepal, Philippines at a Glance, 2020



KEY FINDINGS

Overview of land conflict cases in six countries

Monitoring studies by CSOs identified and documented 1,371 ongoing cases of land conflict in six Asian countries in 2020. These studies cover Bangladesh (BGD), Cambodia (CAM), India (INDI), Indonesia (INDO), Nepal (NEP) and the Philippines (PHI). The contested lands cover an aggregate area of 6,469,127 hectares, nearly equivalent to the total land area of Sri Lanka.⁶ The conflicts directly affect or threaten the lands and livelihoods of some 2,369,751 households, or an estimated 11.8 million people.⁷

More than 700 cases (57 percent) of the 1,371 documented land cases are from India, based on the website of Land Conflict Watch (LCW), a network of researchers across the country. (*Table 1*)

Table 1. Conflict cases, area affected, households affected in six countries, 2020*

	BGD	CAM	INDI	INDO	NEP	PHI	TOTAL
No. of land conflict cases	34	78	776	241	19	223	1,371
Area affected (hectares)	10,605	316,476	3,852,261	624,273	113	1,665,399	6,469,127
No. of HHs affected	222	47,940	1,677,453	135,337	940	507,884	2,369,776

* Country data covers ongoing land conflicts in 2020, except for India. For India, the data is from the Land Conflict Watch portal, <https://www.landconflictwatch.org/>, accessed on 8 September 2021.

Several tables describe the conflicts are presented in this report. Note that because the disaggregation in the tables is dependent on available information, the numbers in the tables may not add up to the total number of cases, total size of affected hectares, total number of households affected, total incidents or number of victims recorded, and other data sets.

Nearly all the land conflict cases have been going on for several years. Their duration ranges from one to 94 years (Nepal), and one to 74 years (Philippines). Over a fifth of all land conflict cases in the Philippines are 21 years or older. For Bangladesh, all the documented cases started in the past five years. Documented conflicts with available information on duration have been summarized in *Table 2*.

For Cambodia and the Philippines, a significant proportion of ongoing cases (73 percent and 37 percent, respectively) started six to 15 years ago, or between 2005 to 2015, a period that coincides with heightened global land acquisitions that peaked in 2009 (Anseeuw et al., 2012). In Cambodia, most of the ongoing land conflicts stemmed from the government's earlier issuances of large-scale Economic Land Concessions (ELCs) to private corporations. Widespread protests amid rising land conflicts forced government to declare a moratorium on the issuance of new ELCs in 2012.

⁶ approximately 6.5 million hectares

⁷ Computed at five persons per rural household

Table 2. Duration of land conflict cases, in four countries

Duration (range)	BGD	CAM	NEP	PHI	TOTAL	%
Less than 1 year to 1 year	21	2	7	9	39	12.3
2 to 5 years	12	7	3	29	51	16.1
6 to 10 years	–	30	4	34	68	21.5
11 to 15 years	–	27	–	49	76	24.0
16 to 20 years	–	4	1	23	28	8.8
21 years or more	–	1	4	50	55	17.3
TOTAL					317	100

Types of land and areas affected by conflict

By number of cases or frequency, the type of land most affected by conflict are *smallholder agricultural lands* (43.2 percent), *lands used for housing and settlements* (26 percent) and *lands of indigenous peoples/communal lands* (18.1 percent). These categories refer to the *dominant* land use, as in most cases there are more than one land use involved (*Table 3*).

However, in terms of area or hectareage, *lands of indigenous peoples/communal lands* account for 42.4 percent of the total land area directly affected by conflicts. Most of these IP lands are in the Philippines, half of which are threatened by mining activities. *Agroforestry and plantations* account for another 32.7 percent of the conflict areas. Together, these two types of land account for three-fourths of the conflict-affected areas in the four countries of Bangladesh, Cambodia, Nepal, and the Philippines (*Table 4*). These represent large expanses of land that outside developers and investors often covet.

Table 3. Type of land affected by conflict, based on number of cases in 2020

(For Bangladesh, Cambodia, Nepal, Philippines)

Land use of community	BGD	CAM	NEP	PHI	TOTAL	%
Smallholder Agriculture/ Farming	7	53	2	126	188	43.3
Housing/ settlements	9	57	17	29	113	25.9
Ancestral domains	–	–	–	65	65	15.0
Water/fisheries resources	–	2	–	26	28	6.4
Agroforestry and plantations	6	9	–	5	20	4.6
Communal lands	8	6	–	–	14	3.2
Others (<i>pagoda land, protected area, private land, etc.</i>)	4	1	–	2	7	1.6
TOTAL					435	100

Meanwhile, smallholder agricultural lands that account for 43.2 percent of the total cases cover only 16.2 percent of the area affected by conflict. The remaining areas affected

by conflict are used by communities for housing and settlements, water and fisheries resources, and others.

Table 4: Type of land affected by conflict, based on area (hectares)

(For Bangladesh, Cambodia, Nepal, Philippines)

Land use of community	BD	CAM	NP	PH	TOTAL	%
Agroforestry and plantations	5,614.14	145,222.39	–	513,380.00	664,216.53	32.7
Communal lands	3,593.77	8,938.00	–	–	12,531.77	0.6
Ancestral domains	–	–	–	848,388.44	848,388.44	41.8
Agriculture/Farming	1,381.83	109,949.06	54.74	217,624.77	329,010.40	16.2
Housing/Settlements	8.51	24,592.21	58.55	6,980.20	31,639.47	1.6
Fishing, aquaculture, and use of fishponds and coasts	–	33,560.00	–	97,308.91	130,868.91	6.5
Others (pagoda land, protected area, private land, unspecified)	7.10	7.00	–	11,715.23	11,729.33	0.6

For India, LCW's data show that the majority (68 percent) of land conflicts involve *common lands* and impact 79 percent of all affected people; there were more conflicts on non-forested commons than on forested lands. Common lands are non-private lands whose title, control, and ownership are held collectively by communities, villages, local or State governments (Worsdell and Shrivastava, 2019). Most of these lands are traditionally held and managed. These are lands usually inhabited by the poor but over which they have no individual titles (CLRA, 2021).

Communities and sectors most affected by conflict

Farmers and indigenous peoples comprise three-quarters of all communities affected by land conflict in the four countries of Bangladesh, Cambodia, Nepal, and the Philippines (Table 5).

Table 5. Sector/type of Community affected by land conflict, 2020

(Bangladesh, Cambodia, Nepal, and Philippines)

Type of affected community	BGD	CAM	NEP	PHI	TOTAL	%
Farmers: landless, smallholder farmers, tenants	21	65	16	132	234	55.8
Indigenous peoples	4	11	3	88	106	25.3
Fisherfolk	–	–	–	26	26	6.2
Residents	–	–	–	24	24	5.7
Forest users and protectors	2	2	–	10	14	3.3
Slum dwellers	–	–	–	11	11	2.6
Others	4	–	–	–	4	1.0
TOTAL CASES					419	100

In majority (55.8 percent) of the documented land conflict cases, the affected stakeholders are small farmer communities. These consist of smallholders, tenants, landless and agricultural workers. In one-fourth (25.3 percent) of the cases, those affected are communities and groups of indigenous peoples.

The other affected sectors and communities consist of fisherfolk (6.2 percent), residents (5.7 percent), forest users (3.3 percent), slum dwellers (2.6 percent), and others.

Adversarial Claimants

Adversarial claimants refer to outside parties with a contested claim to land that is held and used by local communities. Conflict usually arises when the land is taken or converted to other external uses.

Private companies are the adversarial claimants in majority (56.6 percent) of the 423 documented land conflict cases across four countries (Bangladesh, Cambodia, Nepal, Philippines). The land is contested by private investors through claims of land titles, leases, government-issued concessions, or outright land grabbing. These include mining and logging companies, plantation and agribusiness operators, housing and property developers, tourism companies, and others (*Table 6*).

Governments are involved in 16 percent of the cases; *military establishments* in 5.4 percent of the cases, and *State-owned enterprises* in 1.9 percent of the cases. Taken together, government institutions are the adversaries in nearly one-fourth (23.4 percent) of the land conflict cases in the four countries.

Next are *powerful individuals* – mostly politicians, former government bureaucrats, ex-military personnel, political cadres, landlords and influential people – who are the adversaries in 11.6 percent of land conflict cases.

Table 6. Adversarial Claimants in Land Conflict Cases (*Bangladesh, Cambodia, Nepal, Philippines*)

Adversarial claimants	BGD	CAM	NEP	PHI	TOTAL	%
Private companies	6	43	1	187	237	56.6
Government	3	12	9	44	68	16.2
Powerful individuals	21	9	3	16	49	11.7
Military	-	10	2	11	23	5.5
State-owned enterprises	-	1	4	3	8	1.9
Other claimants	2	-	-	19	21	5.0
Others (<i>police, schools, rebels, illegal loggers, foreign vessel, unspecified, etc.</i>)	2	-	-	11	13	3.1
TOTAL CASES					419	100

Other parties in land conflict with communities (three percent) include rebels, illegal loggers, land speculators, institutions such as schools, and others. There are two Philippine cases where the conflict is between two communities with competing land claims.

As shown in Table 6, *powerful individuals* are the main land aggressors in Bangladesh, *private companies* in Cambodia and the Philippines, and the *government* in Nepal.⁸

Nearly all of the documented cases are *vertical conflicts* (between parties with different levels of power and influence), as opposed to *horizontal conflicts* (between parties or communities of similar status).

Drivers of land conflict

In documenting the drivers of land conflict, it should be noted that four country studies (Bangladesh, Cambodia, Nepal, Philippines) used similar categories for data reporting, while two country studies (Indonesia, India) used different categories. This is one area of monitoring where the approaches are likely to differ, as they reflect the different country contexts as well as the different purposes for which land conflict monitoring is carried out. Thus, the aggregated data in Table 7 only shows broad categories and is presented here for descriptive purposes.

This cursory desk review of the drivers of land conflict covering all 1,371 cases in all six countries reveals that 70 percent of conflicts with identifiable drivers involve private investments or government projects, each having a share of about 35 percent each. Some 472 cases are driven by *private investments*, while 470 cases are driven by *governments' projects* in terms of infrastructure projects (e.g., power, roads, facilities) and investments (e.g., State-run plantations, government corporations). Many cases (23 percent) also involve conflict over common resources such as water and fishery resources, coastal areas, forests, national parks, and protected areas. An example of resource conflict is

Table 7. Drivers of Land Conflicts (Bangladesh, Cambodia, India, Indonesia, Nepal, Philippines)

Type of conflict	BGD	CAM	INDI*	INDO*	NEP	PHI	TOTAL	%
Private investments	5	47	138	156	-	126	472	35.0
Government projects	1	4	401	41	7	16	470	34.8
Resource conflicts	6	4	237	44	4	14	309	22.9
Clashing tenure systems	1	8	-	-	7	25	41	3.0
Resistance to land reform	1	7	-	-	1	21	30	2.2
Public-private partnerships	-	6	-	-	-	21	27	2.0
TOTAL CASES							1,349	100

*The country studies for India and Indonesia used different categories for documenting the drivers or causes behind cases of land conflict.

⁸ For Bangladesh, corruption in the land sector has been well-documented. (See: Transparency International Bangladesh, 2015)

when indigenous communities are prevented from accessing their traditional forest resources, or fisherfolk warded off from their traditional fishing waters.

For Indonesia, the yearly monitoring by KPA identified 241 agrarian conflict cases in 2020. Land conflicts were dominated by the expansion of *plantations* (122 cases), followed by *forestry* (41 cases), *infrastructure development* (30 cases), *property development* (20 cases), *mining* (12 cases), *military facilities* (11 cases), *coastal and small islands* (three cases) and *agribusiness* (two cases) (KPA, 2021).

Land conflicts in the Indonesian plantation sector (122 cases) were due mainly to the expansion of oil palm-based plantations, with 101 conflict eruptions in 2020. The other conflicts involved plantations for cloves, nutmeg, sugarcane, tea, coffee, rubber, and other commodities (KPA, 2021).

For India, the study by CLRA took a sampling of cases from the 773 ongoing land conflict cases documented by Land Conflict Watch (<https://www.landconflictwatch.org/>) to describe and illustrate the different drivers and causes of land conflict in the country. It classifies land conflicts across six sectors: *a) infrastructure* [dams, canals, roads, railways, townships, special economic zones], *b) land use* [inter-caste and communal conflicts, the creation of land banks,⁹ violations of the 2006 Forest Rights Act/FRA], *c) mining* [coal, iron], *d) power generation* [hydroelectric dams, transmission lines, power plants], *e) industry* [agribusinesses, steel plants, petroleum and gas, textile and food processing], and *f) protected areas* [conservation-related activities such as relocation of communities from designated protected areas]. The study noted that most land conflicts in 2020 were due to government infrastructure projects that require land acquisition. This was followed by land conflicts involving forestry and conservation, and conflict over land use (CLRA, 2021).

An earlier study “Locating the Breach” (2020) by LCW, noted that two predominant laws are involved in most land conflicts in India. One is land conflicts involving the violation or non-implementation of the FRA of 2006. These cover all conflicts involving forestlands. The second are the *Land Acquisition Act of 2013 and other related laws* that are central to conflicts involving private lands, although common lands are likewise involved (Worsdell and Shrivastava, 2020).

For Cambodia, private investments are the driver for 60 percent (47 out of the 78 documented cases) of land conflicts in 2020. Many of these cases involve public lands awarded by government to private companies in the form of Economic Land Concessions (ELCs) for building plantations, commercial areas, and resorts. These ELCs were awarded without proper public consultation and impact mostly on small farmers and indigenous peoples. In addition, there are public-private partnerships where private companies are

⁹ In India, a land bank includes large tracts of land kept under the control of governments or private organizations for future development. Where land is at a premium, acquiring land is complex and if government-owned firms or private organizations fail to acquire the land due to conflicts, high-worth projects are shelved (Aggarwal, 2020).

involved in the construction of roads under benefit-sharing schemes, and joint forest management schemes that conflict with existing Community Forests (STAR Kampuchea, 2021).

For Bangladesh, there is “no data” for 20 out of the 35 documented cases. This is likely because most land conflicts are due to land grabbing by influential people encroaching on public lands and water bodies and claiming these for their own (CDA, 2021). In such cases, the media does not report the purpose or uses for which the land was taken.

For Nepal, the most common form of land conflict involves the eviction of peasants and landless families living in public land without formal land certificates. Among the primary sources of conflicts in Nepal are government development projects that involve the building of roads, army camps, municipal buildings, and a dry port. Even when compensation money is offered in some cases, affected communities oppose the projects that are seen to disrespect “the culture, values and heritage” of local people (CSRC, 2021).

Among these cases, the State and its agencies were the main actors in the creation of conflict, while the primary cause of the conflicts was the construction of development projects in the name of progress. Out of the 940 households, 508 were directly affected by government development projects, 53 landless and land-poor people were threatened with death, 49 of them were threatened with displacement, and 13 individuals were harassed. Among the 117 individual victims directly affected in the conflicts – most of whom were threatened with eviction – 80 were male and 37 were female.

For the Philippines, the predominant source of conflict is private investments, which accounts for 56.6 percent (126 out of 223) of the cases of land conflict (ANGOC, 2021). These private investments mainly involve plantations that affect small farmers and agricultural producers, and mining that impact mostly on indigenous communities and upland farmers. In terms of the specific types of conflict, of the total number of cases, 32 percent involve plantations, 17 percent are in the context of mining, and eight percent involve overlapping claims (“clashing tenure systems”) between rights holders such as farmers and indigenous peoples.

Individual victims of violence and Human Rights violations (HRVs)

There were 712 *individual* victims of violence and Human Rights violations (HRVs) among the total 664 cases of land conflict in five countries – Bangladesh, Cambodia, Indonesia, Nepal, and the Philippines.¹⁰ Eighty-one (81) percent of victims of HRVs whose genders are indicated are male.

Because a large part of the monitoring is based on media reports, information about the victims is limited. Many cases of violence go unreported, and media reports often do not

¹⁰ The India study does not include the monitoring of incidents of violence and HRVs.

Table 8. Individual victims of land conflict-related violence and HRVs in 2020
(Bangladesh, Cambodia, Indonesia, Nepal, Philippines)

Gender	BGD	CAM	INDO	NEP	PHI	TOTAL
Male	68	4	163	81	95	411
Female	9	4	6	36	40	96
Unspecified	2	52	–	–	152	206
TOTAL	79	60	169	117	287	712

include certain types of psychological violence that are not readily observable, such as threats, intimidation, harassment, and discrimination.

Many impacts on women are indirect, not easily visible, and often go unreported. For instance, in a separate 2016 CCHR study, over half of Cambodian women interviewed said land conflicts affected their family relations, and some 23 percent had experienced some form of domestic abuse.¹¹

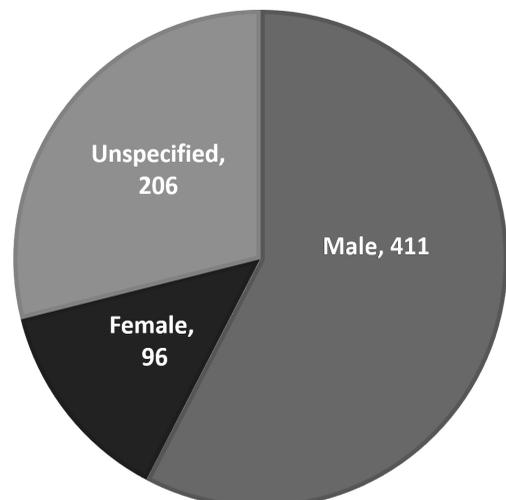
In terms of physical violence, some 49 people were killed and 79 people injured or assaulted in 2020. This data was obtained from the 664 documented cases of land conflict in five countries (Figure 3). Most of the killings occurred in the Philippines (38), followed by Indonesia (11), and Cambodia (1). Most victims of injuries and assault were in Bangladesh (39) and Indonesia (19).

The deadliest case on record is that of the Jalaur Mega Dam project in the Philippines, where nine members of the indigenous Tumandok tribe who had long-opposed construction of the dam were killed in December 2020 (ANGOC, 2021).

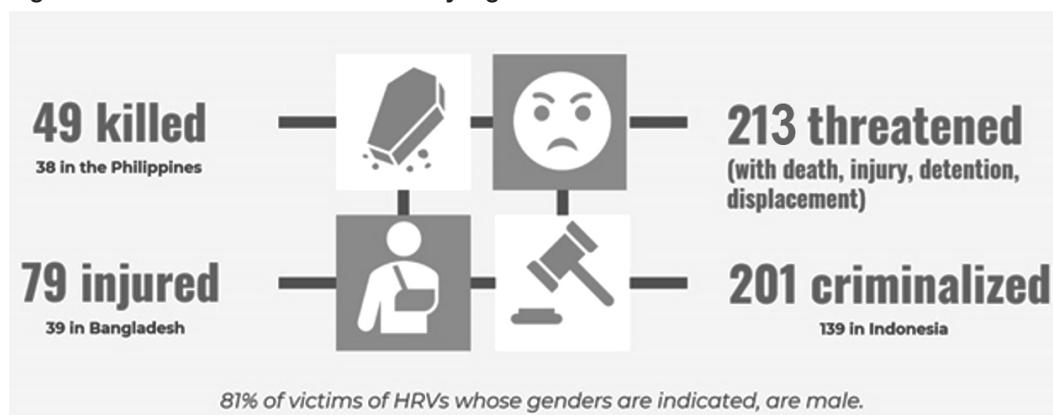
There were 81 cases of eviction directed against individual households that occurred in Nepal (62) and Cambodia (19).

Some 64 people were arrested and detained by State authorities in the Philippines (49) and Cambodia (15). However, perhaps more disturbing are the 41 incidents of illegal arrest, detention, and disappearance in the Philippines (40) and Cambodia (1). In the Philippines, Memorandum Order (MO) 32 intensifies intelligence operations against people suspected of committing or conspiring

Figure 2. Individual victims of land conflict violence and HRVs in 2020
(Bangladesh, Cambodia, Indonesia, Nepal, Philippines)



¹¹ https://cchrcambodia.org/admin/media/report/report/english/2016_09_27_cchr_report_Cam_Women_in_Land_Conflict_ENG.pdf

Figure 3. Individual Violence: Some Key Figures for 2020

to commit “acts of lawless violence” in the provinces of Bicol, Samar, and Negros. According to farmer group Kilusang Magbubukid ng Pilipinas (KMP), State forces have been using MO 32 to illegally arrest farmers maliciously tagged as members of the New Peoples’ Army. In November 2020 alone, KMP estimates that 15 farmers were arrested by government forces (Antonio, 2020).¹²

There is an ongoing communist insurgency in the Philippines. The government has recently intensified efforts to quell this insurgency through various policies and the creation of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC). However, civil society and people’s organizations have been observing that the government has been using the anti-insurgency campaign to suppress dissent and crackdown on activists. Activists and land rights defenders are being “red tagged”¹³ by State forces, and this smear campaign thus leads to illegal arrests, criminalization, and even death. In the Philippines, a farmer accused of being a communist rebel was tortured during interrogation.

Meanwhile, in Bangladesh, one Adivasi leader was sexually assaulted in a land grabbing case.

Table 9. Individual Victims of Physical Violence in Land Conflicts, 2020

Forms of Physical Violence	BGD	CAM	INDO	NEP	PHI	TOTAL
Eviction	–	19	–	62	–	81
Injury/assault	39	10	19	1	10	79
Detainment	–	15	–	–	49	64
Killing	–	–	11	–	38	49
Disappearance, abduction, illegal detention or arrests	–	1	–	–	40	41
Torture	–	–	–	–	1	1
Sexual assault	1	–	–	–	–	1
TOTAL	40	45	30	63	138	317

¹² <https://mb.com.ph/2020/11/23/arrests-of-farmers-in-albay-leyte-negros-occ-denounced/>

¹³ Accused of being or reported as members or supporters of the armed New Peoples’ Army

There were victims of other forms of individual violence (*Table 10*). Some 213 people were subjected to threats (of death, injury, detention, and displacement). Another 183 people and their families experienced their homes, crops, and property being destroyed.

Some 201 people from local communities were reportedly *criminalized* for their actions in resisting the takeover of community lands and property by contesting parties. Most of such incidents were reported in Indonesia (139) and the Philippines (60).

Criminalization refers to “the process by which behaviors and individuals are transformed into crime and criminals,” and previously legal acts are transformed into crimes by changing the law or policy. In this report, the term also refers to the filing of charges against community leaders and individuals as a form of intimidation, to get them arrested or to discredit them from the rest of the community.

In Indonesia, the most frequently used laws against community people were the Plantation Law (40 cases), Criminal Code (34 cases), and the P3H Law on Prevention of Forest Destruction (seven cases). As noted in the Indonesia study, “these three laws are often used by companies and officials ... to intimidate and criminalize people who are in conflict with companies” (KPA, 2021). Under the P3H Law, for instance, people have been charged for “cutting trees in forest areas.” In one incident in Central Kalimantan, a person died in detention while being accused of “harvesting plantation products.” The victim had previously complained of illness, used a wheelchair in court, and complained that he had been beaten while incarcerated (KPA, 2021).

Table 10. Victims of Other Forms of Individual Violence, 2020 (*Bangladesh, Cambodia, Indonesia, Nepal, Philippines*)

	BGD	CAM	INDO	NEP	PHI	TOTAL
Threats (of death, injury, detention, displacement)	64	43	–	102	4	213
Destruction of property	30	30	–	110	13	183
Criminalization	1	1	139	–	60	201

In the Philippines, the process of criminalization is different, as community leaders and community supporters are charged with serious crimes under the Criminal Code that include robbery, arson, kidnapping, illegal detention, and illegal possession of firearms and explosives. Those charged with cases that are more serious are also usually those who are “red-tagged.” There was also one reported incident where teachers of an indigenous peoples’ school were charged with “child abuse” for allegedly brainwashing children into supporting the communist insurgency.

Seen in the context of ongoing land conflicts, incidents of violence against individuals may also be seen as violence against communities – as they often come with the intent of intimidating local communities or creating distrust between communities and their leaders and supporters.

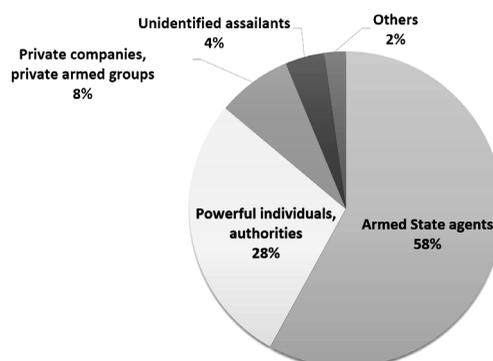
Perpetrators of Individual Violence

More than half (58 percent) of perpetrators of violence against individuals were identified as State agents – consisting of the “police, municipal police, army or military.” (Figure 4) They were said to be responsible for 416 out of 717 incidents of violence against individuals. This data is based on media reports, and in some cases, from consultations with local communities.

In 28 percent of instances, perpetrators were powerful individuals, and in one case, State authorities. “Powerful individuals” refers to politicians, ex-bureaucrats, ex-military, or landlords.

Private companies or private armed groups were the perpetrators in 55 incidents of violence (or 7.7 percent). The remaining incidents were attributed to other perpetrators (16 incidents, or 2.2 percent) that include workers, paramilitary personnel, and criminal groups. In 29 violent incidents (four percent of incidents), the perpetrators or assailants were unknown.

Figure 4. Perpetrators of Individual Violence



Violence against communities

In four countries, some 189 cases of violence were committed against communities. These incidents directly affected 80,216 households, or some 400 thousand people. They occurred within the 435 cases of land conflict in Bangladesh, Cambodia, Nepal, and the Philippines.

At least 29,507 households became victims of forcible eviction and displacement in 2020. They were driven away from their homes and lands; in some cases, their houses were

Table 11. Perpetrators of Individual Violence (as reported*)

Perpetrators	CAM	INDO	NEP	PHI	TOTAL	%
Armed State agents (military, police, municipal police)	38	77	92	209	416	58.0
Powerful individuals, authorities, officials	30	-	10	161	201	28.0
Private companies or private armed groups	9	20	-	26	55	7.7
Unidentified assailants	-	-	-	29	29	4.0
Others	6	-	-	10	16	2.2
TOTAL					717	100

**Figure 5. Violence Against Communities:
Some Key Figures**



demolished, and crops destroyed. These incidents took place in the Philippines, Cambodia, and Nepal. They represent 36.8 percent of the total victims of violence against communities (Table 12).

Another 22,247 families (27.7 percent of victims) experienced forcible entry into their lands by outside claimants, while over 27,000 other families were threatened with displacement. Most incidents of forcible entry occurred in Cambodia. In the Philippines, reclamation and planned construction of an airport and seaport project might displace 26 thousand small-scale fishing households.

Table 12. Households affected by violence against communities in 2020 (Bangladesh, Cambodia, Nepal, and the Philippines)

Type of community violence	BGD	CAM	NEP	PHI	TOTAL	%
Displacement	–	1,161	29	28,317	29,507	36.8
Forcible entry/absence of, or faulty FPIC	170	22,042	–	35	22,247	27.7
Threat of displacement	197	1,109	665	26,000	27,971	34.9
Others (ex. destruction of property, threats/harassment, red-tagging, deliberate firing, etc.)	–	5	–	486	491	0.6
TOTAL AFFECTED HOUSEHOLDS					80,216	100

This table includes only those incidents where the number of affected households are reported. There are many instances of community violence where the number of affected households is not reported or is unknown.

Perpetrators of community violence

As with violence against individuals, State forces (“police, municipal police, army or military”) were also identified as the main perpetrators of community violence. They accounted for 119 incidents (or 63 percent) of the total 189 documented cases of community violence. This information is based media reports, and in some cases, from direct consultations with affected local communities (Table 13).

“Powerful individuals” were responsible for another 24 incidents (12.7 percent), while private companies were reported as the perpetrators in 18 incidents (9.5 percent) of violence against communities.

Other impacts

Three of the country monitoring reports (Cambodia, Nepal, Philippines) included a documentation of ecological violence in land conflicts. Most of the documented land conflict cases have been going on for several years.

Table 13. Perpetrators of community violence in land conflict cases*
(Cambodia, Nepal, Philippines)

Perpetrator	CAM	NEP	PHI	TOTAL	%
Armed State agents (military, police, municipal police)	32	57	30	119	63.0
Powerful individuals	10	9	5	24	12.7
Private companies	2	–	16	18	9.5
Unidentified assailants	–	–	10	10	5.3
Others (private armed group, foreign fishing vessel, unspecified)	9	–	9	18	9.5
TOTAL COUNT OF PERPETRATORS				189	100

*Based on documented reports by news media, and on consultations with some local communities.

Whenever community lands are seized or contested by outside claimants, it is usually with the intent of converting the land to other uses – whether it is for plantations, mining, or construction. This shift in use radically alters the landscape and the natural habitat, affecting the lives of families who depend on the land.

Table 14 provides a glimpse into some types of ecological violence that are inflicted on people in the context of land conflicts. This data is far from complete, because the ecological impacts that emerge over time are not usually covered by media news reports.

Table 14. Households Affected by Ecological Violence in Land Conflicts, 2020*
(Cambodia, Nepal, Philippines)

Type of ecological violence	CAM	NEP	PHI	TOTAL
Contamination of resources, pollution	2,293	30	27,371	29,694
Environmental destruction	9,654	7	4,333	13,994
Reduction in income or reduction in agricultural produce	11,525	352	–	11,877
TOTAL AFFECTED HOUSEHOLDS				55,565

*This Table includes only those documented cases that report on ecological violence and the affected households. There are also other instances of ecological violence wherein the number of affected households is not known.

The data shows that some 29,694 households were plagued by pollution, mostly in the form of emissions that pollute the ground water, ponds and lakes, and river systems. Another 13,994 households suffered from deforestation and destruction of their natural habitat, often to make way for investments such as ELCs in Cambodia and mining tenements in the Philippines. In addition, 11,877 households faced reduction in their land's productivity or decreased incomes because of the ongoing conflict.

Community responses to land conflict

Among the 355 documented cases of land conflict in four countries (Bangladesh, Cambodia, Nepal, Philippines), only 287 cases (80.8 percent) contain some information about community responses to conflict.¹⁴ Some communities sought to address the conflict by applying multiple responses, for instance, by filing administrative cases while undertaking peaceful protest actions. The range of responses is shown in Table 15.

Table 15. Community responses in 287 land conflict cases in four countries*
(Bangladesh, Cambodia, Nepal, and the Philippines)

Community responses	BD	CAM	NP	PH	TOTAL	%
Conflict management – administrative mechanisms	2	20	-	33	55	15.9
Conflict management – judicial courts, National Human Rights Institutions/ Commissions , legal adjudication	3	13	1	43	60	17.3
Conflict management - customary mechanisms	-	7	-	2	9	2.6
Conflict management - negotiations	2	9	3	56	70	20.2
Peaceful demonstrations/non-violent acts	2	6	12	118	138	39.9
Retaliation	-	3	1	2	6	1.7
Withdrawal/escape	-	-	-	3	3	0.9
No response	2	3	-	-	5	1.4
TOTAL RESPONSES					346	100

*This Table covers 287 land conflict cases where information about community responses is available. In many land cases, local communities take on multiple responses.

In responding to conflict, most of the affected communities brought their cases before different types of conflict management mechanisms. Others engaged in protests and peaceful action, or else responded through retaliation. In a few cases, the community withdrew to escape from the conflict or simply took no response.

Some 56 percent of the community responses focused on conflict management. These responses involved bringing community grievances and cases before government *administrative* bodies (15.9 percent), *judicial* courts (17.3 percent), and *customary mechanisms*, including local dispute resolution bodies (2.6 percent).

Another 20.2 percent of the responses involved some form of *negotiation* with the adversarial claimant on the land, usually with the assistance or mediation from a third party.

A large portion (39.9 percent) of the responses involved *peaceful demonstrations, public protests, and non-violent actions*. This may also be seen as a kind of political action

¹⁴ No data is available for 68 cases regarding community responses in the four countries indicated.

directed at addressing public opinion, especially when existing laws or policies are seen as unfavorable, or when the adversarial claimant is seen to exert strong political influence on the issue.

Finally, some responses reveal a level of desperation. In six cases, communities retaliated against the aggressor, further fueling the conflict. In three other cases, the community sought to flee or escape from the conflict.

Corrective actions

From the total 354 documented cases of land conflict in four countries (Bangladesh, Cambodia, Nepal, Philippines), only 252 cases provide some information on whether any corrective actions were taken to address the conflict. Table 16 shows that:

- In more than 71.4 percent of the instances wherein information on corrective action is available, liable parties have **not** instituted any corrective action; and,
- Some corrective action was reportedly taken by government in 23.4 percent of the cases; by private companies embroiled in the conflict in 3.2 percent of the cases.

However, in cases where some corrective action was taken, this simply implies that some steps were taken to address the conflict. It is also unclear whether communities were “satisfied” with the outcomes.

Table 16. Was there corrective action taken?

Corrective action	BGD	CAM	NEP	PHI	TOTAL	%
Yes, by government	3	18	-	38	59	23.4
Yes, by company	-	2	-	6	8	3.2
Yes, by third party	-	1	3	1	5	2.0
No	3	5	14	158	180	71.4
TOTAL CASES					252	100.0

Main findings

Overview

- There were (at least) **1,371 reported cases** of land conflict in six Asian countries in 2020, covering **6.47M hectares**, and affecting **2.37M households**.
- Many of the land conflicts have been going on unresolved for many years. (Range: 1 to 94 years)

Land conflicts amidst a pandemic in 2020

- The incidence of land conflicts in Indonesia and the Philippines slightly declined in 2020, amidst a global pandemic.¹⁵ However, some of this “decline” might be due

¹⁵ Comparative assessments

to data gaps brought about by pandemic restrictions on mobility and limitations on media reporting and civic space.

- In Indonesia, the total number of land conflict cases in 2020 slightly decreased compared to the 2019 pre-COVID period, but the decline amidst a pandemic and economic crisis remains insignificant. In fact, land conflicts increased in Indonesia's plantation sector (by 28 percent) and forestry sector (by 100 percent).
- In the Philippines, even while the number of land conflict cases in 2020 decreased compared to 2018, the total area under conflict increased, i.e., from 1.28M (2018) to 1.70M (2020) hectares.
- In the Philippines, part of the reason for the decrease in land conflict cases could be the decline in the number of *reported* "community vs community" land conflicts, i.e., from 127 cases (2018) to 19 (2020).
- Across several countries, land conflicts continued in 2020, with governments and private corporations at the center of the chaos.
- Amidst a health crisis, most of the land conflicts in 2020 were reportedly instigated by corporations (56 percent), followed by government (16 percent) and powerful individuals (12 percent).
- In some cases, the pandemic itself provided the opportunity for corporations and governments to push through with controversial land acquisitions.

Drivers

- The key drivers/sources of land conflicts in 2020 were private business investments (35 percent), government projects (35 percent) and resource conflicts (23 percent) over common property.
- Underlying these drivers are issues that are more fundamental: historical injustices, inequitable distribution of land, conflict between legal and customary tenure regimes, mismanagement of State domains, etc.

Affected sectors and areas

- Over three-fourths of the affected community sectors were small farmers/producers (56 percent) and indigenous peoples (25 percent) – highlighting the need to address agrarian reform issues and indigenous people's rights.
- In India, 68 percent of land conflicts involve *common lands* and this impact on 79 percent of all affected people. Many poor people depend on common lands, over which they might claim legal or customary rights.
- The largest land areas affected by conflict were those of indigenous peoples. This is especially noted in the Philippines and India – i.e., ironically, in countries with the more progressive laws on indigenous peoples' land rights.
- Many land conflicts have led to incidents of violence.

Individual Victims

- In five countries (Bangladesh, Cambodia, Indonesia, Nepal, Philippines), there were 712 individual victims of human rights violations (HRVs). These HRVs were also aimed at instilling fear in the larger community.

- Physical violence was most visible – 49 people killed, 79 injured, 81 evicted, 64 detained, 41 illegally arrested/disappeared, one tortured, and one raped.
- 38 of the 49 people killed were in the Philippines, which continues to rank among the most dangerous countries for land and environment defenders (Global Witness, 2021).
- Other forms of violence were also committed against individuals – harassment and threats, destruction of property, criminalization, etc.

Communities as victims

- In four countries (Bangladesh, Cambodia, Nepal, Philippines), over 80,000 families fell victim to violence against communities. In three countries (Cambodia, Nepal, Philippines), some 55,000 families became victims of ecological destruction.
- Yet many impacts of land conflicts are invisible and go unreported, e.g., effects on women and domestic abuse, schooling of children, etc.

Perpetrators of violence

- Even as private sector investments were seen as the main drivers of land conflicts, agents of the State – either the police or military – reportedly perpetrated most of violence against individuals (58 percent) and against communities (63 percent).
- State agents are thus seen to protect corporate interests on land, as the State is often seen to act as a broker for private land-based investments.
- In some cases, the perpetrators of violence were private companies or by influential/powerful individuals.

Responses

- In four countries (Bangladesh, Cambodia, Nepal, Philippines) affected communities resorted to negotiation (20 percent), judicial courts/legal action (18 percent), government administrative bodies (16 percent) and local/customary systems (three percent).
- A large number (40 percent) of the responses involved political actions (protest, demonstrations).
- While some corrective action was taken – by government (in 23 percent of cases), and by companies (in three percent of cases); no actions were deemed taken in 71 percent of all cases. However, the present database is not able to capture the information on whether communities are satisfied with the corrective actions instituted.

Recommendations

It is emphasized that in ***addressing the roots of land conflict, a fundamental shift in development thinking and approaches is necessary*** for more equitable, just, and sustainable outcomes, including:

- Building food security and agricultural strategies based on smallholder livelihoods/ family farming and agrarian reforms;
- Recognition and protection of customary land rights;

- Delineation, allocation of rights and sustainable management of lands under the so-called “public domain” (State land, forest areas);
- Reviewing the scope and implementation of “public interest” and social protection policies (i.e., FPIC) in all State-led and State-supported land acquisitions; and,
- Questioning the role of the State and officials as “brokers” for large private land investments.

To Government

The fundamental premise of people-centered development is that have certain basic and universal basic human rights as defined in the Universal Declaration of Human Rights of the United Nations. It is a fundamental responsibility of every government to protect and respect these rights. Governments thus, as part of their function to protect their citizens, must prevent, investigate, punish, and redress human rights abuses, including the deprivation of rights that relate to human well-being.

In relation to human rights and land rights:

- **Ensure the fulfillment of the Universal Declaration of Human Rights (UDHR)** and international commitments and obligations at the domestic level by implementing all the provisions.
- **Address violations of land/human rights** where they occur. Cancel land leases, permits, and licenses of companies and groups that violate land/human rights. 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 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 and resource reform policies** in order to protect land rights of the rural poor, as well protect agricultural areas against fragmentation and land use conversion, to strengthen local food security, and to prevent conflicts between different groups and communities.
- **Enact laws and regulations to prevent and address business-related human rights abuses** and ensure access to effective remedy for those whose rights have been abused.
- **Protect the poor and marginalized communities from all forms of arbitrary eviction and forced displacement.** Related to this, government should immediately cease and desist from projects and undertakings that cause undue displacements, especially under the ongoing health and economic crisis.

In relation to strengthening existing systems, or creating new mechanisms for resolution of land conflicts:

- ***Institute independent commissions*** for the investigation and fast track the resolution of pending cases of land conflicts in courts. For instance, in Bangladesh, establish an independent land commission for indigenous peoples in the plains, and strengthen the CHT Land Dispute Resolution Commission.
- ***Establish land tribunals or special courts to deal with the backlog of cases*** in Bangladesh and Nepal, and to address cases of human rights violations.
- ***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.
- ***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***. Check corruption, irregularities, and bribes at land administration, courts, and police stations.

In relation to business and human rights:

- ***Establish an independent monitoring mechanism on large-scale land investments and concessions*** 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.
- ***Ensure the integrity of safeguard mechanisms*** that regulate public and private land investments. ***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.
- ***Adopt and implement the UN Guiding Principles on Business and Human Rights (UNGPs)*** in land and resource governance. Take the lead in promoting good business practice by immediately applying UNGPs in all State-run corporations and plantations.
- ***Engage with and involve civil society organizations in the formulation and implementation of National Action Plans (NAPs) for the UNGPs***. Data generated by communities and CSOs on land conflicts and land rights data can be used in the national baseline assessment during the preparatory stage of the NAPs.

To Business/Private Sector

Business enterprises – regardless of size, sector, or location – need to be aware of their actual or potential impacts, prevent and mitigate abuses, and address adverse impacts where they are involved. This requires that business enterprises have the necessary policies and processes in place to meet this responsibility. Due diligence is a must.

- ***Uphold one's responsibility and duty to respect human rights of people in all their operations.*** The private sector being a *duty bearer* should not only show compliance with existing laws and policies but should diligently exercise its responsibility in preventing and mediating human rights abuses.
- ***Must publicly disclose their ownership and investors when acquiring land*** and offer information on how jurisdiction over such persons may be acquired
- ***Adhere to the highest standards of environmental and social safeguards;*** strictly apply the standards of UNGPs 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/disclose master plans, environmental and social impact assessments (EIAs, SIAs)*** and relevant information relating to concessions.
- ***Show remedial efforts that will encourage other businesses to implement similar mechanisms.***
- ***Ensure regular communication with affected communities*** on the progress of the project. 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 National Human Rights Institutions and Commissions

National Human Rights Institutions and Commissions (NHRIs/Cs) have the primary responsibility of promoting and protecting human rights. Their tasks involve providing advice to the government on creating a culture for tolerance, equality, and mutual respect for human rights; investigate abuses on human rights; and, provide remedy and redress for victims.

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

To Civil Society Organizations

CSOs have three key roles to play in our society in general, and to business and human rights. First is that of a ***facilitator***, as a bridge between the communities and other stakeholders towards fostering a meaningful dialogue and engagement. As an ***advocate***, CSOs shall lobby for the formulation and implementation of policies to ensure that human and land rights are respected and protected. Third, as public interest groups, CSOs have a ***monitoring role*** in order to increase transparency and accountability, and to improve the compliance of relevant stakeholders with laws and standards.

In empowering communities:

- **Directly assist communities under land conflict;** protect their welfare and help them seek justice.
- **Organize and empower local communities.** Provide community organizations with basic legal education. Train local paralegals and conflict mediators. Strengthen local mediation mechanisms. Conflict monitoring tools and reports must be disseminated to communities to empower and to educate them about other cases of conflict that they can use as reference for their own struggles.
- **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.

In relation to the monitoring role of CSOs:

- **Improve and expand monitoring and investigation work** in cooperation with local communities, human rights institutions, and media.
- **Improve reporting and response mechanisms** to land conflicts; monitor government and business interests that affect land rights. Share information and evidence-based analysis through media.
- **Use land conflict monitoring data as the platform** and basis for engaging with legislators, policymakers in the executive branch, NHRIs/Cs, and relevant line agencies of government. Share information and evidence-based analysis with the public through media.
- **Monitor NHRIs/Cs and judicial bodies,** particularly in how responsive these institutions in protecting land and human rights defenders addressing cases of land conflicts.
- **Establish independent people's commissions** to investigate land conflicts, including the conduct of businesses and the role of the State, towards the protection of community rights. ■

ACRONYMS

ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
BGD	Bangladesh
BRAC	Bangladesh Rural Advancement Committee
CAM	Cambodia
CDA	Community Development Assistance
CLRA	Centre for Legislative Research and Advocacy
CSO	civil society organization
CSRC	Community Self Reliance Centre
DAR	Department of Agrarian Reform (Philippines)
EIA	Environmental Impact Assessment
ELC	Economic Land Concession
FPIC	free and prior informed consent
FRA	Forest Rights Act
HAGL	Hoang Anh Gia Lai (agribusiness company in Cambodia)
HRV	human rights violation
ICESCR	International Covenant on Economic, Social and Cultural Rights
INDI	India
INDO	Indonesia
KMP	Kilusang Magbubukid ng Pilipinas

KPA	Konsorsium Pembaruan Agrarian (Consortium for Agrarian Reform)
LCW	Land Conflict Watch
LWA	Land Watch Asia
MO	Memorandum Order
NAP	National Action Plan
NEP	Nepal
NHRI/C	National Human Rights Institution/Commission
NTF-ELCAC	National Task Force to End Local Communist Armed Conflict (Philippines)
OHCHR	UN Office of High Commissioner for Human Rights
PHI	Philippines
SIA	Social Impact Assessment
SK	STAR Kampuchea
TIB	Transparency International Bangladesh
UDHR	Universal Declaration of Human Rights
UNGPs	United Nations Guiding Principles on Business and Human Rights

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“Powerful Individuals” as Top Aggressors, Smallholder Farmers Hardest Hit

2020 Bangladesh Land Conflict Monitoring Report

Community Development Association (CDA)

Rationale of the study

Children, youth, and adults are born on the land and live on the land. From childhood to old age, humans all over the world rely on the land not only for livelihood purposes, but also as the basic resource for fulfilling the basic needs of man and all other creatures. Land is indispensable to every citizen for survival. Thus, it is only right that this universal truth has been declared in the slogan, “Land rights are human rights.” In reality, however, people who have no land are less respected, powerless, and helpless; they are disregarded by the State.

In the present context in Bangladesh, this invaluable land is being grabbed and taken over by influential investors through illicit connections with the government and bureaucrats, thereby accelerating land conflicts. While the role of government is to protect against land grabbing and defend the land rights defenders, reality shows that government is not taking the initiative to resolve the resulting land conflicts, which are increasing along with human rights violations. All over the country, a huge number of human rights violations are occurring in relation to land conflicts, adding to the misery of the people, but the government does not have any specific mechanism to even monitor land conflicts. Therefore, this monitoring of land conflicts by the Community Development Association (CDA) helps the government, civil society organizations (CSOs), and human rights organizations in Bangladesh to raise their voice and insist that the government take the initiative for formulation of new laws and effective implementation of existing policies and laws to protect against as well as resolve land conflicts.

Objectives

This study has been undertaken to:

- implement a uniform system for collecting data and information on land conflicts;
- describe the prevalence and types of land and natural resource conflicts;

- examine the nature and causes of land and resource conflicts;
- discuss the impacts and outcomes of land and natural resource conflicts on communities; and,
- draw up recommendations based on the study findings and analysis.

Methodology and data sources

Both primary and secondary data were collected to understand the nature and prevalence of land conflicts, their causes, and their impacts on the country. Primary data were gathered through direct methodologies using interviews, questionnaires, observations, focus group discussions, and oral histories. On the other hand, secondary data were obtained through an indirect methodology using electronic and print media with other technological devices, reports, and documents. The collected data were then verified, summarized, and encoded.

Scope and limitations of the study

During the period covered by this study, January to December 2020, the Community Development Association (CDA) recorded 35 land-related conflicts. The data gathering would have been much more effective if the facts and findings were gathered and published via electronic leaflets or bulletins among the CSOs and other like-minded organizations, to create public awareness about land grabbing conflicts and how human rights are being violated.

However, this was not possible due to the pandemic situation with its lockdowns, social distancing, and the threat of violence among the victims, hindering access to and collection of information on the conflicts. The data gathering team was able to capture only a few cases with complete information on site.

Brief overview of the country context and legal framework

Bangladesh is a signatory country to the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and many other human rights covenants and treaties. State policies to implement these instruments to protect and ensure the human rights of its citizens are incorporated in the 1972 Constitution of Bangladesh, specifically Part 3 Article No. 26 to 44 that declares the values for dignity of every man and full respect for human rights as State policies. This Part likewise declares that the civil and political rights of a person are also bound together. In Article No. 44, if these rights mentioned in Articles 26 to 43 are violated, victims are permitted to file a case in the High Court for the assertion of their rights. However, only a small number of victims go through this process because it is very costly and time consuming. There is also a National Human Rights Commission in Bangladesh (NHRCB) to safeguard and uphold the human rights of Bangladeshi peoples. However, political appointments and politicization

“At present, there is no law on the protection of land and human rights defenders.”

make the Commission ineffectual. CSOs and other rights-based organizations create pressure upon the government to assess and monitor the human rights situation in the country and to formulate the National Human Rights Action Plan (NHRAP) to guide the executive’s measures to protect and fulfill human rights. This facilitating body, comprising human

rights activists, civil society members, and NGO representatives assembled within a legal framework chaired by the National Human Rights Commission, is also tasked to assist the victims of human rights violations, to ensure compliance with international human rights obligations, and to regularly convene with the President.

At present, there is no law on the protection of land and human rights defenders. The justice system, for its part, provides for the legal protection of land rights defenders involved in legal battles. However, in recent years, there has been an increase in reported incidents of alleged State attacks against rights defenders. This raises concerns regarding who then should provide protection in cases where the State is the perpetrator of land rights violations.

Major forces and factors that fuel land conflicts in the country

Historically, poor land governance, inappropriate land use planning, inadequate land policies, land tenure insecurity, corruption, and population increase are cited as being among of the main factors fueling land use conflicts in Bangladesh (Barkat and Roy, 2004). The land administration system in Bangladesh is not well developed. It is beset with multiple defects and problems. Due to inefficiency and inherent systemic weaknesses, corruption has become a grave issue in this sector. Many current problems stem directly or indirectly from this continued exploitation of a limited resource, land price speculation, and urban sprawl, resulting in diminishing land and lack of access to public space.

Existing land conflict resolution mechanisms

There are three types of land conflict resolution mechanisms in the country.

First is mediation where the affected parties tried to retrieve their land properties as well, but 95 percent of the verdicts went against the affected persons (Barkat and Roy, 2004).

Second is the Union Parishad, the smallest rural administrative and local government unit in Bangladesh. Some 25 percent of the affected people go to these units, but end up with no resolution of the conflict.

Third, there are the courts. Article 27 of the Bangladesh Constitution upholds that all citizens are equal before the law and entitled to equal protection of law. However, land

rights defenders and human rights activists find no proper initiative to resolve land conflict cases properly and expeditiously. The courts are overloaded, the number of judges is limited, and therefore justice is delayed and, consequently, denied. As a result, 50 percent of the land-related lawsuits filed in the courts either were withdrawn in the face of threats or were won but with only a minimum property value awarded.

Prevalence of the land conflicts in the country

Table 1. Total number of cases, hectares and households affected by conflicts in the country

Land conflict cases in 2020	Number
Total number of cases	34
Total number of hectares affected	10,605
Total number of households affected	222

CDA collected information and data of 34 land conflict cases from all over Bangladesh for the year 2020, summarized in Table 1. Such conflicts have affected 224 households, within a total area of 10,605.35 hectares of land.

Table 2. Duration of land and resource conflicts

Number of years	Number of cases	Percent (%)
Less than 1 year to 1 year	21	61.8
2 to 5 years	12	35.3
No data	1	2.9
Total	34	100

From the data gathered, the duration of these conflicts ranges from one to three years, as indicated in Table 2. Majority of the gathered cases are recent, with 21 of them having started in 2020, 10 cases in 2019, and one case each beginning in 2018 and 2017.

Table 3. Land use based on use of community

Type of land use	Number of cases	Percent (%)
Agroforestry and people-based plantations	6	17.6
Communal lands	8	23.6
Farming	7	20.6
Housing	9	26.5
Private land	1	2.9
Others (not specified)	3	8.8
TOTAL	34	100

In terms of the use of the land being contested, Table 3 shows that 26.5 percent (nine cases) were for housing. Communal lands followed at 23.6 percent (eight cases), farming at 20.6 percent (seven cases), agroforestry and people-based plantations at 17.6 percent (six cases). Private usage of land is the least with one case.

In terms of type of conflicts, only 14 out of the 34 cases had information on this. Some 43 percent (six cases out of 15) involved resource conflicts. Five cases were caused

by private investment, while clashing tenure systems, government projects, and resistance to land reform had one case each. Twenty (20) cases had no data as to the type of conflict. Table 4 provides the breakdown of type and subtype of conflicts.

Table 4. Type and subtype of conflicts

Type of conflicts	Number	Percent (%) (out of 14)
Private investment	5	35.7
• Conflict on land ownership	1	
• Tourism businesses	1	
• Unspecified	3	
Clashing tenure systems	1	7.1
Government project	1	7.1
Resistance to land reform	1	7.1
Resource conflict	6	43.0
No data	20	-
TOTAL	34	100

Table 5. Stakeholders in conflict

Type of affected community	Number of cases	Percent (%) (out of 31)
Forest users, dwellers	2	6.5
Indigenous peoples	4	12.9
Landless	6	19.4
Smallholder farmers/producers	12	38.7
Tenants	3	9.7
Tribal Mro community	1	3.2
Workers	1	3.2
Others (unspecified)	2	6.5
No data	3	-
TOTAL	34	100

Table 6. Types of aggressors, number and percentage

Type of duty bearer (aggressor)	Number of cases	Percent (%)
Government	3	8.80
Powerful individuals	21	61.80
Private companies/corporations	6	17.60
Other smallholder farmers	2	5.90
Workers	1	2.95
Others (unspecified)	1	2.95
TOTAL	34	100

Nature and causes of land conflicts

Disputes over land are among the major reasons behind numerous human rights violations (e.g., conflicts, violence, harassment, torture, killing, rape of women and girls, among others). These have become a tragically common scenario in Bangladesh, as the incidence of land conflicts and land grabbing is increasing, with influential people encroaching on public land. The resulting conflicts over land and water bodies is negatively affecting the lives and livelihoods of poor communities.

In terms of stakeholders involved in the conflicts, 31 out of the 34 cases provided information as shown in Table 5. The largest number of cases, 12 (or 38.7 percent), involved smallholder farmers/producers; followed by the landless with six cases (19.4 percent), indigenous peoples with four cases (12.9 percent), and tenants with three cases (9.7 percent). Fewer cases involved forest users/ dwellers with two cases (6.5 percent), the Mro community and workers with one case (3.2 percent) apiece. (Mro is a tribal community living in Bandarban district for hundreds of years. Agriculture is their main source of livelihood.) Two cases had no specified stakeholders affected, and three cases had no data.

With regard to the alleged aggressors of the conflicts, information gathered on the 34 cases is presented in Table 6. The most common aggressor type was reported to be powerful individuals, figuring in 21 (61.8 percent) out of the 34 cases. Private companies/corporations were the next most identified aggressors with six cases (17.6 percent); followed by the government

with three cases (8.8 percent). The remaining alleged aggressors were other smallholder farmers (two cases or 5.9 percent); workers and unspecified others with one case (2.9 percent) each. Of special note — although not in the Table 6, the highest frequency of cases (6 out of 34 or 17.6 percent) were those involving smallholder producers vs. powerful individuals.

For the cases documented in this report, Table 7 categorizes the types of violence experienced by the affected individuals into physical, psychological, economic, and political violence. Out of 79 total victims reported, almost all (75 individuals or 93.8 percent) experienced psychological violence. In many cases, the same victims experienced more than one type of violence — with physical injury, threat, and destruction of property usually occurring together. One case of sexual assault, involving a female activist, signaled gender-based violence.

Table 7. Individual violence experienced by victims

Type of violence	Number	% of total victims (out of 79)	% female
Physical violence	40	50.6	14.6
• Injury or assault	39		
• Sexual assault	1		
Psychological violence	75	94.9	12.0
• Harassment, intimidation, persecution	11		
• Threat (of killing, injury, detention)	49		
• Threat of displacement	15		
Economic violence	31	39.2	9.7
• Destruction of property	30		
• Unfair contract	1		
Political violence	3	3.8	3.3
• Criminalization	1		
• Forcible entry, trespassing, encroachment	2		

With regard to violence experienced by the affected communities, Table 8 indicates that a relatively close percentage of the total households experienced the two types of violence reported — 170 (46.3 percent) were victims of forcible entry/lack of or faulty free prior and informed consent (FPIC), while 197 (53.7 percent) were threatened with displacement. However, specific forms of community violence, such as destruction of property, illegal construction/land grabbing, and criminalization of community members, are not presented in Table 8 due to unavailability of the number of households affected by these.

Table 8. Community violence by number of affected households

Type of violence	Number of HH	Percent (%)
Forcible entry/lack of or faulty FPIC	170	46.3
Threat of displacement	197	53.7
TOTAL	367	100

Impact and outcomes of land conflicts

Land conflicts often have extensive negative impacts on overall economic, social, spatial, and ecological development. This is especially true in a developing country like Bangladesh where land market institutions are weak, opportunities for economic gain by illegal action are widespread, and hundreds of thousands of people are deprived of access to land. 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. It is said that 80 percent of the crimes committed today stem from land disputes. These take their toll on victim families not only financially but in terms of safety as well. One study on land disputes by BRAC HRLS-PRI (2014) states that some 18 percent of families in Bangladesh with pending dispute cases pay an average of USD 260 to police and USD 66 to local arbitrators as bribes for the resolution of pending land dispute cases. According to the same study, 7.5 percent of households involved in land conflicts have experienced physical violence, while lawyers' fees account for about 60 percent of the total cost for resolving disputes. In many cases, the total cost to see a land dispute to resolution is 45 percent of a household's annual income.

Two cases are thus presented to illustrate the above human rights violations.

Case 1: Solidarity rally in Chittagong to stop construction of 5-star hotel by occupying Mro's land in Bandarban (Source: *Chittagong Hill Tracts News*, 13 November 2020)

The Mro community lives in "Chimbuk hill" in Bandarban district. A major developer known as the "Sikder Group" illegally took over 1,000 acres (405 hectares) of community land for the construction of a five-star Hotel Marriott along with an amusement park. A solidarity rally and mobilization, preceded by an agitation march, were immediately organized by four student organizations on 13 November 2020 to protest the planned project. Pahari Chatra Porishad (PCP), Gonotantrik Jubo Forau, Parbotto Chattogram Nari Shongho, and Hill Women's Federation collectively demanded a stop to the dispossession and eviction of the community from their land.

During the protest march, the activists called upon the Sikder Group to "stop evicting Mro community from their inherited ancestral Jhum land in the name of constructing a five-star hotel" and carrying placards with various demands including "Accept the traditional land rights of the hill people" (*Dhaka Times*, 11 September 2020).

Maidul Islam, a teacher in the Department of Sociology at the University of Chittagong; Subarna Majumdar, a teacher in the Department of Mass Communication and Journalism; and, Hafiz Rashid Khan, a prominent poet and journalist, also expressed solidarity with the protesters.



Solidarity by women against land grabbing for construction of a 5-star hotel (*Prothom Alo*, 11 September 2020)

Advocate Bhulan Bhowmik, president of the National Council East-3, said the construction of a five-star hotel on the Chimbuk hill in Bandarban is part of a wider conspiracy to wipe out the hill people in the Chittagong Hill Tracts (CHT).

Hasan Maruf Rumi, leader of the mass solidarity movement in the Chittagong region, said that, just as America's modern capitalist society has been built by evicting indigenous peoples, the hill tribes of the CHT are being forcibly evicted from their land.

Case 2: Adivasi people protest land grab in Chapainawabganj District: (Source: *Dhaka Tribune*, 18 July 2020)

Land grabbers had been taking indigenous peoples' arable land, homes, ponds, graveyards, cremation grounds, and temple land in Tongpara, Chapainawabganj district. On 18 July 2020, hundreds of indigenous people from the Rajoar community organized a rally to protest this land grabbing, as well as rape and persecution, in their district. They blocked the Nachol Amnura road for hours and later mobilized a rally in Tongpara village, under Sadar sub-district of Chapainawabganj district.

Hingu Murmu, president of the Uttarbanga Adivasi Forum; Bimol Chandra Rajoar, organizing secretary of the Jatio Adivasi Parishad central unit; and, Adivasi Mokti Morcha, president of Biswanath Mahato, were likewise present at the said event.

The speakers alleged that criminals had been grabbing the indigenous people's land and ancestral properties, especially in Tongpara village. Thus, they demanded action against the land grabber, Tariqul Islam and his gang. Otherwise, they vowed to take stronger action.

The Adivasi leaders demanded that the 17 cases filed against the indigenous people of Tongpara village be investigated properly and that the report be submitted soon.

The leaders of the rally likewise alleged that the police had not agreed to file cases against the perpetrators of sexual assault on Adivasi leader Kanchona Rajoar on 23 May 2020, and the stabbing of another two leaders, Biswanath Mahato and Bongpal Sarder, on 25 June 2020.



Demonstration and protest rally by the women against land grabbing of indigenous peoples' land

Responses to the conflicts

Communities and CSOs have undertaken a range of actions in relation to addressing land conflicts in Bangladesh. These include policy advocacy, campaigns, awareness raising, empowerment of communities (e.g., paralegal support, emergency funds, etc.), organizing workshops and roundtable discussions, and mobilizations. For the cases documented in this study, 12 out of the 34 were reported to have taken the following courses of action, as summarized in Table 9: conflict management through courts and legal processes (three cases), conflict management through administrative mechanisms (two cases), negotiation (two cases), and peaceful demonstration (two cases). Two cases had no response, and one had a “Do not Know” response regarding how the land conflict was addressed.

With regard to whether corrective actions were taken in response to the land conflicts, only eight out of the 34 cases documented had information on this.

Table 9. Community responses to conflicts

Type of responses	Number	Percent (%) (out of 12)
No response	2	16.65
Conflict management - administrative mechanism	2	16.65
Conflict management - Court, NHRC, legal remedy	3	25.00
Conflict management - negotiation	2	16.65
Peaceful demonstration and other non-violent acts	2	16.65
Do not know	1	8.40
No data	22	-
TOTAL	34	100

As shown in Table 10, three cases indicated that the government took action, three cases reported no action, while the remaining cases had no data (28 cases) on whether action was undertaken or not.

Recommendations

Based on the findings and analysis in this study, the following are recommended courses of action:

For Government

- Formulate and enact a special law to prevent land grabbing and ensure quick resolution of land disputes;
- Enact laws and formulate a mechanism to protect land rights defenders;
- Initiate the withdrawal of false cases over land conflicts and stop police or administrative harassment immediately against land rights holders and defenders;
- Ensure people-centered land governance and digitalization of the land management system;
- Direct the National Human Rights Commission (NHRC) to formulate a National Action Plan to resolve land disputes by engaging political parties, CSOs, and other GO-NGO stakeholders;
- Cancel lease of land among companies/corporations/political and non-political influential groups for violation of land-human rights; and,
- Monitor corruption, irregularities, and bribery in the Office of Land Administration, the courts, and police stations.

For CSOs

- Popularize land rights as human rights;
- Monitor land conflicts regularly and publish land conflict monitoring reports periodically and annually;

Table 10. Corrective actions taken in response to the land conflicts

Corrective action taken?	Number	Percent (%) (out of 6)
Yes, by government	3	50
No	3	50
No data	28	-
TOTAL	34	100

- Build up public solidarity and support especially in cases of large-scale land grabbing and eviction due to land acquisitions that violate land-human rights;
- Empower affected communities and strengthen their organizations, particularly those of the landless and small producers;
- Mobilize media and citizens' platforms in association with grassroots people in the conflict sites to protest against the land grabbers; and,
- Advocate for the strengthening of local government to build a support mechanism as a protection mechanism within the legal framework. ■

ACRONYMS

BRAC	Bangladesh Rural Advancement Committee
CDA	Community Development Association
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NHRAP	National Human Rights Action Plan
NHRCB	National Human Rights Commission in Bangladesh
OC	Officer in Charge (of a Police Station)
UDHR	Universal Declaration of Human Rights
NGO	non-governmental organization
HRLS	Human Rights Legal Service
PRI	Property Rights Initiative

DEFINITION OF TERMS

Adivasi refers to indigenous people

Khas land refers to government-owned fallow land

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ELC Grip on Rural Communities' Land Finally Being Challenged:

2020 Cambodia Land Conflict Monitoring Report

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Rationale of the study

STAR Kampuchea (SK) is one of the members of the Asian NGO Coalition and Rural Development (ANGOC) and the Land Watch Asia (LWA) Campaign. In 2010, ANGOC and LWA initiated the Land Reform Monitoring Initiative to contribute to the process of building capacities of civil society organizations (CSOs) in undertaking monitoring of land tenure and access to land for evidence-based advocacy.

This study *2020 Cambodia Land Conflict Monitoring Report* now builds on the earlier monitoring initiative in 2018 by implementing more systematic data gathering and reporting on land conflicts (ANGOC, 2019). Following a regional training on land conflict monitoring held in Jakarta in March 2020, STAR Kampuchea (SK) gathered information and data on land conflict and rights violations from multiple primary and secondary sources, including CSOs, community complaints, media reports, government agencies, as well as the private sector. For Cambodia, land conflict is a grave concern since 85 percent of its 16 million people depend on agriculture. Thus, the study provides an overview of the country context, through the following specific objectives:

- implement a common system for collecting data and information on land conflicts;
- describe the prevalence and types of land and natural resource conflicts;
- examine the nature and causes of land and resource conflicts;
- discuss the impacts and outcomes of land and natural resource conflicts on communities, as well as on land rights defenders; and,
- draw up recommendations based on the study findings and consultations in Cambodia.

Concepts and definitions used in the study

- **Land conflict.** Cases of land conflict 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; or, d) status, particularly those embodied in systems of government, religion, or ideology.” In all studies, land conflicts also cover disputes over water resolution, trees, forests, and rights to natural resources.

It is also important to differentiate between two types of land and resource conflicts.

Land dispute. A “land dispute” involves conflicting claims to rights of 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 transitions. Such land disputes may or may not reflect some broader conflict over land.

Land conflict. 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 laws. There is often no consensus on the roles to be applied, and the parties may have quite different understandings of the nature of the conflict. As used in this study, conflict implies tension and the danger of violence, but not necessarily violence itself, unless this is specially mentioned. The country study here will 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 study will show.

- **Forms of violence.** All the case studies 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).

Note: These concepts and definitions are extracted from ANGOC (2019): *In defense of land rights: A monitoring report on land conflicts in six Asian countries*. Quezon City: ANGOC.

Methodology and data sources

Following the agreed methodology in the ANGOC/LWA training held in Indonesia, the writer conducted desk review through collecting secondary data (recorded by the public, NGO, and private sectors, and both mass media and social media), based on articles, reports, and studies done previously related to land in Cambodia. In addition, the writer

conducted semi-structured individual interviews and focus group discussions (FGDs) to collect primary data from 36 participants from NGOs and grassroots communities in Prah Vihear, Kampong Chhnang, and Pursat provinces, as well as in Phnom Penh. In addition, the writer quotes some case studies for further emphasis on the causes of land disputes, proposed solutions, and new initiatives either by government and/or non-State actors.

The report also obtained data recorded in the Land Monitoring Data System of STAR Kampuchea, as collected from various NGOs, communities, newspapers, and social media. The system analyzes the gathered data according to indicators, such as who are involved in the conflicts, number killed, number harassed, conflict types, the situation of the conflicts, etc.). The system also analyzes the causes and impacts of land conflicts.

To confirm the results of the studies as well as to formulate recommendations, an online validation workshop was conducted on 30 June 2021, participated in by 30 NGOs and community members including affected IPs and non-IPs. Such inputs have been valuable in making this report more reliable; thus, it can be used for evidence-based advocacy.

Scope and limitations of the study

The monitoring report covers the calendar year January to December 2020. The contents include: a) brief overview of the country context and legal framework, b) effective mechanism for land conflict resolutions, c) prevalence of land conflicts, d) impacts and outcomes of land conflicts, e) responses to the conflicts, and f) recommendations. This study reports both vertical and horizontal land conflicts across the country, covering both rural and urban areas. However, this study does not focus on *land disputes*, i.e., small cases which occur between families or within a family. Rather, it focuses on high-profile cases between the powerful and the communities, especially those related to Economic Land Concession (ELCs).

The *first limitation* of the study is the limited sample size due to budget constraints. The sample size for the interview and focus group discussions (FGDs) was relatively small, involving around 20 people from NGOs, the government, and land conflict-affected areas.

The second limitation is the limited access to cover all the appropriate types and large geographic scope of the sample size. The interview questionnaires were developed based on random sampling and the report mostly relies on secondary data. Despite this limited access, the writer redesigned and restructured the questionnaires in a way that the findings are still reliable.

Furthermore, in terms of the case studies, not all areas of the country could be covered. Even though the number of participants of the validation workshop – which was attended by local and international NGOs, government representatives, and affected people – was not large, the reliability of the report was validated.

The *third limitation* is that most of the available prior studies used the term *land dispute* instead of *land conflict*, although on the basis of the concepts and definitions above, the cases are categorized as land conflicts.

The *fourth limitation* is the time constraint. This study was conducted when the Corona virus, known as COVID-19, was spreading all over the world. Therefore, the face-to-face meeting plan with other stakeholders and people concerned was cancelled. The writer re-scheduled the activities to allow the target participants to alternatively hold online meetings instead, through telephone calls, Telegram, WhatsApp, and Skype.

Brief overview of the country context and legal framework

Legal framework

Cambodia has a judicial framework and policies that can be used to address land conflicts and promote land governance. They include:

- **1993 Cambodian Constitution.** Article 44 of the Cambodian Constitution stipulates that “all persons, individually or collectively, shall have the rights to ownership. Only Khmer legal entities and citizens of Khmer nationality shall have the right to own land.” Thus, the Constitution prohibits any foreigner, either a natural person or legal entity, to own land. Article 44 also states that “the right to confiscate property from any person shall be exercised only in public interest as provided for under the law and shall require fair and just compensation in advance.”
- **2001 Land Law.** In 1998, the Ministry of Land Management, Urban Planning and Construction (MLMUPC) was established. The Ministry was responsible for drafting a new law, which led to the promulgation of the Land Law 2001. The aim of the law is to “improve tenure security and access to land through a market-based land reform including land titling, cadastral commission, and liberalized land market. Under the new legal provisions, the land remains as the property of the State unless it has been legally privatized” (Regino-Borja et al., 2019). In addition, the Land Law says, “All Cambodians are entitled to occupy, use and sell land and land property,” but property rights that existed before 1979 were not recognized (Article 7). Article 33 also states that if the immovable property is taken violently or by abuse of power of the authorities, the property shall revert to the State and could not be the subject of any new possession if there is no claim from the lawful possessor of the immovable property of which he was dispossessed (ANGOC, 2019). According to the Land Law, there are five different categories of properties (as cited in Feldt, 2016):
 - Private land: land with full legal private ownership;
 - State private land: State land that is not public; can be legally privatized;
 - State public land: State land with a public interest such as roads, buildings and services, forest, water bodies; cannot be privatized;
 - Monastery land: under collective ownership, owned by Buddhist monasteries; and,
 - Indigenous community land in collective ownership: residence areas of indigenous communities who may practice traditional swidden agriculture.

Article 25 of the Land Law specifies that indigenous people and communities can exercise collective ownership over land where they have established residence and carry out traditional agriculture.

- **Expropriation Law.** The Expropriation Law, promulgated on 4 February 2010, provides clear procedures on acquiring private properties for national and public interests. The law ensures reasonable and a legal right to ownership of private property; ensures payment of reasonable and just prior compensation; and, that such land acquisition serves the public and national interests. Article 12 says that an expropriation committee shall be established and headed by a representative from the Ministry of Economy and Finance (MEF) and composed of representatives from relevant ministries and institutions. Article 22 states that “an amount of compensation to be paid to the owner of and/or holder of rights in the real property shall be based on the market value of the real property or the alternative value as of the date of the issuance of the *Prakas* on the expropriation scheme.”
- **Law on Forestry, 2003.** The Law on Forestry “defines the framework for management, harvesting, use, development and conservation of the forests in the Kingdom of Cambodia. The objective of this law is to ensure the sustainable management of these forests for their social, economic and environmental benefits, including conservation of biological diversity and cultural heritage” (Article 1). The law also:
 - provides the framework for forest classification;
 - provides the creation and management of community forests (i.e., communities are granted an area within the Permanent Forest Reserve to manage and derive benefit from);
 - guarantees the entry rights of local communities into forest concessions;
 - prohibits logging of certain trees available to local communities as well as trees and areas of cultural or religious significance, such as spirit forests; and,
 - mandates the sustainable logging of natural and plantation forests.
- **The Protected Area Law (2008).** This law “defines the framework of management, conservation and development of protected areas. The purpose of the law is to ensure the management and conservation of biodiversity, and the sustainable use of natural resources in protected areas. It recognizes the right of forest-dependent and indigenous peoples to sustainably use the natural resources, and to reside, within protected areas” (Article 1). The law divides the protected area into four zones, and each zone is defined by its land use and management: core zone, conservation zone, sustainable use zone, and community zone (Article 11). So far, full zoning has only occurred for one national protected area. The law also provides for the establishment of community protected areas (CPAs), which usually cover parts of the sustainable use zone and community zone. The goal of establishing CPAs is to gain the involvement of communities and other relevant stakeholders in the planning, management, monitoring and evaluation of protected areas. Resource users are supposed to benefit from biodiversity conservation and forest protection, livelihood subsistence and the maintenance of cultural and spiritual values. Yet, local people are not allowed to use natural resources for commercial purposes, although they can collect non-timber forest products (NTFPs) in traditional ways (FAO and MLRG, 2019).

- **Directive 01.** As a reaction to the rise in protests against the forced resettlement due to ELC investments, in May 2012, Prime Minister Hun Sen issued a moratorium, called Directive 01, in relation to granting of ELCs. Directive 01 reads that land that is already occupied by families should be acknowledged within ELCs through the “leopard skin strategy,” which allows communities to live side by side with the concession land and protected areas (Feldt, 2016).
- **Sub-Decree No. 146 on Economic Land Concessions.** Article 1 of this Sub-Decree aims to “determine the criteria, procedures, mechanisms and institutional arrangements for initiating and granting new economic land concessions; for monitoring the performance of all economic land concession contracts; and for reviewing economic land concessions prior to the effective date of this sub decree for compliance with the Land Law of 2001.” This Sub Decree also outlines the scope and criteria for awards of economic land concessions, establishing a ceiling of 10,000 hectares, and requires the concessionaire to conduct prior public consultation with the local community and comply with safety measures.
- **Sub-Decree No. 83 on Communal Land Titling.** In the context of IPs, the Royal Government of Cambodia (RGC) had adopted the “Procedure of Registration of Land of Indigenous Communities.” This Sub-Decree supports the rights and culture of IPs with the objective of providing indigenous communities with legal rights over land tenure, to ensure land tenure security, and to protect collective ownership by preserving the identity, culture, customs, and traditions of each indigenous community (RGC, 2009).
- **Sub-Decree on State Land Management, 2005 and Sub-Decree on Community Forestry, 2003.** These Sub-Decrees give the principles and mechanisms for the identification, registration, and classification of State land, and provides the mechanism for transferring private or State lands to landless poor for residential and/or family farming purposes to meet their basic needs.

Major forces and factors that fuel land conflicts in the country

In Cambodia, land conflicts have been gradually increasing since 1999, one year after the very last Khmer Rouge fighters were defeated along the Thailand border. Land conflicts definitely intensified after the government passed a new Land Law in 2001 (Sun, 2017), particularly in cases where both rural villagers and urban dwellers have been involved in these conflicts. The UN Special Rapporteur for Human Rights in Cambodia said that land conflicts can, in fact, threaten the country’s stability (RFA, 2015). Hence, land conflicts have become a serious and persistent issue in Cambodia since then.

A major problem has been the many Economic Land Concessions (ELCs) which were granted in order to attract investors to Cambodia, while title registration was still ongoing. An ELC means that the government leases State-owned land of up to 10,000 hectares to private investors for a maximum of 99 years (Sun, 2017). However, the government has reduced the investment period for contracts from 99, 80 and 70 years to 50 years for 16 firms, the first to see their terms shortened as part of a new government initiative

(*Cambodia Daily*, 2015). Overall, the RGC granted a total 1,934,896 hectares of ELCs to 230 companies, 122 of which received licenses from Ministry of Agriculture, Forestry and Fisheries (MAFF) while 133 others received licenses from the Ministry of Environment (MoE). The total figure for the land area for which ELCs have been granted is similar to that estimated by NGOs. The government has earned USD 80 million income from ELCs since 2012 (ODC, 2015). The economic development through such ELC regime however has also led to land rights abuse and environmental degradation, including harmful impacts on land occupied by the indigenous peoples (CCHR, 2017).

Legal activists pointed out that the powerful elite, including high-ranking government officials, are involved in most of the land conflicts. Approximately 400,000 people have been personally affected by land conflicts – among them, around 6,000 who, according to ADHOC, a Cambodian human rights group, have been forcibly evicted from their homes. Many ELCs have resulted in forced evictions and violent protests all over the country (Sun, 2017).

Another major force driving the conflicts is related to agriculture, urban development, manufacturing industries, mining rights, and the construction of hydropower dams (Ill Oeun et al., 2018). Latt Ky of ADHOC highlighted that the government failed to assess the situation on the ground properly before granting ELCs until the impacts began being noticed. Moreover, the Environment Impact Assessment was not conducted as required (Sun, 2017), and without free, prior, and informed consent (FPIC). This means that, very often, the communities are not informed until a development project starts to affect their land and livelihoods (CCHR, 2017). This is evidenced by Theng Nan, research associate, who states in his briefing note for the report on Land Dispute Resolution Mechanisms in Cambodia, that “infrastructure development projects and economic land concession without proper study and public consultation required by law have often led to land disputes” (Theng, 2016).

According to various reports, land disputes in Cambodia also arise from “increased land value, ineffectiveness of law enforcement, lack of community’s knowledge in legal and policy matters, and unclear roles and responsibilities of key responsible authorities” (Schwedersky, 2010). Furthermore, conflicts arise from the “unclear legal framework; weak institutions, lack of land ownership certification documents; authorities are not being clear regarding to the boundaries between land concessions; and, lack of concern towards public, private State land and community land” (Phan, 2016, as cited in Nan, 2016). Other major causes that drive the conflicts include State-led land grabbing of unregistered land of citizens; private land grabbing of unregistered lands by powerful people/public officials; economic land concessions (plantations, mining, hydropower dams, etc.); evictions from city developments (property markets and establishments); establishment of Special Economic Zones and government infrastructure projects (roads, railways); and, encroachment on community forest lands, communal forests, and land for indigenous peoples (ANGOC, 2019).

Furthermore, when there is a conflict, too often the villager community voices are unheard (Sun, 2017). As a result, some land conflict cases have been ongoing for several years, compromising the living conditions and livelihoods of the affected people (Oeur, et al., 2018).

In response to this, the government stopped leasing large plots of land to private-sector investors a few years ago (Sun, 2017). In 2012, after years of forced evictions and protests, the government put a moratorium on the issuance of new concessions and limited the duration of future leases to 50 years.

The Prime Minister, as mentioned, issued Directive 01 which set up a land-titling program under his own name. With this initiative, he sent scores of students across the country to investigate conflicts and provide land titles to smallholders with lands under concession (Sun, 2018). “Following the issuance of Directive 01, the number of newly-granted ELCs has dropped dramatically between 2012 and 2015” (NGOF, 2016).

Effectivity of existing land conflict resolution mechanisms

Five layers of land conflict resolution bodies have been established to address land-related conflicts. They are:

- **Commune Council (CC):** When a conflict begins, the citizens are advised to first lodge a complaint with the Commune Council or CC (CCHR, 2019), which is mandated to reconcile differences among citizens of communes, but does not have the power to make decisions (Sub-Decree No. 22 ANK). This works effectively for conflicts which are relatively small-scale and not involving powerful people.
- **Administration Commission (AC):** The 2001 Land Law established the AC under the supervision of the MLMUPC, which has the authority to identify properties, to hear possession claims, and to register people’s land. The Commission can resolve the conflicts on possession claims only (ANGOC, 2019). The AC was formed in all areas in which the systematic land registration operates. It is the first commission given the role of solving land cases that arise during the land registration process. The AC has no power to issue decisions; however, they may mediate between the parties in conflict to reach agreement. If the conflicts cannot be resolved, the AC forwards the case to the Cadastral Commission.
- **Cadastral Commission:** The Cadastral Commission was established under the 2001 Land Law and is under the supervision of the MLUMPC, which has authority to solve the conflicts in order to officially obtain legal ownership and also to identify properties, establish cadastral index maps, issue ownership titles, register land, and inform people about the status of each parcel of land (ANGOC, 2019). “The Cadastral Commission is responsible for solving the conflicts over unregistered land occurring outside of areas, being adjudicated for systemic land registration, as well as the conflicts that emerge during adjudication that cannot be resolved by the Administration Commission” (2001 Land Law, Article 47, as cited in Nan, 2016). The Cadastral Commission is responsible for conflict *mediations* that generally involve traditional Khmer conciliation

techniques. The Commission is comprised of the National Cadastral Commission, Provincial/Municipal Cadastral Commissions in all 24 provinces and all municipalities, and District/Khan Cadastral Commissions in all 194 Districts/Khans. Only the District/Khan Cadastral Commission has the power to mediate between the parties in conflict and, if the parties cannot reach an agreement, the case will be forwarded to the provincial level. If the case can still not be solved at the provincial level, the case may be forwarded to the National Cadastral Commission which has the power to issue decisions over land disputes. The Cadastral Commission's authority on land dispute decisions, however, is limited to those involving unregistered lands (Then, 2016).

- **Court:** According to the joint *Prakas* No. 2 between the MLMUPC and the Ministry of Justice, the courts have jurisdiction to address any land conflicts over those lands that have been registered at the Cadastral Commission, officially covered by land titles, known as hard-copy certificates, issued by the Cadastral Administration. The disputes over land-related contracts that are not registered, such as conflicts over inheritance distribution, buying, selling, and leasing contracts, are also addressed by the court (Oeur, et al., 2018). If the parties “are not satisfied with the decisions of the court of first instance, they can file with the Court of Appeals. Likewise, if the parties are not satisfied with the decision of the National Cadastral Commission, they may also file an appeal with the Court of Appeals” (Land Law Article 23, as cited in ANGOC, 2019).
- **National Authority for the Land Dispute Resolution (NALDR):** In February 2006, the NALDR was established by a Royal Decree (Theng, 2016), “which is composed of 17 high-ranking officials of various ministries. However, the members have largely delegated their tasks to others and this body became ineffective in practice” (Royal Decree on the Establishment of National Authority for Land Dispute Resolution, as cited in ANGOC, 2019). The NALDR is mandated “to hear cases which are beyond the competence of the National Cadastral Commission and receive complaints throughout the country involving land conflicts” (Theng, 2019).

Challenges of implementing the land disputes resolution mechanism

The conflict resolution mechanisms described above still face some key challenges due to several factors. The first factor is a lack of clarity over the jurisdiction of each mechanism that leads to confusion for the complainants. The second factor is the poor access to these dispute resolution mechanisms by individuals and communities due to bureaucracy and procedural burdens, which lead to higher financial costs for the submission of complaints. While there is no official fee for a case, the complainant needs to shoulder additional expenses for transportation and fees for legal assistance before the dispute resolution bodies. Moreover, the complainants have complained that decisions issued by the existing bodies are inconsistent and subject to external pressure. The same report highlighted that, in cases which fall under the jurisdiction of the Cadastral Commissions, the weaker parties may not file cases due to lack of faith in the process and the outcomes (Theng, 2016).

Prevalence of land conflict in Cambodia

Number, distribution, and size of land conflicts

Land conflicts occur in other regions too. However, they are strikingly concentrated in the rural areas. “It matters, of course, that 85 percent of Cambodia’s 16 million people depend on agriculture. Having land for cultivation is their top priority” (Sun, 2017). The evolution of land conflicts and its solution have been changed from year to year (Oeur, et al., 2018).

Since 2003 until November 2020, the Municipal, Provincial, Khan/District Cadastral Committees received a total of 8,961 complaints. Out of this total, 4,289 cases have been completely solved by the Cadastral Commission, while 2,969 cases were rejected and the remaining 752 cases remain unresolved (MLMUPC, 2020).

Table 1. Cases received and solved by the Municipal, Provincial, Khan/District Cadastral Committees

Year(s)	Received	Completely solved	Rejected	Withdrawn	Being solved (as of 2020)
2003 to 2020	8,961	4,289	2,969	0	752

Source: 2020 Annual Report of the MLMUPC

From 2005 until November 2019, the Cadastral Commission solved land conflicts involving 21, 725 families, covering 6,550.37 hectares (MLMUPC, 2019). The information from CCHR about 223 land conflicts in the last four years since 2017 reported that 47,342 families have been affected or could be affected by the covered cases. An additional 768,862 people may have been or have been affected by these cases (Oeur, et al., 2018). Even worse, land conflict evictions can be brutal. For instance, in March 2018, armed forces shot at protesters over a land dispute with a rubber plantation in Snuol district, Kratie province, and three people were injured by the gunfire (Sun, 2018).

The year 2008 saw the greatest increase of land disputes when the price of land rose to its highest. In 2010 and 2011, land conflicts rose again, but from 2015, the number has been decreasing compared to 2012.

In 2012, a 14-year-old girl was shot to death when soldiers fired shots during a protest similar to the one which happened in Kratie province (Sun, 2018). In 2016, the number of land disputes began to increase more rapidly (Oeur, et al., 2018). Then, in one among other cases, in June 2018, hundreds of villagers from Koh Kong province came to Phnom Penh for several days to demand proper land compensation from the government (Sun, 2018).

In 2019, along with the NALDR, the MLMUPC received a combined total of 2,713 complaints of land disputes, of which 1,871 are under review. Of the total, the Ministry received 817 land dispute complaints. 81 cases were solved and 24 referred to relevant authorities, while the remaining are yet to be investigated (Soth, 2019).

Based on the 2019 MLMUPC report, the Ministry received 290 cases. Out of this, 169 cases were completely solved involving 723 families and 95 cases were rejected as they are out of the authority of the Ministry. Out of this total amount, the mobile dispute resolution team solved 141 cases and rejected 89 cases. The rest of 22 cases were withdrawn (MLMUPC, 2019).

In the same year, NGO Forum on Cambodia (NGOF) updated its statistics on land conflicts in 13 out of the 25 provinces and cities. This update was done through meetings and consultations with 117 representatives, 16 of whom were women, from the relevant provincial and local authorities and NGOs which are members of NGOF. The 115 cases recorded are presented in Table 2 (NGOF, 2019).

Table 2. Status of land conflicts in 13 provinces of Cambodia

No.	Provinces	Updated cases	Completely solved	Forwarded to 2020
1	Preah Sihanouk	24	4	20
2	Rattanakiri	19	4	15
3	Mondulakiri	15	1	14
4	Preavihear	11	1	10
5	Kratie	10	8	2
6	Pursat	14	9	5
7	Kampong Chhnang	14	3	11
8	Kampong Speu	11	3	8
9	Siem Reap	6	0	6
10	Kampot	9	1	8
11	Stoeung Treng	7	5	2
12	Kampong Thom	8	1	7
13	Kampong Cham	7	0	7
	TOTAL	155	40	115

Source: Report on Statistics and Experiences on Land Conflicts, NGOF, 2019.

In 2020, H.E Seng Laut, the Director General and Spokesman of the MLMUPC, announced during a press conference on the development and future directions of the MLMUPC at the Ministry of Councils that the Ministry received nearly 12,000 cases. Of this total, the working groups have solved more than 10,000 cases, leaving nearly 2,000 cases still unsolved (Khoun, 2020). The largest land conflict reported was in the Prey Lang area, affecting about 700,000 predominantly indigenous peoples. Phnom Penh had the highest number of land conflicts with 10 percent out of the total land conflicts. This was followed by Banteay Meanchey and Rattanakiri with eight percent each of the total conflicts; then by Battambang and Preah Sihanouk with six percent each of the total (Oeur, et al., 2018).

The Government claimed that the number of land [disputes] is decreasing – citing that the department working “on land dispute resolution received 637 complaints in 2015, 757 in 2016, and 511 in 2017” (Economist Intelligence Unit, 2018).

With both financial and technical support from ANGOC, SK collected data related to land conflicts that occurred in 2020 from different sources. Out of 25 provinces and cities in Cambodia, there were 78 cases reported from 20 provinces and Phnom Penh City. These 78 cases covered over 310 thousand hectares and affected more than 47 thousand households. Further results of the monitoring are detailed in Table 3.

Table 3. Total number of cases, hectares, and households affected by land conflicts in Cambodia in 2020

Category	Total Number
Cases monitored	78
Hectares affected	316,475.66
Households affected	47,940

Among the 78 reported cases, 30 have remained unsolved between six and 10 years, 27 cases have been unsolved between 11 and 15 years, and one case remains unsolved after 21 years.

The highest number of cases occurred in Prah Vihear (17 cases) and Phnom Penh (nine cases); while four provinces were recorded as having only one case each.

Table 4. Duration of conflicts by number of years as of 2020

Duration	Number of Cases
One year or less	2
2 to 5 years	7
6 to 10 years	30
11 to 15 years	27
16 to 20 years	4
21 years or more	1
Not specified	7
TOTAL	78

Table 5 shows the land conflict cases in 2020 by region/province, number, and area of occurrence; while Figure 1 depicts the distribution of cases in Cambodia.

Table 6 illustrates the types of rights holders and aggressors in the reported conflicts. It shows which types of rights holders, such as indigenous peoples, smallholder farmers/producers, forest protectors, and landless, were affected by which types of aggressors (government, private companies, powerful individuals, military, and land brokers).

Table 7 shows the different types of conflicts that characterized the 78 reported cases. The conflicts derive from clashing tenure systems, government projects, private investments, public-private partnerships, resistance to land reform, resource conflicts, and others.

Below are examples of these types of conflicts that happened in different areas in Cambodia.

- **Clashing tenure systems:** Evictions of communities occurred within Phnom Penh, followed by relocation to assigned State land in outskirt areas.
- **Government project:** There was a conflict between 14 former soldiers’ families and the Royal Cambodian Armed Forces (RCAF) division over land which those families

Table 5. Land conflict cases in 2020 by region/province, number, and area of occurrence

Name of Region/Province	Number of Cases	Area (Hectares)
CITY		
Phnom Penh	9	528.60
PROVINCE		
1. Pailin	1	2,102.00
2. Kep	2	N/A
3. Stung Treng	6	45,664.61
4. Kratie	1	N/A
5. Takeo	1	30.00
6. Kampong Chhnang	2	158.00
7. Svay Rieng	3	1,355.00
8. Pursat	1	4,420.00
9. Koh Kong	5	1,346.09
10. Ratanakiri	2	56,223.00
11. Oddar Meanchey	4	85,514.00
12. Battambang	2	165.00
13. Tbong Khmum	1	400.00
14. Sihaknouk	5	19,909.00
15. Banteay Meanchey	3	114.00
16. Mondulkiri	4	7,605.00
17. Kampong Thom	2	6,710.00
18. Kampong Speu	5	45,495.00
19. Siem Reap	2	1,487.00
20. Preah Vihear	17	37,249.36
TOTAL	78	316,475.66

Table 6. Stakeholders in Conflict

RIGHTS-HOLDERS	AGGRESSORS							
	Gov't	Private companies/corporations	Powerful individuals	Military	Community land's broker	State-owned enterprises	Others	Total
Indigenous peoples	-	8	2	-	-	1	-	11
Smallholder farmers/producers	10	33	6	8	-	-	1	58
Tenants	-	-	1	-	-	-	-	1
Forest protectors	-	1	-	-	-	-	1	2
Landless	2	1	-	2	1	-	-	6
TOTAL	12	43	9	10	1	1	2	78

Figure 1. Map depicting the distribution of cases in Cambodia

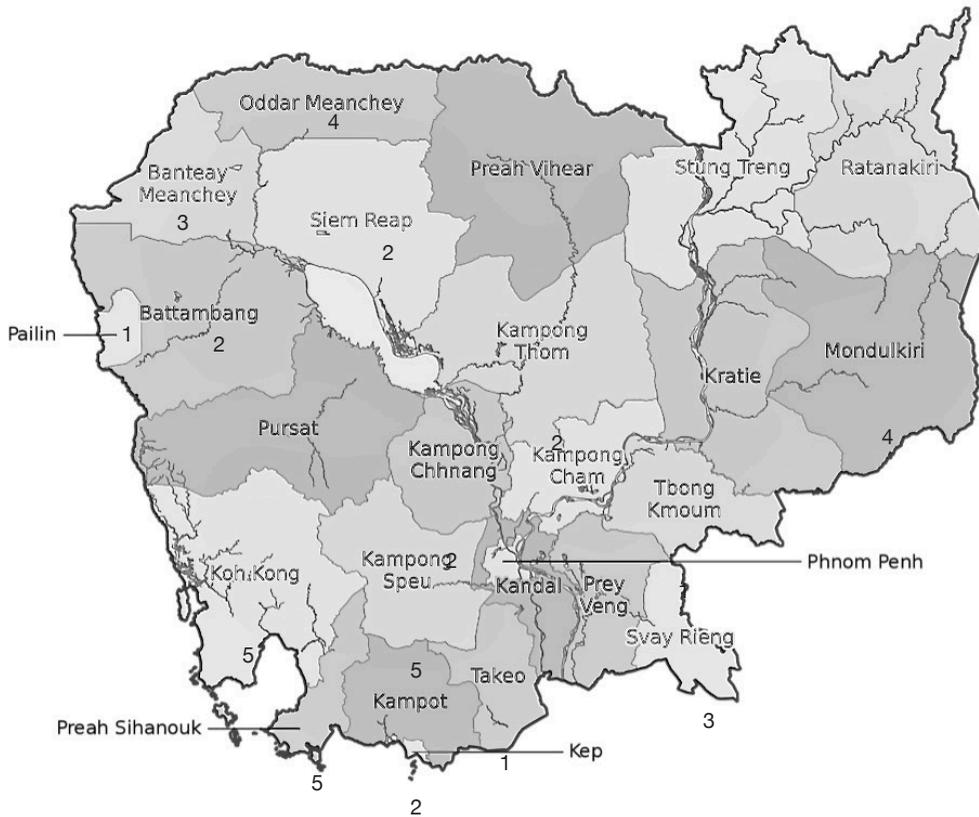


Table 7. Types and sub-types of conflicts in the cases reported

Type of Conflicts	Number of Cases
Clashing tenure systems	8
Government projects	4
Private investments	47
Public-Private Partnerships	6
Resistance to land reform	7
Resource conflicts	4
Others	2
TOTAL	78

had been granted permission by the former RCAF Division Commander to live and farm it since 1993. However, the new RCAF Division Commander forced them to move in 2005.

■ **Private investment:** A land dispute has been ongoing since 2008 in Koh Kong province between citizens and a Chinese private company, Union Development Group (UDG). In 2008, the government granted 36,000 hectares of concessional land in Kiri Sakor and Botum Sakor to UDG for commercial development and construction of a massive resort. UDG's

concession forced 1,143 families to abandon more than 10,000 hectares of land, and 1,500 houses were dismantled and cleared. According to Koh Kong provincial authorities, as of 11 June 2020, they had resolved the grievances of the affected families and were still resolving those of the remaining families.

- **Public-Private Partnership:** The Oddar Meanchey Community Forest REDD+ (OM CF REDD+) project was initiated in 2008 and implemented through a partnership between the Cambodian Forestry Administration (CFA), Pact, Terra Global Capital (TGC), and several local actors from the village, commune, district, provincial, and national levels. The establishment of the OM CF REDD+ project has followed a “mosaic” methodology, in which 13 different Community Forests (CFs) were linked together, covering a total 64,318 hectares of land. Several points of conflict with different actors have arisen, surrounding the CFs being part of the REDD+ site. First, the granting of forest land to private companies, via the ELC system, is done without proper consultation. Second, the growing military presence to increase security along the border with Thailand has also caused an increasing construction of roads within the forests. Finally, issues of benefit sharing might aggravate the conflicts further during the project implementation (Environmental Justice Atlas, 2015).
- **Resistance to land reform:** On 4 September 2010, the houses of three villagers in Samki district, Sreng Treng province were dismantled by a group of officials including local authorities, forest administration officials, military police, and local police. At the same time, some 200 other families living in Samaky village, Samaky commune, Stung Treng town, Stung Treng province were facing forced eviction. Then, on the 6th of September, the affected villagers filed a complaint with Stung Treng town officials accusing the authorities of violently dismantling their houses. The villagers demanded that their materials be replaced in order to re-construct their homes. Villagers claimed that they had lived on the land since 1997, while the authorities stated that the villagers in question had illegally settled on State-owned land since 2008. Stung Treng Town Chief Phoek Soben asserted that a 2,000-hectare plot was kept in reserve for a social land concession in 2008, concluding that villagers who had settled in the area before 2008 would be granted a social land concession.

- **Resource conflict:** More than 200 Bunong IP families in Modulkiri province urged the authorities to return their five hectares of community forest, as they claimed that the area was secretly stolen from them by speculators (Soth, 2020).

Table 8. Community responses to conflicts

Response of community to conflict	No. of Cases
Conflict management – administrative mechanism	20
Conflict management – Court, legal remedy	13
Conflict management – customary mechanism	7
Conflict management – negotiation	9
Peaceful demonstration and other non-violent acts	6
Retaliation	3
Do not know	17
No response	3
TOTAL	78

Table 8 presents the different community responses to the conflicts. It shows that 20 cases were solved through administrative mechanisms, and 13 cases were solved by courts or legal remedy. In nine of the cases, the communities used negotiation to deal with the conflict, while in six cases, peaceful demonstrations and non-violent acts were employed.

Table 9. Corrective action taken by government, company, or third party?

Corrective action taken	Number of Cases
Yes, by company	2
Yes, by government	18
Yes, by third party	1
No	5
Do not know	52
TOTAL	78

In the 78 reported cases, corrective actions were taken by government agencies, such as the Battambang Provincial Court Prosecutor, the Ministry of Interior, the Prime Minister, representatives of the Ministry of Agriculture, and Division 3 of Cambodian Mine Action Center (CMAC); by ANZ Company; and, by a third party.

Such corrective actions were in the form of facilitation through Alternative Dispute Resolution (ADR), intervention from relevant ministries to resolve disputes, and contributions of gross profit from the company. However, in 52 out of the 78 cases, it is not known whether corrective action was taken by the government, a company, or a third party.

Table 10 illustrates five types of individual violence by perpetrators, – physical violence, psychological violence, economic violence, political violence, and cultural violence. Below are examples of these types of violence that happened due to land conflicts.

- **Physical violence** is an act in which an individual attempts to harm others physically through detainment, abduction, eviction, and assaults. As an example, in 2015, Heng Roy Company charged four people in Kalot village, Sangke Pei commune, Chhep district, Preah Vihear province to the prosecutor's office for intentionally destroying rice crops of the Company. By 2018, the three communities in the above villages reacted angrily to the Chinese, but the Cambodians were not seriously injured, while the Chinese could not put up a fight and ran away.

- **Psychological violence** is a form of violence involving harassment, trauma, threats of killing or detainment. For instance, a Chinese company accused five villagers of encroachment on forest land, but the four were acquitted by Investigating Judge Chien Sros and one was sent to trial. Initially, the provincial court sentenced him to five years, but this sentence was suspended.
- **Economic violence** is that which causes economic harm or damage to property of individuals. For example, the Preah Vihear Provincial Court sentenced four men for burning a contentious fence during a 2014 protest against an ELC in Kulen district held by the Malaysia (Cambodia) Plantation Company. Srayong Cheung village residents, Sing Dy, Huon Chan Thoeun, Touch Sam Bul, and Koy Chamroeun, who had been identified as the ringleaders, were suspended for one year and fined with KHR 1 million (USD 250), according to provincial prosecutor Ly Lon.
- **Political violence** is an act perpetrated by individuals or the government to achieve political goals, including denial of decision-making, labelling, or criminalization. For instance, four families in Oddar Meanchey province's Samrong town have filed a complaint with their commune hall, alleging that a military official and a village chief are trying to block them from receiving land titles because the families support the Cambodian National Rescue Party.
- **Cultural violence** refers to attacks on aspects of culture through discrimination, conversion, or disturbance of way of life. One illustration of cultural violence is a land dispute in Preah Vihea between the community and a private company called Roy Feng. The company was granted ELCs in 2011, which were demarcated over indigenous land. In 2015, an incident occurred that prompted the company to file a lawsuit against five indigenous people. However, the accused asked for a postponement in order to find a lawyer. By mid-2020, Investigating Judge Leng Kimthol had issued re-arrest warrants, but the five did not receive the warrants. The judge later issued an arrest warrant for the five. This is considered as a cultural violence as the five who were arrested are the Kuy indigenous people who protested against the company to protect their customary land and their cultural identity.

There were at least 60 victims of individual violence, including four males and four females. In most of the cases, the gender of the victims was unspecified in available reports.

With regard to community violence, Table 11 depicts the type of violence, number of incidence and the affected number of households in the reported cases. Noticeably, lack of FPIC affected the highest number at 32 percent of the total affected households, compared to threat of displacement which is slightly higher than actual displacement, affecting 25 percent and 22 percent, respectively.

Table 12 presents the types of community violence by a variety of perpetrators of land disputes in Cambodia. As shown in the table, forcible entry/faulty FPIC is the leading form of community violence, compared to the others. It is followed by threat of displacement and displacement itself. Among eight types of perpetrators, the army/military is reported

Table 10. Individual violence by perpetrator

Type of violence	Perpetrator									TOTAL
	Soldiers	Authorities	Business	Military	Municipal Police	Non-State armed group, insurgent group	Others	Police	Powerful individual	
PHYSICAL VIOLENCE										
Detainment	3	-	-	-	2	-	-	2	8	15
Disappearance, abduction, illegal detention or arrests	-	-	-	-	-	-	1	-	-	1
Eviction	4	1	-	-	3	3	4	2	2	19
Injury or assault	3	-	1	-	2	-	-	2	2	10
TOTAL	10	1	1	-	7	3	5	6	12	45
PSYCHOLOGICAL VIOLENCE										
Harassment, intimidation, persecution, trauma	5	-	-	-	-	-	1	-	1	7
Threat (of killing, injury, detention)	3	-	1	-	2	-	1	1	4	12
Threat of displacement	5	1	-	1	7	3	4	5	5	31
TOTAL	13	1	1	1	9	3	6	6	10	50
ECONOMIC VIOLENCE										
Denial of benefit	1	-	-	-	-	-	-	-	1	2
Destruction of property	6	1	1	-	8	3	4	3	4	30
Loss of job/employment	5	-	-	1	1	1	1	1	5	15
Unfair contract	-	-	-	-	-	-	-	-	1	1
TOTAL	12	1	1	1	9	4	5	4	11	48
POLITICAL VIOLENCE										
Criminalization	-	-	-	-	-	-	-	-	1	1
Denial of decision-making participation	1	-	1	-	-	-	-	-	-	2

Dispossession	1	-	-	-	-	-	-	-	1	2
Forcible entry, trespassing, encroachment	1	-	-	-	-	-	-	-	4	5
Tagging/ coloring/ labelling	-	-	-	-	2	-	-	-	-	2
TOTAL	3	0	1	0	2	0	0	0	6	12
CULTURAL VIOLENCE										
Conversion	1	-	-	-	3	-	1	-	1	6
Discrimination	-	-	-	-	1	-	-	-	-	1
Disturbance of way of life	11	1	1	1	6	4	4	6	15	49
TOTAL	12	1	1	1	10	4	5	6	16	56

to be the most frequent perpetrator in land conflicts; while municipal police, (local) police, and powerful individuals are equally reported. A few illustrations follow:

- The inhabitants of Pu Kong Village, Srae Preah Commune, Kaev Seima District, Mondulkiri Province, are indigenous *Bunong*. The community, comprising of over 70 families, has lived in harmony with the forest surrounding Pu Kong since 1944, leaving the area briefly during the late 1970s because of threats faced from the Khmer Rouge regime. The community has completed two of three stages towards obtaining legal protection of their land under a collective land title. In 2012, Binphouc Kratie Rubber 1 Company Limited (“Bin Phouc 1”) came to the forest surrounding Pu Kong to demarcate 8,926 hectares of land that they had been granted, by way of an ELC in October 2011, which was reduced a year later to 5,100 hectares. The company, without first consulting relevant stakeholders, began to cut trees within the legally protected forest area, beyond the territorial limits of their ELC. After Binh Phouc 1 had cleared

Table 11. Community violence by number of incidence and number of affected households

Type of violence	Number of incidents	Number of households affected by the violence (only including incidents where HHs affected were reported/accounted)
Displacement	12	1,161
Forcible entry/lack of or faulty FPIC	18	22,042
Threat of displacement	14	1,109
Others	12	5
TOTAL	56	24,317

Table 12. Incidences of community violence by perpetrator

Type of violence	Perpetrator							TOTAL
	Army, military	Business	Municipal police	Non-State armed group, insurgent group	Others	Police	Powerful person	
Displacement	3	1	2	1	-	4	2	13
Forcible entry/ lack of or faulty FPIC	7	-	2	3	2	1	3	18
Threat of displacement	1	1	4	-	2	3	3	14
Others	1	-	2	-	1	2	2	8
TOTAL	12	2	10	4	5	10	10	53

roughly 4,750 hectares of land, affecting the livelihoods of approximately 73 families, “powerful men” from neighboring provinces began to occupy the cleared land. The villagers claim that this group – which includes the Commander of the Mondulhiri Provincial Military Police, the Commander of the Kaev Seima District Military Police, and a relative of both these police commanders and one of their subordinates – has frequently supported Binh Phouc 1. Fortunately, the community has received some support from the local authorities. For example, in May 2016, members of the commune council helped the villagers take back 50 percent of the land that had been grabbed by the powerful men and are helping the villagers to prevent further land grabs.

- Since 1991, approximately 1,300 families had lived on the 387-hectare land granted to Overseas Cambodia Investment Corporation (OCIC) through a 99-year concession in 2011. Sixty-five families living on Phnom Penh’s Chroy Changva peninsula say their lives are in limbo with tycoon Pung Khieu Se’s OCIC trying to seize their land to build a USD 3-billion satellite city. The remaining families are holdouts who refused a November 2014 offer from the authorities whereby they could keep 10 percent of their landholdings if they let OCIC take 40 percent and let Phnom Penh City Hall take the other half.

Table 13 shows the types of ecological violence and the number of households affected by such violence. Below are illustrations of ecological violence in areas of land conflicts:

- The villagers of Dakpor Village have lived there since the time of their ancestors. Situated by the Slakuo River, the villagers have planted the land with rice, cucumbers, cassava, potatoes, and other vegetables. Even during the Pol Pot regime, the villagers remained at Dakpor Village, despite their lands being used as collected land following the land policy of the regime. After 1979, the villagers began to farm the land once more. The affected villagers have a clarification letter for the land where they live but not for the adjacent land along the riverbank where they farm. This land is owned

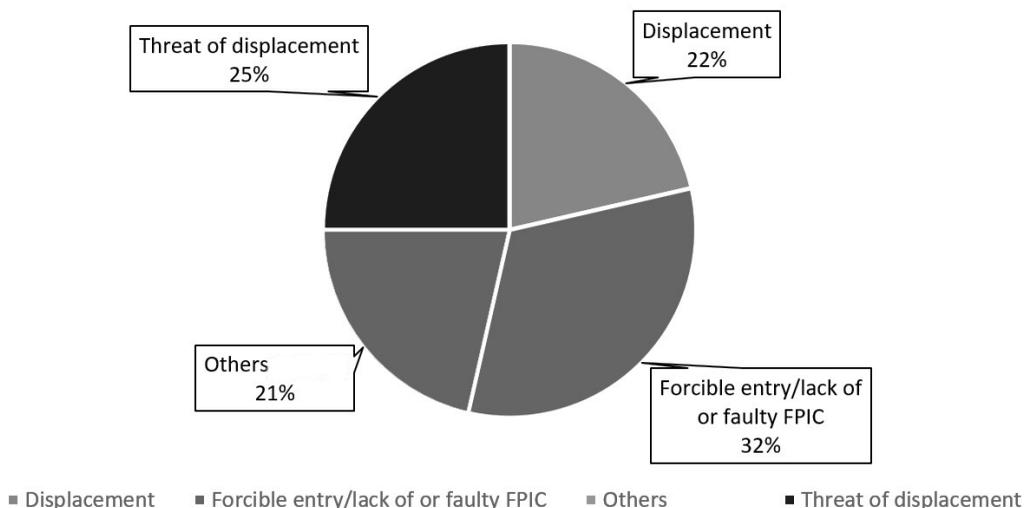
Table 13. Ecological violence by number of incidents and number of affected households

Type of violence	Number of incidents	Number of households affected by the violence (only including incidents where HHs affected were reported/accounted)
Contamination of resources, pollution	9	2,293
Deforestation, destruction of biodiversity, depletion of forest/wildlife/ecosystem	13	9,654
Depletion of productivity	18	11,525
Increased climate vulnerability	6	302
Others	10	-
TOTAL	56	23,774

by the State. On 9 April 2013, the villagers noticed that “across the river in Rom Pak Pen village, Tram Kak district, two bulldozers, three excavators and several trucks, had begun constructing a road from the south of Slakou bridge to what would later become the Hav Un Sand Pumping Work Site” (CCHR, 2016a). At this work site, the company also constructed its building. The company representatives asked the villagers to sell their land, but offered only 15 percent of the price that the villagers had determined. A village chief threatened to sell the villagers’ plots of land, and 14 affected families reluctantly sold their land, while the other families were still protesting for the company to stop pumping sand to the river.

Figure 2. Types of community violence recorded in 2020

Types of Community Violence



- A conflict has been ongoing since 2010 in Romeas Hek district, Svay Rieng province between 440 families who have lived there and NK Ventures, an Indian-owned company which was granted a 1,200-hectare ELC early 2010 to develop a sugarcane plantation (Phok, 2011). NK Ventures started to clear the villagers' farmland mainly used to grow cassava. In January 2020, villagers came to Phnom Penh to hand over petitions for intervention. Representatives of the Ministry of Agriculture and the Ministry of Interior who received the petitions said they would send them to their higher-ups for resolution.
- "In 2010, more than 1,500 families were evicted from the land they had cultivated since the fall of the Khmer Rouge regime in 1979 to make way for the company's mega-plantation" (Ry, 2019).
- A twin sugar company, ANZ, was granted an ELC of over 23,000 hectares, which is more than twice the figure allowed under the Cambodian Land Law. In February 2010, the company started grabbing farms and residential land belongings of more than 1,500 families in Thpong and Oral districts. Crops, such as rice, mango, jackfruit, banana, and coconut trees, were seized and cleared. An estimated 100 families in two villages were forcibly evicted from their homes and resettled onto small residential plots without any infrastructure or services. The company used the police and the military to intimidate people and force them to accept unfair compensation for losses, including infertile replacement land. Facilitated by the Australian National Contact Point, and participated by Equitable Cambodia and Inclusive Development International (IDI), "ANZ agreed to contribute the gross profit it gained from the loan to help alleviate the hardships faced by the affected communities and support their efforts toward rehabilitation. ANZ also agreed to review and strengthen its human rights policies, including its customer social and environmental screening processes and grievance mechanism" (IDI, 2020).

Table 14 depicts five key types of ecological violence with eight key perpetrators. It is shown that the depletion of productivity, with the Army/Military having the highest number followed by deforestation, destruction of biodiversity, depletion of forest/wildlife/ecosystem by powerful individuals. And the least-found ecological violence is increased climate vulnerability, with only five cases. Below are some examples of ecological violence from actual reported cases.

- A dispute between the district authorities and 12 families living in Siem Pang village, Sekong commune, Siem Pang district, Stung Treng province, arose when the latter were ordered to remove all fences from their land and hand them over to the authorities. On the 5th of July 2010, the affected villagers were called to a meeting at the district office to inform them that the authorities were planning to build new office structures, including an Information Department, Rural Development Department and Land Department. The authorities demanded part of the land for their plan. The villagers refused as they had owned the land for a long time. They reported that the district used to have a reserve plot of 700 x 2,000 meters; but between 2009 to 2010, the authorities had sold it. According to Kri Vanna, an affected villager, in 1997 former

Table 14. Ecological violence by perpetrator

Type of violence	Perpetrator							TOTAL
	Army, military	Business	Municipal police	Non-State armed group, insurgent group	Powerful individual	Police	Others	
Contamination of resources, pollution	3	-	1	1	2	1	1	9
Deforestation, destruction of biodiversity, depletion of forest/wildlife/ecosystem	2	1	2	1	4	2	1	13
Depletion of productivity	5	-	4	2	2	4	2	19
Increased climate vulnerability	1	1	-	-	1	2		5
Others	1	-	3	-	1	1	1	7
TOTAL	12	2	10	4	10	10	5	53

District Governor Sok Sovann had provided each family with a plot of 40 x 50 meters of land so that the villagers could use it to earn supplementary income.

- In 2011, the Cambodian government granted ELCs to Hoang Anh Gia Lai (HAGL), which is known as a company involved in rubber plantations, particularly in Ratanakiri province. In March 2019, the government announced it would give back more than 700 hectares of the HAGL concession to local indigenous groups. However, satellite images generated by the investigators in Cambodia show that the lands in these areas were cleared during the height of the COVID-19 outbreak in the country (Tatarski, 2020).
- An ELC with a coverage of 7,000 hectares in Oyadao district, Ratanakiri province was granted by the MAFF in July 2009 to Heng Heap Investment Co., Ltd. This size was reduced to 5,657 hectares in its master plan. Later, it was totally taken back by the government due to non-compliance with the legal requirements such as EIA, registration as State private land, and proper consultation with affected communities. As perceived by the local community, the company was not willing to invest or has faced financial problems as they could only grow rubber and cassava in a certain part of the concession area, leaving large areas of the cleared forestland idle and reporting it as unfertile land (Chan and Ngorn, 2018).

Table 15 shows that, among the six types of data sources on land conflicts, Mainstream media is the most used source of data for the land database, having 34 cases out of 77,

Table 15. Types of sources of data on 2020 land conflicts

Sources of Data	Number of Cases
Mainstream media (print, online, radio)	34
CSO/NGO	20
Community, People's Organizations	16
Social media	4
Government agencies	2
Academe	1
Other	1
TOTAL	78

followed by 20 cases found through CSOs/NGOs, and only one case reported through academe.

Nature and Causes of Cambodia's Land Conflicts

Nature of the conflicts and actors involved

Based on the 2020 SK data base, SK found that conflicts are caused by double land titles that are issued by the relevant authorities, lack of clear land boundaries, clashing tenure systems, government projects, private investments, public private partnerships, resistance to land reform, resource conflict, and others.

“Land ownership is a vague and often contentious issue in a country where the Khmer Rouge destroyed all land records between 1975 and 1979. During this period, the regime pushed its utopian Communist ideal of an agrarian society forcing thousands from the cities to work in the fields in the countryside. An estimated 1.7 million people died during the Khmer Rouge reign” (Chiou, 2011).

Attitudes changed as peace was restored and market-oriented development emerged. When the economy grew with the high influx of capital investment ready to reap benefit from speculation and the structural weaknesses of the land management system, tackling the land issues has become even more difficult (Sim, 2019). Also, once good land became scarce, the battle for it has become increasingly intense, persistent, and serious in Cambodia (DANDC, 2017).

Currently, Cambodia is facing complex structural challenges to deal with land disputes (Sim, 2019). In addition to the land conflicts occurring in cities and remote areas, “some cases haunt remote forest regions where indigenous communities have a traditional lifestyle that relies on natural resources found in the forests” (Sun, 2017).

In general, most of the conflicts are between communities and the powerful elites, including high-ranking government officials and, in some cases, also involve the State

and companies/corporations to whom land has been granted by the State in the form of ELCs. Often, the perpetrators in land conflicts are the armed forces, private guards of the companies/corporations, and powerful elites. When the conflict turns violent, the community members are victimized and accused of illegally taking State private land or destroying others' property, and sometimes they are labelled [colored] as activists for the opposition party. An article published in the *Khmer Times* in 2017, observed that "sometimes the issues are politicized, demonized and victimized" (Sim, 2017). Most of the victims are intimidated, arrested, tortured, or even killed. Citizens who claimed that they were threatened by authorities, moved to other provinces and gave up their attempt to find justice (Pech, 2017a).

However, some argue that it is difficult to identify who the real victim is. The conflicts arise between parties where one is rich and the other is poor; and, may also involve parties that are both rich. For instance, a commune chief issued an overlapping soft land title over the same plot of land claimed by two different tycoons. Threatened by the two powerful parties, the commune chief is left with a difficult decision. On the other hand, it is not always the case that the "poor" are the victims in land disputes. In some cases, certain individuals encroach on public land by labelling themselves as "poor" and "vulnerable" but, in fact, they are illegal land encroachers (Sim, 2019).

The root causes of the conflicts arise from the following factors: a) corrupt and politically-subservient judicial system; b) misuse of the armed forces, including soldiers; and, c) collusion between the well-connected companies and the authorities (Prashanth, 2015).

A land rights activist in Phnom Penh observed that while violent protests were common, police investigations on these protests were rare (Chandran, 2019). "According to the data, State-owned private land grabbing is the most frequent cause, followed by private land grabbing by powerful people" (ANGOC, 2019). In another example of violence, "a man was shot and a 10-year-old boy was injured in the clash between nearly 300 villagers and 200 policemen in Preah Sihanouk province" (Chandran, 2019).

Based on the 2021 SK data base, the causes of conflict are: a) ELCs and Social Economic Zones without EIA and FPIC, b) overlapping land titles, c) forced eviction without proper and adequate compensation, d) land grabbing, e) Social Land Concessions overlapping with the villagers' and community land, f) lack of clear boundary of the communal IP land, and g) encroachment on public State land.

Land conflict hurts women

"Women tend to be particularly active in land disputes because they depend on land and houses. In Cambodian society, women are not expected to travel far. Many women are willing to risk their lives fighting for their land. When things turn violent, however, men mostly lead the protests" (Sun, 2017). These days, "women spend their days campaigning for the return of their land, while men look for new ways to earn a living" (Chandran, 2017).

Women, due to land conflicts, have suffered from violence against their rights. In response to this, even though women are not expected to go far, they are particularly active in land disputes (Sun, 2017). Land conflict disproportionately affects women due to gender bias. This links between land disputes, domestic violence, and family breakdown. When women give up their household role to engage in the land security campaign, decisions fueled by cultural pressures are exerted on mothers – contributing to increased domestic violence (CCHR, 2016b).

Ms. Them, 52 years old, with her voice shaking, said that her land and forest were taken without consultation, but with a little compensation. The land is her livelihood, her life. She wants the concession to be cancelled and the land to be returned to her (Chandran, 2017).

Based on the study on *Cambodia's Women in Land Conflict* conducted by the CCHR, women who experienced land conflicts were usually subject to threats, harassment, arrest, or violence by the authorities or land concession actors, including private security forces or company employees. The study also reports that 94.5 percent of women in land conflicts experienced threats, 73.1 percent experienced harassment or intimidation, 33.6 percent experienced violence, and 2.1 percent experienced arrests by authorities (CCHR, 2016b).

In practice, depending on the law is not an option. The laws are instead often used to threaten the victims affected by land grabs. For example, on 24 May 2012, the Phnom Penh Municipal Court sentenced the 13 human rights defenders to two and a half years in prison after an unfair trial. Their arrest followed a peaceful demonstration against the destruction of homes and the forced eviction of thousands of families living around Boeung Kak Lake, in Cambodia's capital Phnom Penh (Nasim, 2012).

The Cambodian Center for Human Rights (CCHR) demanded that the government intervene immediately after finding that 98.2 percent of women involved in land disputes with private companies were suffering from serious psychological after-effects and nearly half of the women who participated in the CCHR survey said they had thought about suicide (May, 2016).

Impacts and Outcomes of Land Conflict

In general, land conflict heavily affects human rights, food security, sovereignty, tenure security and other rights. NGOs working in this field say that over half million Cambodians have lost their land (land rights) over 20 years (LICADHO, 2018). A Cambodian human rights group reckons that 60,000 people have been forcibly evicted from their homes (housing rights) (Sun, 2017). Moreover, almost 50 percent of adults working in agriculture have no land for their produce (CS Monitor, 2017).

Furthermore, based on the 2020 SK database, land conflicts trigger: a) Physical violence [disappearance, illegal detention or arrests, abduction, and injury or assault];

b) Psychological violence [harassment, intimidation, persecution, trauma]; c) Economic violence [denial of benefits, destruction of property, and loss of jobs]; d) Political violence [criminalization, coloring/labelling, denial of decision-making participation, dispossession, forcible entry, trespassing, encroachment]; and, e) Cultural violence [conversion, discrimination, disturbance of way of life].

The Blood Sugar Case in Kompong Speu

What came to be known as the “Blood Sugar Case” in Kompong Speu involved 179 families from Thpong and Oral districts and Phnom Penh Sigar. The Kompong Speu Sugar and Kampong Speu Plantation companies, owned by a ruling party senator and business tycoon Ly Yong Phat and his wife Kim Hean, were granted ELCs covering 22,095 hectares (Pech, S.2017). This ELC affected around 2,000 hectares due to encroachment by the above companies, with reportedly around 1,500 families from 21 villages. Based on average household size, this corresponds to roughly 7,000 people. The villagers who protested lost their jobs, had complaints lodged against them or were even arbitrarily arrested. Currently around 38 villagers who protested against the company’s encroachment and unfair compensations are facing criminal charges. The “disturbance compensation” of USD 25 per household was offered for the resettlement, and the farmers with irrigated rice plots were offered a compensation of USD 100/plot – which the villagers refused to accept. Unfair compensation and inappropriate solutions to the conflict do not only impact on food security of the villagers, but also destroy biodiversity (wildlife and agro-diversity) and damage crops. In addition, this conflict pollutes the water due to waste overflow, which degrades the water quality. Finally, the conflict impacts on human accidents, malnutrition, mental health problems including stress, depression and suicide, violence, displacement, lack of jobs, and dropout of children from schools.

Source: EJAtlas, 2016

Land conflict in Sihanoukville

Over 400 villagers from 13 communities in Sihanoukville protested to demand the local court to drop charges against the four community members who were detained by local authorities for “violently occupying” disputed property. The authorities detained the four members for four months pending trial. The conflict was between the four community members and a few wealthy people 11 years ago. The four claimed that they are the rightful owners of the disputed property; while the wealthy people reclaimed the land because the property prices had increased. The affected communities submitted petitions to the court for examination of the four local villagers’ cases and demanded that the court release them on bail because the charges against them are very unjust (RFA, 2018).

O’khsach villagers in Sihanoukville claim that they had occupied the contested land in Stung Hav district beginning in 1992 at a time when communist Khmer Rouge forces were continuing their activities against the government, despite the signing of the 1991 peace accord that formally ended the Cambodian-Vietnamese War. Problems arose in 2007 when a group of wealthy land speculators accused the four villagers of illegally occupying the land, claiming that they had titles to the property (Source: Chandran, 2019, and RFA 2018).

Conflict in Preah Vihea

Land grab conflicts have continued between Preah Vihear villagers and Hengfu Sugar subsidiaries, as locals accuse the companies of taking land without adequate compensation. Tbeng Meanchey district mostly inhabited by the Kuoy ethnic minority, who engage in small-scale farming and non-tiber forest products collection. In 2011, two

Chinese firms which are subsidiaries of the Chinese company Hengfu Sugar, were granted ELCs on villagers' land (Business and Human Rights Center, 2016).

This land grab conflict affected tens of thousands of people, as the five Chinese-owned companies were granted land concessions totaling more than 40,000 hectares. The affected communities lost their incomes as the companies converted rice fields, forests, pasture land, and streams into sugarcane fields. In response, they engaged in sustained resistance to the destruction of their livelihoods and culture. In addition, the sites of 19 temples were enclosed by the concessions which led to the loss of part of Cambodia's cultural heritage (CAN, et. al., 2017). The Asian Peasant Coalition (APC) strongly condemned the intense repression and land grabbing carried out by the Chinese-owned Hengfu Group Sugar Industry Co., Ltd. (Heng Fu) against the indigenous Kuy people of Preah Vihear province (APC, 2018).

Due to this prolonged conflict, thousands of indigenous Kuy people in Preah Vihear have lost their livelihoods, with almost entire villages falling into debt (Moniroth, 2019). Residents of Preus Kaak village in Chheb district's M' Lou Prey 2 commune estimated that 90 percent of the village was currently in debt (Moniroth, 2019).

The Voice of Democracy (VOD) found that the five companies linked to China's Hengfu International Sugar had skirted Cambodian laws and amassed ELCs four times larger in total than allowed for a single entity; razed forests before producing an environmental impact assessment, notifying villagers, or compensating those affected; and, cleared land too close to waterways (Moniroth, 2019).

As a result, various forms of resistance and mobilizations started, supported by local NGOs and Buddhist monks. On several occasions, villagers as well as NGO members and monks were temporarily held by the police and Hengfu filed a lawsuit against the villagers for destroying their sugarcane (EJ Atlas, 2019). The villagers in turn, filed a lawsuit against the companies, demanding a compensation of USD 600,000 for the destruction of their ancestral lands, community forests, and farming lands (Business and Human Right Center, 2016). "The Preah Vihear Provincial Court has placed more than 10 ethnic Kuoy villagers and an NGO official under court supervision on charges of collusion to detain and confine people illegally over a dispute with a Chinese-owned company" (Kimmarita, 2019).

Based on an article posted in the website of human rights organization LICHADO (2019), the Preah Vihear community representative, Sum Meun, disappeared after he was beaten and illegally arrested by armed military officials. His disappearance was part of a large number of arrests made over two weeks in January 2019 among the villagers involved in a conflict over a land concession granted to Metrei Pheap Kase-Ousahakam Co. Ltd. The company is apparently owned by tycoon, An Mady.

It was later learned that the 54-year-old Meun and his son, Meun Mean, were arrested on 20 January 2019 by military soldiers from Battalion 261 under RCAF Intervention Brigade 6, acting as security guards for the concession holder in Choam Khsant district's Yeang commune. These two villagers were then transferred to the Koulen Promtep Wildlife Sanctuary Headquarters where they were both detained overnight (LICHADO, 2019).

Meanwhile, Am Sam Ath, monitoring manager for LICADHO, revealed that companies operating in Preah Vihear and three other provinces were included in the European Commission's EBA rights compliance review (Moniroth, 2019).

Responses to Conflicts

Based on the 2020 Land Conflict Database, various responses to the conflicts emerged. Below are examples of such responses by the different stakeholders in the conflicts.

By the communities

- **Negotiation:** Some communities decide to pursue negotiation with the companies to end the conflict. This is normally facilitated by NGOs, some of which refer to this as the "Peace Table."
- **Legal remedy:** Some communities seek legal assistance from NGOs and lodge their complaints in the court as a means for solving the conflicts.
- **Intervention from the relevant institutions:** Some communities send their complaints or petitions to the National Assembly, the Senate, or the Cambodia Human Rights Commission for interventions; as well as to the Ministry of Councils and/or the Prime Minister for help to solve the conflict.
- **Administrative mechanism:** Some submit their complaints to the local authorities, then to the District Cadastral Commission, the Provincial Cadastral Commission, and the National Cadastral Commission.
- **Customary mechanism:** The customary mechanism is normally used by the IPs when conflicts arise. They go to the elder in the village to help them solve the problem.
- **Peaceful demonstration and other non-violent acts:** Most of the communities resort to peaceful demonstrations and other non-violent actions, as they have been trained by NGOs. One example of such action is the communities carry the picture of the Prime Minister and his wife and then go to a public place to display their banners and call for interventions. Some communities applied the traditional means/non-violence action by ordaining the trees with yellow robes. By doing this, they can protect the tree from clearance as respect the monks whose robes are yellow.

As an example of the response "seeking intervention from the relevant institutions," thousands of families in Kratie province agreed to end their land dispute with Memot Rubber Plantation Company by accepting a Land Management Ministry's social land concession deal of two hectares of land per family.

By the State

- The National Assembly wrote a letter to the Ministry of National Defense, the Ministry of Land Management, Urban Planning and Construction, and to the National Authority for Land Dispute Resolution to resolve the matter properly.
- Provincial authorities and relevant officials came to negotiate with the communities by using the formula of dividing the land into two equal parts.
- The Ministry of Interior ordered the release of a Kep municipal police officer detained over a land dispute with Princess Norodom Marie Ranariddh.
- Prime Minister Hun Sen gave instruction to KDC Company to resolve the problem for villagers in an appropriate manner.
- Representatives of the Ministry of Agriculture and the Ministry of Interior received petitions for intervention and sent them to their higher-ups for resolution.
- The government offers relocation to the community through public dialogues.
- The government sends experts to investigate and find a solution for both sides.
- The military and the governor offer the communities monetary compensation.
- Sometimes, the relevant local authorities forcibly evict the people from the land.
- Sometimes, the government cracks down on and/or detains community members.

By CSOs

- CSOs conduct regional annual conferences and the National Annual Conference (NAC) with decision-makers, development partners, national and international NGOs, private sector representatives, and community representatives to discuss land governance issues and address land conflicts.
- They conduct provincial dialogues with Parliament members, relevant local authorities, local NGOs, representatives of the private sector, and the affected people to address land issues at the local level.
- They enter into joint plans with the local authorities for monitoring and following-up all the steps of conflict resolutions. Land monitoring, data gathering, and processing are scaled up at the country level and connected to the regional and global levels.
- CSOs provide technical support and capacity building on the Land Law, related laws, and Alternative Dispute Resolution (ADR) to NGOs, provincial government officers, commune councils, and Community Accountability Facilitators (CAFs).
- They provide legal assistance to community members who are arrested.
- They conduct training on legal rights advocacy to access, manage, and secure the land.
- They conduct training and coaching on monitoring and research/investigations on cancelled/revoked ELC land monitoring, and the simplified process of CLT/land conflicts and solved cases.
- They conduct research/investigation and document data on land allocation, housing of revoked ELCs, and simplified CLT process.
- They advocate and mainstream the issues of target communities related to natural resource management and land governance through various means such as social media, local dialogues, and meetings on advocating for legal rights to land and resources (NGOF).

By the companies

- Some companies granted pieces of land to the affected families.
- An Independent Examiner of the Australian National Contact Point facilitated a meeting involving representatives of ANZ, Equitable Cambodia, and Inclusive Development International with the Cambodian families, which resulted in a landmark agreement to resolve the communities' complaint. ANZ agreed to contribute the gross profit it earned from the loan to help alleviate the hardships faced by the affected communities and support their efforts toward rehabilitation. ANZ also agreed to review and strengthen its human rights policies, including its customer social and environmental screening processes and grievance mechanism.

Recommendations

In addition to the above, a multi-stakeholder dialogue/validation workshop was organized by SK on 30 June 2021, where the 2020 Cambodia Land Conflict Monitoring Report was presented before 35 NGOs and representatives from communities. The workshop produced the following recommendations:

Government should:

- Ensure that the investors consider the interest of the community especially the IPs;
- Conduct an inventory of the public State land and the public private land to avoid the abuse of State land which can be classified as social economic land concession;
- Speed up the registration of the systematic land registration;
- Strictly implement the law and ensure that all respect the law in compliance with Article 196 of the Civil Law;
- Fast-track the amendment of the Land Law;
- Facilitate the approval of the Environmental Code which includes EIA and FPIC;
- Be open-minded and allow the people to enjoy their right to express their concerns and stop arresting land activists;
- Strengthen the implementation of the laws and create mechanisms to protect the land and natural resources and provide responsive mechanisms;
- Resolve land conflicts peacefully with the engagement of the community and civil society;
- Strengthen the practices of FPIC and EIA as endorsed by UNDP;
- Eliminate the use of impunity in addressing land conflicts; and,
- Eliminate nepotism in government and work closely with NGOs, considering them as valuable partners.

NGOs should:

- Strictly monitor/watch ongoing land conflicts;
- Have a common advocacy mechanism to deal with land conflicts;
- Continue to educate the citizens on relevant laws;
- Provide intervention and help people to create evidenced-based advocacy;

- Work together with other NGOs in similar sectors to build a common interest and a strong voice;
- Encourage fellow-NGOs to continue to support communities further;
- Not be afraid to talk directly to the government, rather than talk behind the government or only with other NGOs; and,
- Continue to enhance the capacities of IPs.

Communities should:

- Not be traumatized, but rather must be strong and work together for one voice;
- Further strengthen their capacity and not rely on only one person as the leader of the community; anyone can lead the move towards commonality and the formation of one voice;
- Be self-reliant, build strong leadership, and reduce their dependence on NGOs; and,
- Develop a good strategy that can protect them from illegal arrests and curb the incidence of land conflicts. ■

ACRONYMS

AC	Administration Commission
ADHOC	Cambodian Human Rights and Development Association
ADIC	Analysis Development Issues Center
AIPP	Asia Indigenous Peoples Pact
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
ANK	Anukret (Sub-Degree)
CC	Commune Council
CIYA	Cambodia Indigenous Youth Association
CAN	Community Network in Action
CSO	civil society organization
FGD	focus group discussion
GTZ	German Technical Cooperation Agency
IP	Indigenous People
LICADHO	Cambodia League for Promotion and Defense of Human Rights
LWA	Land Watch Asia
MAFF	Ministry of Agriculture, Forestry and Fisheries
MEF	Ministry of Economy and Finance
MLMUPC	Ministry of Land Management, Urban Planning and Construction
MoE	Ministry of Environment
NAC	National Annual Conference
NALDR	National Authority for Land Dispute Resolution
NCDD	National Committee for Sub-National Democratic Development
NGO	non-government organization
NGOF	NGO Forum on Cambodia
PIC	Parliamentary Institute of Cambodia
<i>Prakas</i>	Declaration
RFA	Radio Free Asia
RGC	Royal Government of Cambodia
UN	United Nations
VOD	Voice of Democracy

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In the Name of Economic Development: State and Private Projects Continue to Lead Land Conflict Impacts

2020 India Land Conflict Monitoring Report

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Rationale of the Study

Land is not just soil but also a bundle of rights that emphasize the moral perspectives of existence (Davy, 2014). The accessibility and strength of a country's laws for the ownership of land and land conflict resolution are directly proportional to its overall national welfare. Facilitating landownership is crucial to navigate a country's population out of intergenerational poverty and illiteracy. Right to land is, in fact, not a fundamental right under the Constitution of India. However, the ownership of land is not a standalone right. It is better understood as a bundle of rights because land is a foundation upon which the recipients can build a dream, enabling them to secure shelter, proper nutrition, education, healthcare, and access to credit (Clarke and Kohler, 2005; Klein and Robinson, 2011). Guaranteeing individual liberties, including the rights of property ownership, free exchange, free transfer, and free inheritance are essential requirements of a just society (Rawls, 1993). Land ownership and the right to land is ancillary to all other natural rights as land operationalizes all other fundamental rights in a meaningful and accessible manner.

In an agrarian economy such as India, with great scarcity and unequal distribution of land, coupled with a large mass of the rural population below the poverty line, there are compelling economic and political arguments for land reform (Ghatak and Roy, 2007). Land issues in India are as old as the nation itself. The existing social and economic hierarchies and inequalities create greater susceptibility to land conflict.

In 2018, CSOs came together from Bangladesh, Cambodia, Indonesia, India, Nepal, and the Philippines to devise machinery that would vitiate land conflict and the negative impacts of it. The 2018 study aimed at giving an overview of the current policy and legal environment on access to land and tenure security, especially for the rural poor. It intended to describe the current status of access to land and tenure security and land governance challenges; and, to identify strategic opportunities for advancing land rights for the rural poor. The study was a starting point on which this report is going to be built. This year,

elaborating on the earlier monitoring initiative, India: 2020 Country Monitoring Study on Land Conflict Monitoring will present a more systematic way to gather data and report on land conflicts (ANGOC, 2019).

This study aims at operationalizing efforts of various stakeholders towards filling the vacuum of meaningful and accessible land conflict reforms. The lack of will is amply demonstrated by the large gaps between policy and legislation, between law and its implementation, and an inept legal and economic framework that plagues those who are victimized by land grabbing, displacement of occupants, unfair deals, and erosion of agricultural resources (Jenkins, 2013). The study will also attempt to localize data regarding the characteristics and dynamics of cases of land conflict such as involved parties, cause, area, etc.

Further, acknowledging the constraint on means of collecting data on land conflicts due to the COVID-19 pandemic, this study aims to transform the existing data from sources (mainly, but not solely, <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>) into a format that is standardized and current. These are the main sources due to their reliable data.

The resource portal Land Conflict Watch (LCW) has developed peer-reviewed protocols, standards, and methodology for data collection, research, and analysis. These have been fine-tuned with the help of researchers, academics, and institutions. LCW collects data on 84 different parameters for every land conflict it maps. The parameters include information on the number of people impacted, investments associated with the land conflict, the type of economic activity undertaken on the land, and the area under conflict. The mapping exercise also captures information on the tenure systems associated with the land under conflict and other location-specific characteristics. LCW gathers and maintains requisite evidence to support the data; this includes official, administrative, and legal records pertaining to the conflict. This information is supplemented by interviews carried out by LCW field researchers, who source additional information from affected parties. The LCW team consists of field researchers, coordinators, reviewers, and data analysts. Each of them has clearly defined roles in the process of conflict identification, data collection, verification, and analysis (Worsdell and Shrivastava, 2020).

The EJAtlas is based on the work of hundreds of collaborators, from the academe, concerned citizens, informal committees, NGOs, and other activist groups, who have been documenting environmental and social injustice and supporting communities on the ground for years. All data is collected in an online database and moderated by an editorial team through double-checking of information and for “homogenizing” data in order to enable search/filter/browse functions. The cases are then approved and published on the EJAtlas map. Anyone can set up an account and contact the editorial team for contributing to the database or to flag agitations happening around the world. A commenting facility is available to the public on every conflict page, in order to promote discussion, debate, and exchange on the matter among EJAtlas users and the wider public.

Using the existing data, the authors have attempted to provide a holistic and corroborated view on not only the causes but also the long-term impacts of land conflict in India.

The study also aims to build upon existing reports by revered organizations like the LCW, the Centre for Policy Research, the Land Rights Initiative, etc. to establish inferences and recommendations that are the most accurate and productive.

Objectives of the Study

This study aims to create an overview of the specifics of India's history and response to disenfranchisement of people vis-à-vis their land rights. Devised as a follow up to the 2018 land monitoring report, this study will attempt to provide a detailed overview of the land conflict issues and impacts faced by India. The objectives are:

- to implement a common system for collecting data and information on land conflicts;
- to describe the prevalence and types of land and natural resource conflicts;
- to examine the nature and causes of land and resource conflicts;
- to discuss the impacts and outcomes of land and natural resource conflicts on communities, as well as on land rights defenders; and,
- to draw up recommendations based on the study findings.

Concepts and definitions used in the study

Terminology and vernacular are subject to regional variations. This reigns true in the case of land conflict as well. For the sake of clarity, the concepts and definitions used are described below:

Concept	Definition	Source
Land conflict	<p>A situation wherein two or more stakeholders compete for control over land and/or resources, including decision-making and truth.</p> <p>Such conflicts emanate from loopholes in law and weak enforcement of legal and customary tenure systems thereby generating competing interests and putting the very system into question.</p>	ANGOC. (2019). <i>In defense of land rights: A monitoring report on land conflicts in six Asian countries</i> . Quezon City: ANGOC
Land dispute	<p>A situation wherein two or more stakeholders with presumed equal power compete for land and/or resources, including decision-making and truth.</p> <p>Such disputes emanate from business as usual competing interests that legal and customary systems can usually resolve.</p>	ANGOC. (2019). <i>In defense of land rights: A monitoring report on land conflicts in six Asian countries</i> . Quezon City: ANGOC

Concept	Definition	Source
Land rights holder	A stakeholder whose rights to the land under contestation is held under law, tenure reform/s or custom, and whose relationship to the land is inherent to their survival and identity.	Eco Ruralis. (2016). <i>What is land grabbing? A critical review of existing definitions</i> . Romania: Eco Ruralis.
Conflict management	Actions pursued to de-escalate a conflict and to seek peaceful coexistence among involved parties.	Pruit, G. & Ruben, J. (1969). <i>Social conflict: Escalation, stalemate and settlement</i> . Colorado: Beyond Intractability.
Violence	A show of force, an imposition of will on others to contend one's interests and gain control through destructive means.	Galtung, J. (1969). <i>Violence, peace, and peace research</i> . <i>Journal of Peace Research</i> . Oslo: International Peace Research Institute.
<i>Panchayat</i>	The local government system in India.	Part IX. The Constitution (Seventy-third Amendment) Act, 1992
<i>Gram Sabha</i>	Gram Sabha is the primary body of the Panchayati Raj system and by far the largest.	Constitution of India, under Article 243(b)

Methodology and data sources

The research for this report was conducted to elaborate on an underreported and under-researched public policy issue. The report also contains analyses of the causes of conflicts, impacts of land conflicts, and recommendations. The study used both quantitative and qualitative methodologies. Descriptive data were used to draw conclusive points without intervening with any of the variables. This study relied on the desk review of secondary sources of data, with the major source being the portal of LCW (<https://www.landconflictwatch.org/>), a network of researchers and journalists across India. LCW creates a record of all ongoing land conflicts in the country.

LCW has a team of 42 field researchers—in 26 of the 28 States and five of the eight union territories—working to identify and report land conflicts. The portal has recorded over 750 ongoing land conflicts in the country. Some of the ongoing conflicts have also been taken from the Environmental Justice Atlas (<https://ejatlas.org/country/india>). The cases are taken from the portal and related news articles are used to further elaborate upon the cases described.

Further, other comprehensive studies analyzing data relating to land conflicts and corresponding newspaper reports were also used. This study aims to create a representative sample of the prevailing instances of land conflict in all the States of the nation categorized according to the sectors that have caused the conflict. The purpose of classifying the land conflicts into sectors is to analyze the nature, causes, and impacts of the conflict in an organized manner. Considering the potential of the diverse factors (policy changes, population, impact of the conflict, causes of conflict, nature of the conflict, and responses to the conflicts) of the Indian demography, we chose to divide and present the

case studies for greater precision in the report. The Centre for Legislative and Research Advocacy (CLRA) chose six conflicts per sector, taking into consideration the importance of the case studies in terms of the widespread impact of the conflict on the affected population. These cases have been verified with the resource portals of the LCW and EJAtlas, along with reputable and credible news articles.

In this iteration of India's Land Conflict Monitoring report, the authors have attempted to create an instrument for interpretation of the overview of the myriad causes and modes via which land conflict manifests in India. This report uses 36 case studies out of more than 700 ongoing cases of land conflict as of 2021 as a purposive and descriptive sampling.

The rationale behind selection of the cases recorded in this report was firstly, based on a sectoral division of land conflict (i.e., the "sector" which has tied the land into an active conflict) and secondly, six cases with the most area and/or households impacted in each sector. The 36 cases belong to six sectors. Further, this approach for the selection and analysis of cases was undertaken to enable the authors to discern the apparent pattern of failure on the part of the State as well as the justice system that is fuelling land conflict in India.

Scope and limitations of the study

This study depends on secondary data. Hence, it is subject to certain constraints owing to the restricted nature of available literature. As a result, the scope of this study is subject to the following limitations:

First, India is a large country in terms of land and population. Therefore, the scope of this study has deficits in the representation of all the areas and communities facing land conflicts.

Second, this study bears limitations resulting from the restrictions that have been put in place due to the COVID-19 pandemic. As such, advised consultation with affected communities and CSOs are impossible. Therefore, the gaps in data have been filled in via corroboration from various sources such as research papers, scholarly articles, and newspaper/journal reports.

Third, as this study relies on secondary data, there might be a dilution in the extent and details of the conflicts as and when mentioned. Although limitations exist on access and data, the writers have redesigned and restructured them in a way that the findings are still reliable and legitimate.

Brief Overview of the Country: Context and Legal Framework

Pre-Independence

During Colonial India, prior to the attainment of Independence in 1947, the system of land tenure was inextricably mixed with the land revenue system. To vitiate the traditional Asiatic production modes, the British Moneyocracy metamorphosed India into its landed estates and celebrated the commercial revolution in India. Colonial India witnessed sweeping overhauls in the Indian agrarian structure in order to extract maximized gains that halted the country's progressive development and increased the burden on the Indian peasantry. The legislative structure of land reform in pre-independent India is most distinct owing to the intermediary tenure system that plagued Indian agrarian structure.

There were various tenure systems in existence at that time, most importantly, the Zamindari, Ryotwari, and the Mahalwari (Baden-Powell, 1907; Kotovsky, 1964). The Land Acquisition Act, 1894, was the principal legislation in pre-colonial India, enabling the government to acquire private lands for any public purpose. In addition to this core legislation on the matter, provisions were operationalized for land acquisition for specific purposes such as the construction of railways, national highways, tramways, etc.

Post-colonial Framework: Creating a Constitutional Right

Being the foundational document, the law of the land, the Constitution that took effect in 1950 introduced land rights for further legislation. The Right to Property in the Constitution went on to be the most amended subject matter and was deprived of its "fundamental right" status in 1978 (Austin, 1999). Unlike other rights of life, liberty, and equality that can at least theoretically be conceived as applying equally to all, the especially contentious nature of the right to property arises because its protection inevitably results in entrenching unequal distributions of existing property entitlements. In line with the tenets of democratic socialism, the Constituent Assembly of India (1946 to 1950) sought to transition to a liberal democratic legal order, which guaranteed rights of liberty, equality, and property, while simultaneously endeavouring to achieve social and economic transformation premised on land reform and redistribution of resources (Wahi, 2017).

The same objectives for land reforms in the newly independent India manifested in the form of creation of the "fundamental right to own and enjoy property." In pursuance of the same, Article 19(1) (f) and Article 31 were inserted into Part III of the original text of the Constitution (Allen, 2000).

Article 19(1) (f) of the original draft of the Constitution guaranteed all citizens the fundamental right to "acquire, hold and dispose of property." This right was not however absolute. It was subject to the restrictions of Article 19(6), one of which was public interest. This empowered State and Union legislatures to legally acquire lands in the interest of public

policy. Moreover, Article 31 of the Constitution, which was the post-colonial version of section 299 of the Government of India Act, 1935, provided that any State acquisition of property must only be upon enactment of a valid law, for a public purpose, and upon payment of compensation. Article 30(1A) provides for the payment of compensation when the property of a minority institution has been acquired. The second provision of Article 31A (1) mandates the payment of market value compensation in the case of acquisition of estates, where personal cultivation is being carried on. Certain laws were exempted from these requirements. This initial framework manifested in the form of a perpetual struggle between the different organs of the government. Developmental projects of land reform and State-planned industrial growth predictably resulted in tensions between the legislature and the executive on one end that sought to implement this development agenda, and the judiciary on the other, which enforced the fundamental right to property of those affected.

Abolishing the fundamental right to property

The most definitive development came in 1978 following a series of amendments to Article 31 as well as a long contentious history of struggles amongst the organs of the government to strike a justifiable balance between land rights and public acquisitions. The Constitution (Forty-Fourth Amendment) Act 1978 abolished Articles 19(1) (f) and 31. At the same time, Article 300A was inserted into a new chapter IV of Part XII of the Constitution, thereby depriving it of its “fundamental right” status.

Article 300A states that “No person shall be deprived of his property save by authority of law.” Since the promulgation of the Forty-Fourth Amendment, an express provision requiring the State to pay compensation to an expropriated owner, except as provided in Article 30(1A) and the second provision to Article 31A(1), is manifestly absent. This has manifested in the form of a constitutional gap, whereby, in all other cases of property acquisition, there is no express constitutional requirement for the State to pay market value compensation.

In the aftermath of the amendment, there was a total abdication of judicial review to check acquisitions against the public policy requirements as well as to provide fair compensation. The implicit public policy requirement in the text of Article 300 was almost perfunctory during this period, resulting in a wide reading of the purposes for which the government could acquire property without payment of market value compensation.

The Apex Court, since then, went as far as stating that the Forty-Fourth Amendment has disempowered the courts from going into the adequacy of compensation awarded under an acquisition law. The Court also rejected attempts to read the right to property into the right to life guarantee under Article 21.

Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

In September 2013, the Parliament enacted the Transparency in Land Acquisition, Rehabilitation and Resettlement Act (hereinafter Right to Fair Compensation and LARR Act). Soon after the removal of the right to property from part III of the Indian Constitution, the Parliament enacted this legislation which was meant to make up for the absence of constitutional guarantees regarding property rights of the Indian citizenry.

The Act secures payable compensation in cases of land acquisition by both private entities as well as government agents. It also secures resettlement awards in cases of land development project-related displacement. The Act also provides for the close cleaving of the meaning of public policy as a means of land acquisition. Consequently, the LARR Act has strengthened the requirements of public purpose and compensation that were weakened by the dilution of the right to property in the Constitution. The LARR gives insight as to the quality and quantity of consent to be obtained prior to acquiring land. It mandates that 70 percent of the families that will be affected shall provide their consent in the case of public-private partnerships and 80 percent in the case of private companies. However, no consent is mandatory should the government acquire land directly for its own use, hold, and control.

Prevalence of Land Conflict in the Country

India is very vast in terms of land. The sheer expanse of land and massive population have resulted in 773 ongoing land conflicts (as of 2020), as reported in the LCW portal. To provide a meaningful sample size for the sake of this report, our conflict study will be divided by sectors. The sectorial conflicts will be further elaborated by presenting five to six case studies from different States. Cases of land conflict and displacement of every State will be covered under relevant sector heads. The specifics of the case studies will be discussed under every sector. The sector-wise classification will be according to land conflicts arising from the following:

- **Infrastructure:** Airports, townships, roads, railways, multipurpose dams, canals and special economic zones (SEZs), industrial corridors, and investment zones.
- **Land use:** Non-industrial, non-developmental, and non-conservational land use processes such as natural disasters, inter-caste and communal conflicts, the creation of land banks, and violations under the 2006 Forest Rights Act.
- **Mining:** Bauxite, coal, iron ore, and other kinds of mining.
- **Power:** Thermal power, nuclear power, renewable energy, hydroelectric dams (only for power generation), and transmission lines.
- **Protected areas:** Conservation-related activities such as relocation of communities from protected areas.
- **Industry:** Commercial agriculture/agri-business, steel plants, petroleum and gas, textile, and food processing plants.

Infrastructure

Infrastructure is the sector with the highest prevalence of active land conflict cases in India, making up approximately 45 percent of all cases as of 2020. This data can be attributed to the fact that the largest State investments go into infrastructure projects that consequently require land acquisition. For instance, one of the longer running cases of land conflict involves the Hanumangarh District Air Force Base in Rajasthan that was initiated in 1993 owing to land acquisition for an Air Force station. More than 15,000 people have been affected by the conflict regarding residential land in Moter, Dhandhusur, and Banasar and agricultural land in Bangasar and Dheerdesar. In the case of a mammoth railway project, the Sevoke-Rangpo broad gauge railway project, the only other connecting link between Sikkim and the rest of India aside from National Highway 10 (NH10), is facing opposition by forest dwellers in the area. More than 40,000 people in 24 villages will be affected by this project.

Another development project, the Aruna Dam, a medium irrigation project in Sindhudurg district in Maharashtra, will reportedly submerge three villages in Vaibhavwadi tehsil: Bhom, Akane, and Nagapwadi. Around 1,046 people have been affected by the conflict since its inception in 2018. In the case of Layja Integrated Special Economic Zone (SEZ) Project (Gujarat), the building of an integrated SEZ with a 4,000 MW thermal power plant, a 2,000-MW gas power plant, a captive jetty for coal import, and an LNG terminal has led to a major land conflict affecting over 69,000 people across 49 villages in Layja Mota and Mandvi Kutch. Further, in the case of Astaranga Port (Odisha), the setting up of a port in Astaranga in Puri, with a capacity of 25 million tonnes per annum, started in 2008. The land conflict arising out of the port project has affected over 25,000 people in Astaranga Puri. One person was killed and 16 were injured in 2010, during the clashes in Orissa over the disputed area.

The longest running case of land conflict likewise falls under the sector of infrastructure in the case of Bhakra Dam Non-Rehabilitation (Himachal Pradesh). Bhakra Dam was the first hydropower project of independent India. Completed in 1970, the construction of the hydropower dam affected close to 36,000 farmers. In 2017, two villagers died during clashes with the security forces who were trying to disperse the crowd with tear gas and rubber bullets. The foremost body involved in the conflict is a State body, i.e., the forest department of the Bhakra Beas Management Board (BBMB). Although a comprehensive resettlement and rehabilitation program was devised for the affected, the second and third generations of the ousted persons are still living landless. A total of 250 families have not yet received an allocation of titles and land, owing to a series of conflicting court orders.

Land use

Land use is estimated to be the third to the last sector contributing to active land conflict in the country, accounting for about 14 percent of total recorded cases as of 2020, as per the LCW's data. This sector has a wide ambit that involves development projects

that fall outside the category of infrastructure, as well as community conflicts. The cases recorded in land use vary from State-funded lake beautification projects (e.g., the Rewa Lake Beautification Project) to communal conflicts (e.g., the Nabarangpur Forest Conflict). Particularly, in the case of the lake beautification project in Rewa, on 9 May 2020, the Rewa Municipal Corporation demolished the homes of 103 families living next to the Ratahara Lake in Rewa town. A total of 293 people have been affected due to this sudden eviction, with evictions being ordered with less than a days' notice, and only via a loudspeaker on the morning of the demolition itself — that is a contravention of due process. Owing to the fact that Land Use land conflict often entails caste or community-based conflict as a ground for disputes over land acquisition or ownership, a lot of community backlash manifests in the form of protests. In the case of Land Denial in Sangrur (Punjab), the negatively impacted Dalit community (name for group of people who used to belong to the lowest caste in India in the traditional Varna/Caste hierarchy) protested against wrongful loss of land. Over 70 Dalits from around 29 villages near Sangrur are protesting against the State government over the reserved land, and the protests have been ongoing amidst the coronavirus pandemic in 2020.

This land use sector also includes cases of farmers alleging administrative abuse. Such can be observed in the case of Undue Loss of Agricultural Land near Diu (Daman and Diu), where the farmers near Diu have been losing their agricultural land since 2018, with reportedly 7,000 people affected. Farmers in four villages of Saudvadi, Nagao, Jaravadi, and Gucharvada near Diu prevented the Diu District Administration from fencing and taking over the land that they have been cultivating since the 1960s. Recorded cases under this sector reveal failures in the implementation of accession agreements at the State level as well. This manifested in the case of the Assam–Nagaland Border Conflict, in which the parties involved are the Assam State Government and the National Socialist Council of Nagaland (NSCN-IM). When the Nagaland State was created, an agreement was signed by the Naga People's Committee and then Prime Minister Jawaharlal Nehru. Some of the clauses in the agreement on land transfer to Nagaland remain unimplemented to this date and have become the underlying reason for the conflict between the two States that share a 434-km border. Periodic attacks (although none in 2020) on land rights defenders have also been recorded in cases emerging out of this sector, notably the Sikh Farmers in Kutch.

Mining

The prevalence of the conflict arising in the mining sector is primarily driven by government projects and private investment. Approximately six percent of the land conflicts originate from the mining sector alone in India, according to the cases recorded in the Land Conflict Watch. The impact of land conflicts in this sector includes jeopardization of ecology, loss of natural habitat, and the wide-scale displacement of the affected people. Due to the strategic importance of the initiated projects and the consequent economic development, the investors in the mining sector are less likely to terminate the project on the aforementioned grounds. The land issue is aggravated because the indigenous

people are solely dependent on the resources obtained from the land. For instance, proposed bauxite mining in the Niyamgiri Hills (Orissa) jeopardizes their ecology and right to religious and cultural practice to worship on the hill. The repercussions of conversion of forestland in Hasdeo Arand Surguja (Chhattisgarh) include the threat of displacement, and the loss of livelihood and biodiversity. In Mahuva, Bhavnagar (Gujarat), the affected community claims that the mining poses a threat to their environment, ecology, and livelihood (Khanna, 2019).

In addition, the land acquisition of the Kasmunda (Chhattisgarh) to make way for mining raised concerns pertaining to rehabilitation, resettlement, compensation and employment, as well as the impact of the mine on air quality, groundwater levels, and agricultural activities. The affected people of Dibru-Saikhowa National Park (Assam) had already been subjected to displacement due to the pandemic. They then had to be re-displaced from the relief camps due to a gas blowout from an oil well and the consequent widespread fire in the environment-sensitive area. The construction of the well had already faced criticism from the start of the project because the villagers are dependent upon this region for their livelihood, fishing, agriculture, and eco-tourism.

In another case, people in Deocha Pachami (West Bengal) are raising concerns against proper rehabilitation, resettlement and fair compensation, and jobs. The land converted for the purpose of mining covers the adjoining villages and some parts of forest area. It extends to 11,000 acres (4,452 hectares), 2,000 acres (809 hectares) of which belongs to the State and 9,000 acres (3,642 hectares) is private land. The acquisition of private-owned land has a huge bearing on the transfer of land ownership as well as displacement of people. The tribals have alleged that, out of 25 businesses that are operating in the area, 21 are illegal, and that the conduct of illegal businesses will jeopardize the compensation of their community members (Bhattacharya, 2020). Subsequently, the landowners, villagers, and indigenous people are vulnerable to harassment and remain at a risk of eviction.

Power

The prevalence of the conflict arising in the power sector is majorly driven by the government projects and the private investment that seeks to develop nuclear and thermal power plants. As of 2020, approximately 10 percent of the land conflicts originate from the power sector alone in India, according to information available from the LCW.

In 2017, the nuclear power plant project in Mandla Madhya Pradesh received a clearance for forest conversion (119.46 hectares) by the Ministry of Environment, Forests and Climate Change. According to a survey, 187 species of flora and 114 species of fauna and aquatic fauna are likely to be affected by the power plant. It will also reduce the flow of the Narmada River. The sale of “waqf” land in Visakhapatnam in Andhra Pradesh at a cheaper price to a company called Hinduja National Power Corporation Limited (HNPC) is detrimental to the interest of the affected community. Further, the sale of waqf land

violates the Waqf Act 1995 since the prescribed manner of sale is through public auction. The affected community demands proper rehabilitation and fair compensation. The land conflict caused by another proposed nuclear power plant in Bhavnagar, Gujarat, where reserving the fertile agricultural land used for rabi and kharif crops as sites for future power plants, which may then have irreparable damage to the environment. Due to protests and agitations, the proposed project has been shifted to Andhra Pradesh; however, the company continues to hold land for the construction of plants in the future.

Similarly, the relocation of the thermal energy project in Cuttack, Orissa, which started in 2006, took over the agricultural land from the villagers as the original proposed location of the project was shelved because it was an ecologically sensitive zone, preventing the issuance of an environmental clearance from the Department of Environment of Forest. Another proposed nuclear power plant in Ratnagiri, Maharashtra has been pending since 2005, as it would be detrimental to the ecology. The disputed area lies in Seismic Zone III, which is categorically an earthquake-prone area as a report by the Bombay Natural History Society (BNHS) lists 16 ecologically sensitive sites within the radius of 10 kilometers (Phadnis, 2013).

Protected Areas

The conservation and forestry sector is the second most affected sector in terms of land conflicts in India with 15 percent of conflicts, according to data from the LCW. The people involved in such disputes are usually deemed as encroachers or those who were already residing in an area that is thereafter declared protected — as happened in the Ranthambore Tiger Reserve Relocation as people were evicted from their land after a notification declared the Sawai Madhopur district a protected area.

The impact of such conflicts over protected areas is widespread as it usually involves a large number of people. In the Himachal Pradesh State-wide relocation of forest dwellers, around 250,000 people have been displaced, often forced out of their lands by State agencies. It is also the poorer sections of the Indian population, such as the tribals and forest dwellers, who are affected in such conflicts — as the in Arippa Adivasi Rehabilitation Conflict (Kerala), where inhabitants who are dependent on the forest for livelihood and sustaining life have been pushed out of their land. This leads to widespread protests and long-drawn-out litigation.

The process becomes the punishment in such cases, as the primary source of sustaining life for these individuals is taken away. As a corollary effect, the forests themselves are often endangered by governmental activities that render them inhabitable as what happened in the case of the Nagarhole National Park (Karnataka) where almost 26,000 people have been displaced with no adequate remedy. The land in this National Park was rendered barren for rehabilitation and court orders have been issued against the tribals who applied for community rights.

Similar issues led to protests from individuals against such court orders and, in some of the disputes, people have been killed. This happened in the Kaziranga National Park Relocation (Assam) in which, after the State government demolished places of worship, there were widespread protests that led to the killing of two people by the police; while in Mollem National Park, people have protested for the conservation of the forest.

Industry

Approximately 10 percent of the disputes reported in the LCW are caused by the industry sector that includes commercial agriculture/agri-business, manufacturing, finance, petroleum and gas, pharmaceutical, steel, tourism, and other industries. In such cases, there are multifaceted effects on the people's lives. For example, in the Ratnagiri Natural Gas Pipeline case in the State of Maharashtra, a law validated partial acquisition by the government, but a section of the law stated that the permanent landowners could go back to using the land for its original purpose, but are barred from planting trees, digging wells, and constructing buildings, dams, and reservoirs on the land. This caused widespread problems for the people, including instances of violence where people have been killed. Protest actions are also another general effect noticed in such cases, as in the SIPCOT Industrial Estate, Krishnagiri in the State of Tamil Nadu, where the people protested for cultivable land when the government was firm on acquiring their property.

Tourism has also caused people to be displaced. In the Shamuka tourism and beach development case, people protested against the government's illegal taking of land that had been given to them by a court order, after the decreed land was made a part of the aforementioned tourism project. Private companies also tend to play a significant role. In the case of Oil Exploration on Community Land, Changpang (Nagaland), the Nagaland State government used their 2012 policy to allocate the land to a private company for exploration. This private company is the Metropolitan Oil and Gas Pvt Ltd (MOPGL) with whom Nagaland has entered into a revenue-sharing model. The local communities have protested this due to the unhindered power given to the private company. In Khandala (Maharashtra), the Maharashtra Industrial Development Corporation (MIDC) started a government project for industrial development in 2013 that had earmarked 1,700 hectares of land for acquisition. However, up until 2019, no development had taken place. Farmers have issued a statement warning that, if the government does not go ahead with the acquisition, the farmers will withdraw from the acquisition procedure completely. In the Roshni Act, previously illegal occupants of State lands prior to 1990 were given proprietary rights. However, since the Jammu and Kashmir State governments declared transfers of land under this Act as null and void, 6,000 people will end up losing the land and homes that they gained under this Act.

The aforementioned prevalence of land conflicts, according to duration, use of the land in conflict, sector involved, and aggressor leading the conflict, are presented in Tables 1 to 4.

Table 1. Duration of Land Conflict

Duration of conflicts	No. of cases
1 to 5 years	15
6 to 10 years	5
11 to 15 years	5
16 to 20 years	3
21 to 25 years	0
26 to 30 years	3
31 to 40 years	0
41 to 45 years	1
46 to 50 years	3
More than 50 years	1
TOTAL	36

Source: Derived from inter alia <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>

In terms of duration, most land conflicts selected for this study have been active for less than 15 years as of 2020.

The largest area in conflict involves communal lands, while the most number of households affected by land conflicts are in areas used for housing.

The sector with the widest area affected by land conflicts is the land use sector with 66,972 hectares; while the least conflict-affected area is in the industry sector with 3,266 hectares. In terms of households in conflict, the power sector registered the most number at 364,045 households; while the industry sector had the least number with 43,114 households.

Table 2. Distribution of conflicts on the basis of difference in use of land/resources

Land use based on actual use of the community	Area in conflict (hectares)	No. of households in conflict
Agriculture	17,432	287,716
Housing	15,363	494,947
Communal lands	90,582	323,784
Agroforestry and people-based plantations	250	Do not know
TOTAL	123,627	1,106,447

Source: Derived from inter alia <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>

Table 3. Distribution of conflicts according to sector

Sector	Area in conflict (hectares)	No. of households in conflict
Infrastructure	29,717	156,739
Land use	66,972	65,947
Mining	5,020	223,395
Power	10,983	364,045
Land use based on actual use of the community	Area in conflict (hectares)	No. of households in conflict
Industry	3,266	43,114
Protected areas	7,669	253,810
TOTAL	123,627	1,107,050

Source: Derived from inter alia <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>

Table 4. Distribution of conflicts based on aggressor

Aggressor	Area in conflict (hectares)	No. of households in conflict
Government	52,985.17	935,455
Private company/corporation	2,726	70,648
State-owned enterprise	1,897	2,400
Powerful individuals	19	3,000
Others	66,000	41,744
TOTAL	123,627.17	1,053,247

Source: Derived from inter alia <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>

Government is the major aggressor on the basis of key stakeholders affected by land conflicts, with 52,985.17 hectares and 935,455 households. Powerful individuals were recorded as affecting the smallest area with 19 hectares, while State-owned enterprises had affected the least number of households at 2,400.

Nature and Causes of Land Conflict

India is a land of 328.7 million hectares and its population of 120 million, is the second largest in the world after China. Being an agriculture-dominant country, it is understood that small, marginal farmers, cultivators, sharecroppers, laborers, forest dwellers, etc. are dependent upon the land for their livelihood.

Given the increase in the rate of population, industrialization, and urbanization, issues related to the use of land are inevitable –including the use of certain land areas and natural resources extended to scheduled tribes. The rights of such tribes are governed under Article 244 of the Indian Constitution read with Fifth and Sixth schedules in order to preserve their tribal autonomy and culture. In addition to the vast diversity of the Indian land, colonization by the British also had a huge impact on the laws governing land as it completely transformed the system of land governance in India (Banerjee and Iyer, 2002).

Land is a bundle of rights. Disputes and disagreements related to land arise under conditions of scarcity and when such use is necessary. The disputes arising from State acquisitions qualify as a substantial threat to the enjoyment of social, economic, and political rights, as the above case stories illustrate, forming the background to understanding the nature and causes of land conflicts in India.

First, the majority of disputes arise from common lands or public lands. Common land is sometimes also referred to as wastelands, including forestlands and non-forest commons. According to the LCW, 36 percent of the land disputes are exclusively related to common land and 32 percent are related to both common and private lands. Conflicts involving common land have an impact on over 5.14 million people and affect a total area of about 368,744.16 hectares of land with INR 1,278.73 trillion (USD 17.3 billion) investment on common land. The reason behind the emergence of issues surrounding common lands is the non-recognition of community rights over such lands under the law. Traditional inhabitants of such lands do not enjoy any title, ownership rights, or control as compared

to owners of private land. The affected people only enjoy the stakes over common lands held collectively as communities, villagers, municipalities or marginal communities. Such weak appropriation of legal rights makes them susceptible to land acquisition and infringement by perpetrators.

Second, the denial of rights to forestlands of the forest dwellers. In the colonial era, the British used the forests for timber as the area was exclusively under State control. The forest dwellers who exercised their rights over the forests were entitled as encroachers. The Forest Rights Act of 2006 does away with this historical injustice against the forest dwellers and indigenous communities. As per this Act, the first step is the recognition and settlement of tribals' and forest dwellers' land rights before relocation can begin. However, most of their claims to rights over such lands have been rejected by the State.

Due to lack of commitment by the government, resistance from the forest bureaucracy that does not want to cede control over forestland, as well as deliberate mismanagement, the dwellers' land rights are not given. Hence, they are evicted by the State (Baden-Powell, 2010). A total of 131 conflicts have arisen due to the non-implementation of the Forest Rights Act (FRA), which is 48 percent of all conflicts involving forests, affecting 1.2 million people.

Third, the consent of affected people is violated or manipulated. According to the FRA of 2006, it is mandatory to obtain the free, prior and informed consent of the Gram Sabha (village assembly) to the proposed resettlement in writing. However, according to the reports of the LCW, it has been observed that there have been cases where consent is not sought, indicating that no tribals were affected. The malafide conduct of the executive is also manifested in issuing false certifications by the villagers or obtaining consent from *panchayats* and not from the *Gram Sabha*.

At the same time, it has also been reported that the land has been diverted for development without even informing the affected community or people. In some cases, the replacement of the requirement of "consent" with "consultation" has jeopardized the rights of the affected communities. The degree of manipulation and violation of consent by the administrative authorities becomes the cause of major conflicts.

Fourth, the violation of customary laws that protect tribals' land rights. The rationale behind the violation of tribals' land rights is the absence of legal sanctity, land grants or land ownership titles. In some States, the management of land is governed by the tribal administration without any formal land titles given to such communities (Chandran, 2020). They govern under their customary laws, while the land acquisition recognizes individual ownership. That is to say, the indigenous lands are governed by the formal law in theory, while in practice it is the customary laws that are recognized. This failure in the legal protection of indigenous lands makes them vulnerable to land acquisition and gives more power to the State to take over land for development purposes.

Fifth, the non-compliance of due process in administrative or executive action. It has been said that, “once a land is identified for infrastructure or extraction purposes, the fate of such land is trapped in the bureaucratic records.” The challenges to the procedural irregularities by administrative and executive action undermine the due process of law in adjudicating land-related disputes. According to the study, these challenges include improper executive action, procedural irregularities, and procedural non-compliance. When contested in a court of law, such irregularities were upheld in 52.7 percent of cases by High Courts and in 57.3 percent of cases by the Supreme Court. Further, the lack of documentary evidence coupled with outdated land records impede the efficiency of the administrative process. The perpetuation of procedural inequities and inefficiency of such processes transgresses the inherent rights of the affected communities and undermines the rule of law.

Sixth, the investments in the infrastructure and developmental projects. Land conflicts in the guise of public purpose for economic growth and development account for 43 percent of the total land disputes in India. Around 38 cases have been recorded by the LCW, where the land of tribals and forest dwellers has been diverted into such developmental projects, involving 173,400 hectares of land and affecting around one million people (Worsdell and Sambhav, 2020). The State plays a pivotal role in the diversion of land to the private entities who have invested in such developmental and infrastructural projects. Despite the environmental concerns and protests, economic development takes priority over ecological development. In this manner, not only does the State favor private investments, but it jeopardizes the related environmental concerns as well.

Moreover, in pursuit of attracting investments, the creation of “land banks” leads to the denial of land rights of the people. Further, it has been recorded that eight such cases have been ongoing, covering 3,600 hectares of land and affecting 148,000 people (Worsdell and Sambhav, 2020). In order to provide a backdoor entry for private investors, land banks enable the waiving of the usual “red-tape” and lengthy bureaucratic processes. The lands acquired from the community are shelved under these land banks and have not been returned to the affected community.

Table 5. Type of response to conflicts, ranked by number and percent of cases

Response	No. of cases	Percent
Conflict management	13	36.1
Peaceful demonstration	11	30.5
No response	6	16.7
Retaliation	4	11.1
Do not know	2	5.6
TOTAL	36	100.0

Source: Derived from inter alia <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>

The aforementioned causes and responses to land conflict are presented in Tables 5 to 7.

From Table 5, the following observations can be drawn:

- conflict management is the most popular means of response to land conflict in India with 13 cases (36.1 percent);

- peaceful demonstration by the affected group is the second most popular means of response to land conflict at 11 cases (30.5 percent); and,
- retaliation by the affected group is the least popular means of response to land conflict at four cases (11.1 percent).

Table 6. Causes of conflicts, ranked by number and percent of cases

Cause	No. of cases	Percent
Government projects	21	58.2
Resource conflicts	6	16.7
Public-private partnerships	6	16.7
Clashing tenure systems	1	2.8
Resistance to land reform	1	2.8
Private investments	1	2.8
TOTAL	36	100.0

Source: Derived from inter alia <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>

Indigenous peoples make up the largest affected stakeholder group with 12 cases (33.3 percent of the affected population). This was followed by smallholder farmers with eight cases, or 22.2 percent of the affected population.

Forest protectors, pastoralists, and fisherfolk equally make up the smallest stakeholder groups affected with one case each (2.8 percent of the cases recorded respectively).

Impact and Outcomes

The causes of land conflict in the diverse geographical land of India are multifaceted. Similarly, the impact of a land conflict has diverse ramifications with significant polarization, as each party believes they suffer the most in such conflicts. There were over 703 ongoing land conflicts over the last five years (2016 to 2020) which involved over 2.1 million hectares of land, according to the LCW's latest report (Worsdell and Shrivastava, 2020). The largest number of cases of land conflict were due to infrastructure development, led by townships and real estate schemes, along with roads and irrigation projects, contributing 43 percent

The following observations can be drawn from Table 6:

- Government projects are the most prevalent cause of land conflict in India with 21 cases (58.2 percent);
- Resource conflicts are the second most prevalent cause of land conflict in India with six cases (16.7 percent); and,
- Clashing tenure systems, resistance to land reform, and private investments are equally the least prevalent causes of land conflict in India, each with one case.

Table 7. Stakeholders affected by conflicts, ranked by number and percent of cases

Stakeholders	No. of cases	Percent
Indigenous peoples	12	33.3
Smallholder farmers	8	22.2
Forest users	5	13.9
Tenants	4	11.1
Landless	4	11.1
Forest protectors	1	2.8
Pastoralists	1	2.8
Fisherfolk	1	2.8
TOTAL	36	100.0

Source: Derived from inter alia <https://www.landconflictwatch.org/> and <https://ejatlas.org/country/india>

of the share of total land conflicts (Worsdell and Sambhav, 2020). Next is the total of conflict cases involving protected areas (conservation and forestry related activities), which is at 15 percent. The data of the report also reveals that the government is the party involved in the second-largest number of land conflict cases, coupled with the fact that 68 percent of total conflicts are over common land which are lands over which citizens do not have individual titles and their legal right is not recognized (Worsdell and Sambhav, 2020). Such lands are usually inhabited by people who are poor and disenfranchised with little access to legal help. This leads to a situation where the State is pitched against poor people who have little knowledge of their rights, leading to prolonged conflicts in which the government has the upper hand. Another aspect of this polarization manifests in the higher incidence of land conflict in tribal areas. A large percentage of people residing in such areas are economically backwards which leads to further difficulties after the loss of their land. In such areas, the impact of land conflict is worse as the resolution process is different in most cases owing to the special constitutional recognition of “scheduled areas” which mandates a different management approach.

The highest concentration of land conflicts is in common land areas, which, as explained earlier, are inhabited by economically backward communities or urban poor, underscoring that the majority of people who are affected by land conflicts hail from the poorer sections of society. The outcome of land conflicts in common land areas is marked by legal insufficiency to deal with such matters. Therefore, a study of land acquisition cases in the Supreme Court from 1950 to 2016 revealed that most of the litigation over such matters is with respect to privately held land (Wahi, 2016). This shows that insufficiency of legal rights over common land has led to a situation where people cannot approach courts, as they do not have well-defined rights. Thus, they have to resort to protest to make their voices heard. Common land cases that do reach the courts take a significant amount of time — for example, the Supreme Court case (*Wildlife First versus the Ministry of Forest and Environment*) on the eviction of forest dwellers has been ongoing since 2007 and awaits a final verdict. There have been protests surrounding this case and the events have been elaborated in the section of the report on Protected Areas.

Until 2019, approximately INR 13.7 trillion (approximately USD 187 billion) had already been committed as well as earmarked for potential investments in just 305 documented land conflicts (Worsdell and Shrivastava, 2020). The investment in other projects is not discernible. This undoubtedly takes a toll on the economic performance of the country.

Land conflicts also affect the economic potential of a country leading to a situation where foreign investors or even domestic private investors are cautious of investing in projects in India. Not keeping in mind the rights of local inhabitants in projects has led to a severe economic outcome. Such land conflict affects the displaced people beyond loss of land, since for the poor; land is an important socio-economic asset and an important attribute to ascertain wealth and survival. Protecting and promoting land ownership by indigenous people is a crucial part of the Sustainable Development Goals (SDGs) and was included in the negotiations of the 21st Conference of the Parties (COP21) to the United Nations

Framework Convention on Climate Change in Paris. It is clear that land conflicts lead to perpetuation of poverty when arable land, which is as an important economic resource, is taken away.

Another aspect of land conflict is the impact it has on the minds of the people suffering due to the long pendency of cases and undefined rights. They are often embroiled in protracted battles over land rights, which take a significant toll on the mental health of those who have been displaced. This leads to cases of suicides and other mental health illnesses that often go undiagnosed due to lack of doctors and access to psychiatrists. Homelessness caused by land conflicts also leads to health issues due to the absence of safe, hygienic environments. In 2020, the data on land conflicts show that people have been left homeless or are potentially under threat of homelessness without any resettlement scheme in place. The impact of a person being homeless during a pandemic can have a devastating impact on their health. This puts them in the severe risk category due to inadequate access to hygiene products or hygienic environments, no place to isolate themselves, and prevalence of disease in shared spaces. This increases the seriousness of homelessness caused by land conflict, thereby increasing the gravity of land conflicts themselves.

Land conflicts are therefore not a unidimensional concept. They bear with them impacts spanning the economy of the country as well as the economic situation of the affected individuals, their physical and mental health, and even their social standing and dignity. On a large scale, land conflicts lead to an economic slowdown and mass protests by the people. As evidenced by the report, the conflicts, encounters, and environmental as well as socio-economic problems that arise show significant diversity, underlining the fact that land conflicts are a multidimensional threat to any country.

Responses to Land Conflict

By the State:

The endeavor of the State has been vital in balancing economic development and the concerns of those affected by land conflicts.

- National Institution for Transforming India (NITI Aayog), the policy think tank of the Government of India has prepared the Land Title Bill, 2019, for conclusive land titling and effective State compensation. The bill, once promulgated, will expedite the formulation of the model law for favourable confederation in the view of uniform land legislation.
- The Department of Land Resources has initiated the Land Records Modernization Programme to digitize the land records for effective collection of data related to land in a uniform fashion. The objective of digitalization is to ensure accessibility and transparency in land governance, management, and administration.
- A Compensatory Afforestation Fund Management and Planning Authority (CAMPA) has been constituted to promote afforestation and regeneration activities for compensation of forestlands that have been diverted to non-forest uses. State CAMPA

has been constituted to receive funds collected from user agencies under the Forest (Conservation) Act, 1980. These funds are utilized for compensatory afforestation, assisted natural regeneration, conservation and protection of forests, infrastructure development, wildlife conservation and protection, and other related activities.

- The Ministry of Environment, Forest and Climate Change (MOEFCC) has formulated a Post-Project Clearance Monitoring mechanism to ensure the incorporation of environmental safeguards during the project cycle in accordance with the conditions stipulated in the Environmental Clearance Letter. It is to take appropriate corrective measures to check adverse impacts on the environment during the operation of these projects. This will maintain the sanctity of the clearance to ensure compliance by the project proponent.
- The Ministry of Tribal Affairs took initiatives for a higher degree of implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. The Ministry endeavored to strengthen the monitoring of the implementation procedures, analyzing the intervention areas, and extending support to lapses in all other areas. The tribal ministry held a series of meetings to monitor the progress in the recognition of rights and vesting of titles across all the States, and subsequently directed to improve the implementation of the Act.

By the CSOs:

The role of civil society organizations (CSOs) has been fundamental in not only representing the rights of the distressed but also in actively engaging in land-related movements. They play a key role in reducing gaps between the State and the people whose interests have been affected. Nevertheless, CSOs and land rights groups are far behind in addressing the issues in the policymaking areas. Timely and effective policy advocacy measures are critical to meaningful policy outcomes.

- Amnesty International represented the rights of indigenous peoples whose human rights were violated in Kusmunda, Chhattisgarh, Tetariakhar, Jharkhand, Basundhara-West, and Odisha. It reported consequences of the incidents in its report, through which it forwarded its recommendations to the concerned authorities pressing for immediate State response.
- Janhit Seva Samiti, Konkan Bachao Samiti, Maharashtra Machhimar Kruti Samiti, Yusuf Meherally Centre and Konkan Vinashkari Prakalp Virodhi Samit have filed a public interest litigation in the Bombay High Court challenging the process of granting environmental clearance to the nuclear power project in Maharashtra, Jaitapur, as per the Environmental Impact Assessment (EIA) notification of 2006 and without an assessment of nuclear pollution, safety, and technology of the project by the Atomic Energy Regulatory Board. The petition was admitted by the Bombay High Court in March 2018.
- Human Rights Forum (HRF) has been fundamental in organizing awareness campaigns opposing the laterite mining in Visakhapatnam, Andhra Pradesh. The organization represented the rights of the tribals who depend on the forest area and have lost their livelihood. They opposed the actions of the government and demanded the immediate revocation of the lease.

By Communities:

The responses by the affected communities have been direct and immediate in representing their rights against the atrocities that they faced. Most communities engage in organizing rallies and protests, some of which were also categorized as violent clashes between the communities and the oppressors.

- The affected residents of Okhla in New Delhi organized a mass movement and rallies demanding the closure or the relocation of the waste-to-energy (WTE) plant in their area because of pollution. The surrounding neighborhoods likewise conducted protests against the plant. Consequently, the Sukhdev Vihar Residents Welfare Association (RWA) representing the affected community appealed to the court to adjudicate upon the issue.
- The people affected by the Sterlite Copper Company organized mass protests against the operation and expansion of the company on the grounds of environmental damage and health deterioration. The protest to mark the 100th day turned violent and claimed the lives of some protestors. They clashed with the police officials when they were enroute to the District Collector's office.
- The response of the tribals and residents of Jharkhand has been instrumental in opposing land acquisition by the Indian Army for purposes of a firing range. The community's heavy opposition has been through rallies and protests, even celebrating Netarhat Resolve every year to mark the significance of their movement.
- The residents of Bindukhatta village in Nainital district in Uttarakhand have been holding protests and demonstrations against the proposed elephant corridors in their area. They demanded ownership rights against the disputed land and organized a signature campaign in this regard.

Recommendations***On simplification and standardization of legal responses***

There is a plethora of laws at play in land conflict resolution across jurisdictions in India. A rationalization and simplification of said laws is necessary. The first step to better conflict resolutions would be a Law Commission Committee to consolidate all existing laws with their respective scopes and shortcomings. This can be used by the legislature to amend, repeal, and modify the laws in order to make them more effective to deal with the widespread land conflicts in India. It is also necessary for the legislature to create a standardized legal recourse for those who are being denied their right to land by any State or non-State actor.

On improvement in administrative responses

Adequate action by the Central Government must be taken in order to achieve higher administrative capacity and better execution of the rule of law. Additionally, the various government departments need to be effectively synchronized and the access to land data needs to be more flexible. This will have to be a multi-step process starting from the formation of a Ministry of Land that can act as the nodal agency to organize land policy, combining the efforts of the Ministry of Law and Justice, Ministry of Environment

and Forest, the Department of Land Records, Ministry of Tribal Affairs, State Boards of Revenue, the Department of Land Records, and the Forest Departments of all States towards efficient land administration and reconciling land laws that clash.

On creation of resettlement programs

Those who are disenfranchised and displaced owing to governmental reforms and land projects are often forgotten. Perhaps on the onset of this new decade, the State needs to formulate a unified and standardized resettlement program that draws from the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act, 2013 but does not justify or enhance the disengagement of any segment of the citizenry who has been negatively impacted by land reforms. This is so that the State can now finally start curbing intergenerational impacts of land conflict. ■

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Amidst the COVID-19 Pandemic, Aggressive Land Disposition Continues

2020 Indonesia Land Conflict Monitoring Report

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At the beginning of the COVID-19 pandemic, in the midst of Large-Scale Social Restrictions (PSBB), two Lahat peasants in South Sumatra died at the hands of security officers from the palm oil company PT. Artha Prigel. These deaths of Suryadi (40) and Putra Bakti (35), residents of Pagar Batu Village, Pulau Pinang District, Lahat Regency on 21 March 2020, showed that the PSBB did not reduce the scale of aggressive dispossession of land by commercial corporations.

The incident came only a week after the government had officially declared the COVID-19 pandemic emergency and two days after the National Police Chief had issued Declaration Number: Mak /2/III/2020 concerning Compliance with Government Policies in Handling the Spread of the COVID-19 Virus. One of the points in the edict was the prohibition of holding activities that lead to mass gatherings.

As it turned out, the edict did not prevent PT. Artha Prigel from operating in repressive ways. Instead, it caused a counterproductive situation to the community in the field. Instead of sanctions being imposed on the company, the case of the two farmers' deaths in Lahat was handled as a mere matter for investigating the perpetrators of the attack and treated as an ordinary crime. Meanwhile, PT. Artha Prigel, the main actor behind the conflict and violence leading to these deaths, walked away with no harsh sanctions to create a deterrent effect, such as revocation of the company's license to operate.

Such treatment illustrates how the chronic situation of agrarian conflict in the field and the violence that follows continue to be managed in business-as-usual ways, despite the onset of the pandemic. In fact, the COVID-19 outbreak has not reduced the rate of aggressive dispossession of land, eviction of people, and acts of brutality in the agrarian conflict areas.

The 2020 Agrarian Conflict Report shows the face of agrarian conflict in the midst of an economy that is experiencing negative growth. Normally, a recession would cause

companies to limit expansion, thereby leading to a downward trend in agrarian conflicts in the areas in which they operate. However, this did not occur in this current crisis year.

Similar to previous agrarian conflict reports, this 2020 report focuses on incidents of *structural conflict* that occurred throughout the year, such as conflicts caused by the issuance of policies or decisions from public officials, which then affect the economy, politics, and society. Thus, this report does not include individual land disputes, inheritance disputes, or those between private groups or between government agencies.

Structural agrarian conflict arises from aggressive land dispossession practices that are facilitated by law and driven with capital. Despite the national economic downturn brought about by the implementation of the PSBB, large-scale and aggressive land dispossession has not decreased.

In terms of numbers, occurrences of agrarian conflict cases could be said to have decreased. However, the decline was insignificant. The continuing aggressive land dispossession during the pandemic is a tragic situation for the people amidst the prevailing economic decline throughout 2020. Most business entities in the agrarian industry used the crisis as an opportunity to evict the people from their lands.

In this report, the term *agrarian* is based on the Indonesian Basic Agrarian Law 1960, Act No. 5 (UUPA 1960), which defines the scope of agrarian resources as “the whole earth, water and space, including the natural resources that (are) contained inside it.” In this definition of the earth, it means not only the land surface, but also the body of the earth underneath it as well as those under water. The definition of water includes both the inland waters and Indonesia’s territorial seas; while the definition of space includes the air space above the earth and the water (UUPA, Article 1, 1960).

The recording of agrarian conflicts refers to the number of incidents (eruptions) of conflict in a given area within 2020. Thus, conflict incidents that occurred in one area last year could be recorded again in the current year if an incident or incidents of conflict recurred in that same area.

Data sources for recording the agrarian conflicts in this report were: a) direct reports from communities and victims to KPA at the national and regional levels; b) reports from the KPA network-members at the national and regional levels; c) results of monitoring and data collection on agrarian conflicts in the region; d) results of monitoring the news in the mass media, whether in print or electronic/online; and, e) reports from the Agrarian Emergency Response System under the National Committee for Agrarian Reform.

However, this report does not represent all incidents of agrarian conflict in Indonesia in 2020. It is possible that conflict incidents may have occurred in areas not monitored by KPA — given the limitations of organizational resources to reach all areas of agrarian conflict, gaps in field data, and incomplete media coverage.

The 2020 Agrarian Conflict Report

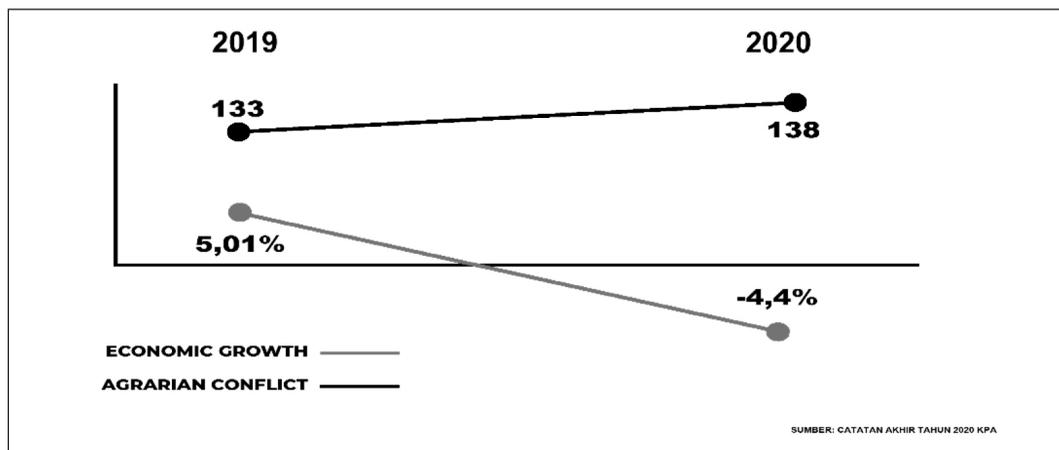
Agrarian Conflict “Surplus” in the Midst of a “Minus” Economy

The COVID-19 pandemic throughout 2020 was not only a health crisis, but has resulted in a multidimensional (especially economic) crisis whose impact is felt on the local, national, and even global scale. The implementation of social restriction policies or limitations on human mobility and activities over an extended period has paralyzed economic centers. Many factories, industrial estates, markets, and business centers have ceased operations. Millions of manufacturing workers experienced layoffs during 2020, not to mention those in the tourism, hospitality, aviation, and many other sectors. A second wave of layoffs in 2021 is predicted, as the Indonesian government has not succeeded in controlling the pandemic, much more with the emergence of a mutation of the Corona virus.

At the beginning of 2020, the economy was on the verge of recession due to minus growth. Even in the second quarter, the Ministry of Finance recorded Indonesia’s economic growth at minus 5.32 percent due to the PSBB policy. However, the economic crisis and the PSBB did not hamper the repressive practices of aggressive dispossession of land and land acquisition by giant business entities. On the contrary, agrarian conflict incidents in the field continued during the pandemic period.

During this year, KPA recorded 241 agrarian conflict incidents in 359 suburbs/villages, involving 135,337 families in a land area of 624,272.711 hectares. Compared to 2019, during which 279 conflict incidents were recorded, there is a decline of around 14 percent this year. However, this decrease in the number of recorded conflicts is insignificant, considering that the country is currently experiencing a drastic decline in economic growth. As comparison, between April to September 2019, the economy recorded a growth of 5.01 percent, with 133 agrarian conflicts recorded within that period. Meanwhile, in the

Figure 1. Comparison of economic growth and agrarian conflict for the periods April to September 2019 and April to September 2020



same period in 2020, during which Indonesia's economic growth fell to minus 4.4 percent, the tally of agrarian conflicts reached 138 incidents. In fact, even though the economic crisis hit and the PSBB was imposed, agrarian-based investment and business activities still continued to operate massively and repressively.

As another comparison, when the global economic crisis occurred in 2008, KPA agrarian conflict data showed a decrease in the number of agrarian conflict incidents, with "only" 24 being recorded. However, the current situation is far from proportional, with 241 agrarian conflict incidents having occurred in 2020 amidst the national economic recession.

Logically, the economic crisis due to the COVID-19 crisis should in fact contain the rate of incidence of agrarian conflicts in the field. This would have been expected given the negative economic growth, with the assumption being that many investment plans and the expansion of domestic and foreign business groups would be adversely affected.

Instead an anomaly occurred. Even the combined effects of a pandemic and negative economic growth were unable to hold back, let alone stop, the pace of corporate expansion involving aggressive dispossession of people's lands. For the people, the PSBB meant obeying the government's call for restraint and public health safety by drastically limiting their mobility and activities outside the home. Meanwhile, for large agrarian-based corporate groups, the said policy provided momentum for large-scale seizing of agrarian resources through aggressive dispossession. In fact, it is proven that agrarian conflicts surge when the pandemic crisis is at its peak and the PSBB is strictly enforced.

Another anomaly can be noted by comparing the current predicament with the crisis that occurred in 1998. At that time, it was the farmers and peasants who rose up to reclaim their lands that had been seized by the State and by corporations. In contrast, when the pandemic hit in 2020, companies still continued to succeed in acquiring and seizing land through aggressive dispossession.

Agrarian Conflict Incidence in 2020

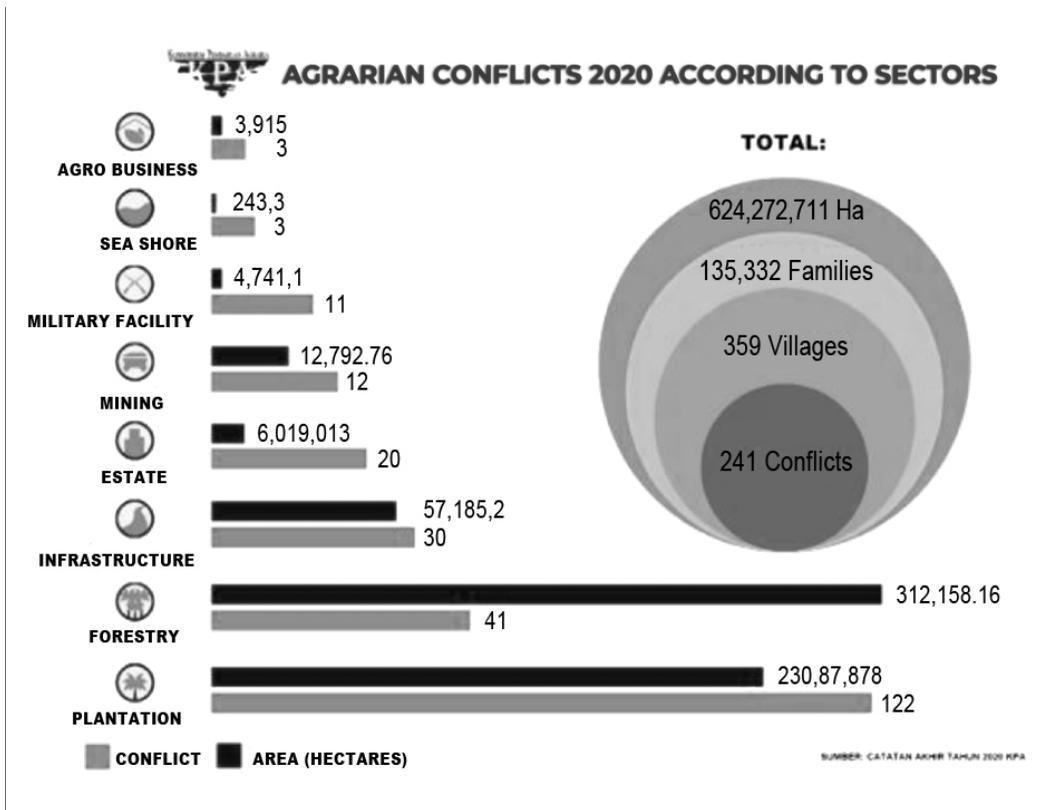
Throughout 2020, 241 agrarian conflict eruptions occurred in all the sectors that were monitored by KPA. Conflicts involved plantations (122); forestry (41); infrastructure development (30); property (20); mining, (12); military facilities (11); coastal and small islands (three); and, agribusiness (two).

The year was marked as well by many acute and systemic structural problems in Indonesia's plantation system. The indicator of this is that the plantation sector consistently dominates the negative aspects of agrarian affairs in the country from year to year — and in fact, it increased dramatically in 2020. The forestry sector ranks second in terms of having the most number of agrarian conflicts. These two "classic" sectors are the clear leaders in terms of agrarian conflict incidence.

Within the plantation sector, the conflict occurrences in 2020 were dominated by palm oil plantations with 101 conflict incidents recorded. Next were plantation companies for cloves, nutmeg, sugar cane, tea, coffee, rubber, and other agricultural commodities.

In the forestry sector, the agrarian conflicts throughout 2020 occurred due to the activities of 34 industrial plantation forest companies, six in protected forest areas, and one company conflict over forest concession rights.

Figure 2. Agrarian conflict incidents, by area per industry sector and by number of affected households



Meanwhile, there were 30 recorded agrarian conflicts due to infrastructure development projects in 2020 — a significant decline from 83 incidents in 2019. In 2020 as well, 17 agrarian conflict incidents were noted involving various National Strategic Projects and National Tourism Strategic Areas, from the construction of toll roads, airports, oil refineries, and ports, to the development of infrastructure to support premium tourism sites such as Lake Toba, Labuan Bajo, and Mandalika. While the rest of the recorded conflict incidents were due to the construction of transport stations, dams, sports centers, and other public facilities.

In the business property sector, agrarian conflicts arose due to: claims of government assets (eight), development of residential areas (six), real estate expansion (two), industrial estates (two), resorts (one), and office facilities (one).

Agrarian conflicts in the mining sector were dominated by mining of cement (four), gold (three), coal (two), sand (one), nickel (one), and geothermal projects (one).

Meanwhile, agrarian conflicts involving military facilities were caused by claims over the assets of the Indonesian Armed Forces (nine), combat training centers (one), and airfields (one). In the coastal and small islands sector, conflicts arose from the development of ponds (one), reclamation projects (one), and small islands (one). Finally, in the agribusiness sector, conflict incidents resulted from the construction of a food estate and a livestock center.

Distribution of Agrarian Conflict

Presented in terms of geographic distribution, the 241 agrarian conflict incidents in 2020 occurred in 30 provinces in Indonesia.

Sumatra Island leads in agrarian conflict incidence in 2020. The top five provinces were Riau (29), Jambi (21), North Sumatra (18), South Sumatra (17), and East Nusa Tenggara (16).

Figure 3. Distribution of agrarian conflicts per province



In Riau Province, palm oil plantations had the greatest number of agrarian conflicts with 21, forest areas with six, and the construction of power plants leading to two incidents. Among the companies identified as causing the conflicts were PT. Arara Abadi, PT. Medco Ratch Power Riau (MRPR), PT. Riau Andalan Pulp Paper (RAPP), as well as State-owned companies such as PT. PLN and PTPN V.

Meanwhile, in Jambi Province, 11 of the 21 conflict incidents involved plantations. Some of the companies involved included PT. Wira Karya Sakti (Sinarmas Group), PT. Erasakti Wira Forestama, PT. Indonusa, and PT. Agronusa Alam Sejahtera.

North Sumatra's recorded agrarian conflicts were in the plantation sector (eight), forest areas (four), infrastructure (three), property (one), food estate (one), and military facilities (one). The parties that were involved were the Lake Toba Tourism Authority Board (BPODT), the North Sumatra Provincial Government, PTPN II, and the Indonesian Air Force (TNI AU). Meanwhile, from the private sector, among the recorded companies were PT. Tolan Tiga Indonesia, PT. Cisadane Sawit Raya, and PT. Mega Mulya Mas.

Out of the 17 conflict incidents that occurred in South Sumatra Province, 11 were in plantation areas, while the remaining six were in forest areas. Involved in the latter were companies such as PT. Artha Prigel (investigated for the deaths of two Lahat farmers in March 2020), PT. Lonsum, and PTPN XIV.

In East Nusa Tenggara (NTT), conflict incidents occurred in almost all sectors including property (four), plantations (three), infrastructure (three), forestry (three), mining (two), and agribusiness (one). Business entities identified in these conflicts included the Labuan Bajo Tourism Authority Board (BOPLP), the NTT Provincial Government, PT. Waskita Karya, and PT. Rerolara Hokeng.

Despite the highest number of conflicts documented in Riau Province, the largest conflict area was in Papua Province with a total of 283,800 hectares. Second was Bangka Belitung Province with an affected area of 66,534.2 hectares; third was Riau with 60,339.218 hectares, then West Sumatra with 37,350 hectares, and finally by North Sumatra with an area of 23,969.61 hectares.

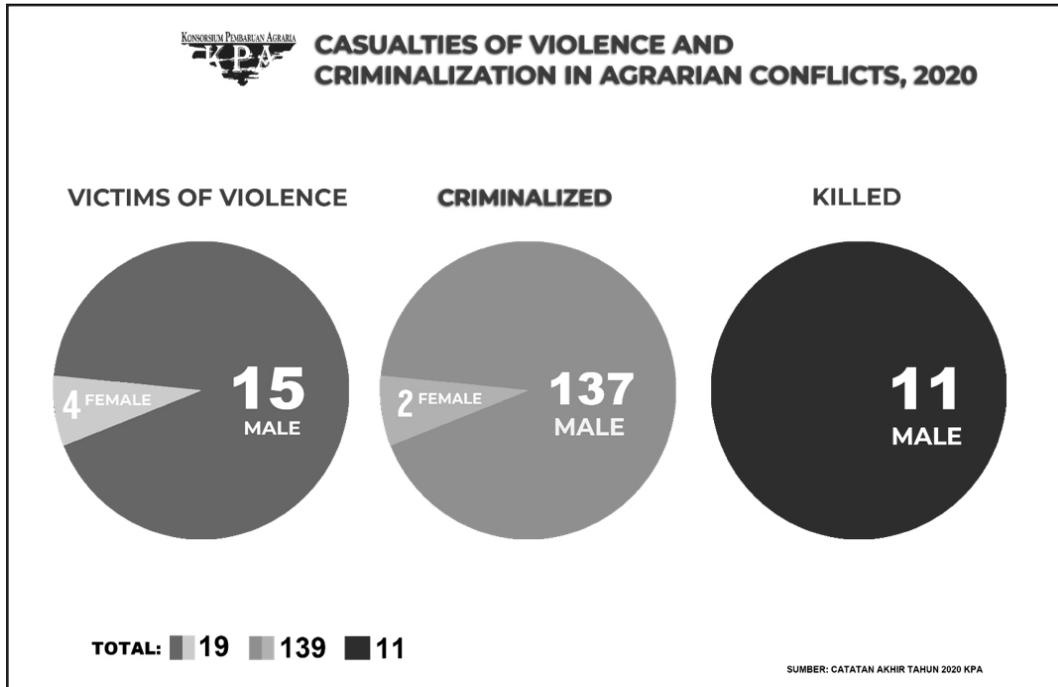
Violence and Criminalization in Agrarian Conflict

From January to December of 2020, KPA recorded at least 139 cases of criminalization (137 male victims and two female victims), 19 cases of maltreatment (15 men and four women), and 11 people killed in agrarian conflict areas.

This situation has escalated to multiple crises that are felt by peasants, indigenous peoples, fisherfolk, and other small communities living in these conflict areas. Local people who are already threatened by the ongoing health, economic, and food crises due

to the COVID-19 pandemic, have also become victims of agrarian conflicts and violence as they struggle to defend their villages and their sources of livelihood.

Figure 4. Victims of violence and criminalization



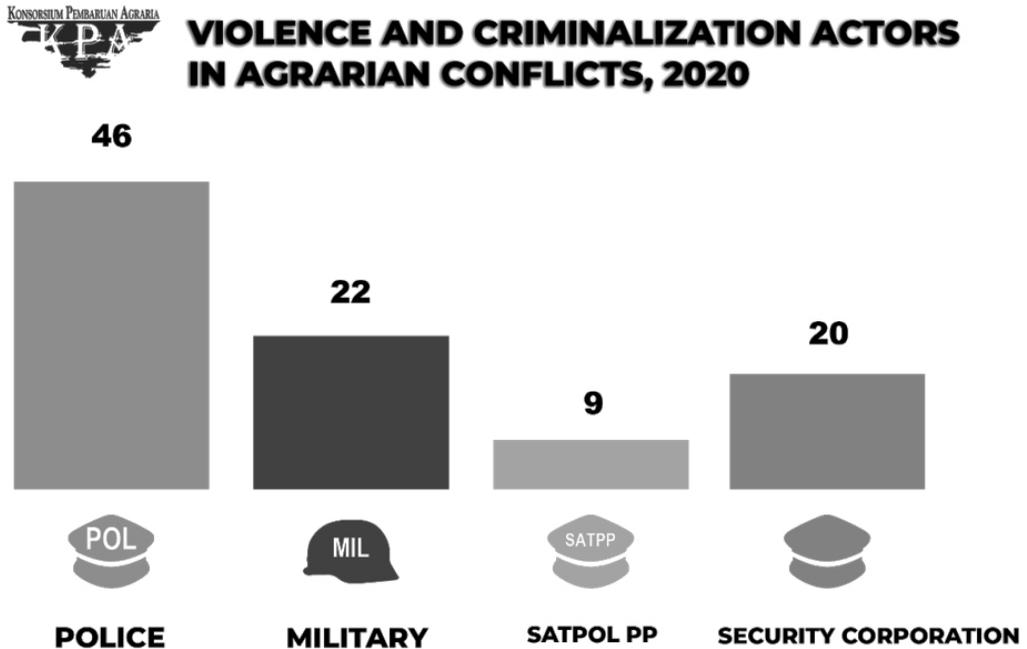
It is worth noting that many of the perpetrators of violence in areas of agrarian conflict were from the police, the military (TNI), and the local police (Satpol PP) – all part of the COVID-19 Task Force during the pandemic. Instead of creating an atmosphere conducive to adherence to health and safety protocols during the pandemic, many of these parties to agrarian conflicts behaved in the opposite way. The result was uneasiness and a feeling of repression among the citizens, provoking the public’s anger, and eventually creating a situation that was counterproductive to the PSBB itself.

In fact, within this year, 46 cases of violence and intimidation in agrarian conflict areas were recorded which involved police officers, followed by Indonesian National Armed Forces or military (22 cases), private security (20 cases), and nine cases involving local police (Satpol PP).

In March 2020, the National Police Chief issued an edict to support government policy to combat the COVID-19 outbreak. The purpose is to limit various forms of activities that may lead to crowds and activities that are counterproductive to government policies.

In the field, however, police officers themselves often commit acts of violence, intimidation, and criminalization upon victims in agrarian conflicts. At the end of 2020, the National Police Chief was summoned during President Joko Widodo’s Internal Meeting with KPA and other civil society organizations in order to discuss violence in agrarian conflicts and

Figure 5. Perpetrators of violence and criminalization in areas of agrarian conflict



agrarian reform. During the meeting, the President instructed the Chief of Police and other Ministers present that acts of violence, intimidation, and criminalization against the people in agrarian conflict situations should be stopped. Will this directive be executed by the police at the field level? The handling of agrarian conflicts in 2021 will prove whether such instructions are effective in suppressing the brutality of the officers in agrarian conflict areas.

From the data on farmers and indigenous peoples arrested by government in conflict situations, it seems that age and the risk of health vulnerability during the pandemic are not considered. One example is the criminalization case against farmers Natu bin Taka (75 years old) from Alel Sewo Village, Soppeng District; Sabang (47 years old) from Bila Village, Lalabata District; and, Ario Permadi (31 years old) from Soppeng, South Sulawesi. The three have had to deal with the police since April 2020, as they were arrested on charges of cutting trees in forest areas under articles of Law No. 18/2013 concerning the Prevention and Eradication of Forest Destruction (UU P3H).

Worried about being exposed to the virus, Mr. Natu and Mr. Sabang gathered their courage to undergo an examination at the Soppeng Police Station. At that time in Soppeng District, there were 28 ODP (patients under observation), 2 PDP (patients under surveillance), and one patient confirmed as positive for COVID-19.

Another case was that of Hermanus of Penyang Village, Telawang Subdistrict, Kotawaringin Timur Regency, Central Kalimantan. He was a victim of criminalization in an agrarian conflict with PT. Hamparan Masawit Bangun Persada (HMBP) Best Agro, and died while in detention. The victim and two colleagues, James Watt and Dilik, were charged with Article 107 (D) of the Plantation Law, or “illegally harvesting plantation products.” Hermanus died at the Sampit Regional General Hospital on 26 April 2020. Quoted from a media report, the victim had previously complained of illness and used a wheelchair in court. The victim also complained that he had been beaten in detention.

Various accusations based on articles of the same laws are often used by corporations and police officers to entrap and criminalize people living in areas of agrarian conflict. As seen in many criminalization cases in 2020, KPA noted that most accusers were still referring to articles under commonly used laws to ensnare the community members, such as the P3H Law, the Plantation Law, the Criminal Code or KUHP, the Minerba Law, and the Biodiversity Conservation Law.

Based on the number of those victimized by criminalization allegations, the laws most frequently cited were the Plantation Law (40 cases), the Criminal Code (34 cases), and the P3H Law (seven cases).

Table 1. Criminalization Articles Under Agrarian-related Laws

Name of Law	Article	Number of Victims of Criminalization
Law No.6 /2011 concerning Immigration	Article 122 letter a	1
Criminal Code (KUHP)	Article 170 (2), Article 406 (1), Article 363, Article 55 (1), Article 362, Article 406 (1), Article 365	34
UU No. 18/2013 concerning Prevention and Eradication of Forest Destruction (UU P3H)	Articles 82 (1) and (2), Article 12 (b), Article 1 (6), and Article 11	7
Law No.39/2014 on Plantation	Article 108, Article 107 d, Article 105	40
Law No.4/2009 concerning Mineral and Coal Mining (Minerba)	Article 162	1
Law No.5/1990 concerning Conservation of Biological Resources	Article 40 (2) in conjunction with Article 33 (3)	1

Records show that companies and officials often use these three laws in their efforts to intimidate and criminalize people who are in conflict with entities involved in agrarian ventures. They provide a deterrent effect on those who oppose development projects that will lead to evictions and aggressive dispossession of land in favor of corporate/business entity investments.

From year to year, the number of victims of criminalization based on these three laws continues to increase, even though the same legal instruments are often used in the same location. This happened in the criminalization of the Soppeng farmers, who are not the first

victims to be charged under the P3H Law. In 2017, four other Soppeng farmers were also accused under the same law and article. This continues to be repeated in other places.

The above case involving the P3H Law is certainly a reminder to the government regarding the existence of this law. In fact, the original intent of this law was to hold accountable business groups or companies found to be destroying forests. Unfortunately, until now, not one company has been caught under this law, amidst the increasing number of victims of criminalization within the affected communities.

Illustrative Cases of 2020 Agrarian Conflicts

The escalation of plantation and forestry conflicts

Based on the 241 incidents of agrarian conflict that occurred throughout 2020, 69 percent occurred in two sectors, namely plantations and forestry. The number of conflicts in the two sectors shows a high upward trend from the previous year. If in 2019 there were 87 agrarian conflict incidents in plantation areas, in 2020 the number reached 122 incidents. Agrarian conflicts in the forestry sector have doubled in 2020, from 20 conflict incidents in 2019 to 40 incidents.

Several cases of agrarian conflict in the plantation sector in 2020 involved PT. Mitra Aneka Rezki (MAP) versus the people of Medium Village, Suak District, Banyuasin Regency, South Sumatra. This conflict was caused by the eviction of the people from their agricultural land to make way for its conversion into a palm oil plantation. Residents who were entering the harvest period, found out their farms have been evicted by the company. The company demolished the huts where the farmers stored unhulled rice, and threw away the farmers' crops. This incident also involved police officers who stepped in to help the company.

In Lampung, the palm oil plantation of PT. Budi Darma Godam Perkasa evicted the residents of the cassava farm in Blambangan Pagar District, North Lampung. The company declared itself as the owner of the 72 hectares of land cultivated by the peasants, resulting in a legal dispute that is still ongoing in court.

Agrarian conflicts in the plantation sector during the pandemic also involved PTPN, a State-owned red plate plantation company. These conflicts were followed by intimidation, violence, and eviction of the community from their land.

Even in the midst of the economic and food crisis, PTPN continued practicing coercion. For example in South Sulawesi, PTPN XIV forced farmers in Likudengen Village, Uraso Village, Mappadeceng District, North Luwu to leave their agricultural land and village through a company circular letter. Ironically, this area is the Priority Location for Agrarian Reform (LPRA) proposed by KPA together with Wallacea to the government as urgent for conflict resolution and land redistribution within the framework of agrarian reform.

In North Sumatra, PTPN II assisted by the army and police officers successively took over agricultural land and traditional villages of Badan Perjuangan Rakyat Penunggu Indonesia (BPRPI) in two villages, namely Kampung Pertumbuhan (11/11) and Kampung Durian Selemak (29/11), Deli Serdang. Without hesitation and mercy, this eviction process and destruction of community food crops involved 300 Indonesian National Armed Forces officers, 100 mobile brigade corps (Brimob), and 200 company security forces, in support of PTPN for the development of sugarcane plantations and the expansion of the sugar industry. This area is likewise an LPRA where KPA members have appealed to the government to immediately resolve the conflict and recognize BPRPI's full rights, freed from PTPN claims.

Conflicts involving PTPN II in 2020 did not only involve the watchmen of the indigenous peoples. In the same district, PTPN II is also in conflict with the villagers of Sei Melingkar and Sei Mencirim, causing hundreds of peasants from these two villages to walk thousands of kilometers for more than 40 days from Deli Serang to Jakarta to protest their eviction by PTPN II from their agricultural land and villages. Through this walk of protest, they hoped that their case would be resolved and the land redistributed by the President.

In the forestry sector, even the economic and food crises during the pandemic were unable to deter the unilateral actions of forestry companies to seize community agricultural land and criminalize farmers. In the case of Parbuluan VI Village, Dairi Regency, North Sumatra, PT GRUTI unilaterally claimed the village and community agricultural land on the pretext of having obtained a concession permit from the Ministry of Environment and Forestry covering an area of 8,850 hectares, with the said concession including the community's settlements and agricultural land.

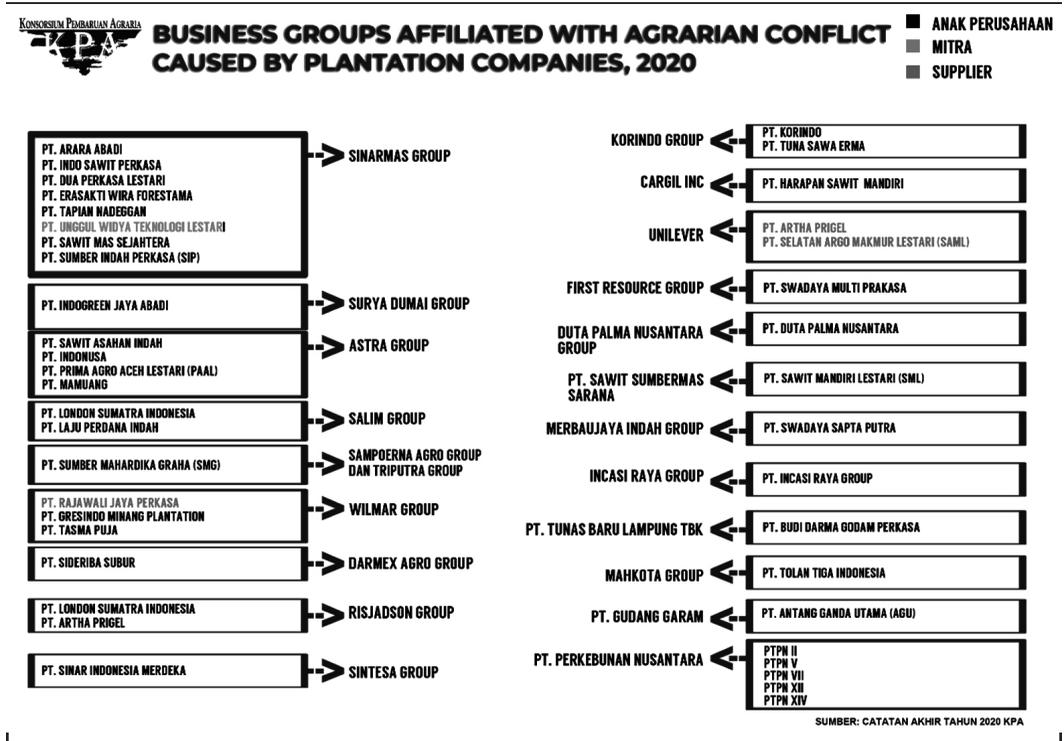
In Jambi, PT. Wira Karya Sakti (WKS), a subsidiary of APP Sinarmas, was recorded in several incidents of intimidation and eviction of residents of Lubuk Mandarsah Village, Tebo Regency, Jambi throughout 2020. On 3 March 2020, the company poisoned the residents' farmlands with herbicides via drones, damaging the farmers' chili, vegetable, rubber, and watermelon crops. In the same month, a farmer was charged by PT. WKS with aggressive dispossession of land, under the P3H Law.

A month later, PT. WKS again intimidated the residents while they were out in the farms. Together with the authorities, the company had two shots fired into the sky, causing fear to the residents. It did not stop there. On 26 to 27 September 2020, PT. WKS evicted farmers from their lands and gardens. Then on 2 December 2020, evictions were executed by the company, leveling agricultural lands, destroying banana, cassava, and other horticultural crops and vegetables belonging to the farmers.

Aggressive dispossession of land that has been cultivated and occupied by the community for years is a manifestation of structural agrarian conflict. Ironically, it is no secret that these aggressive dispossession practices are legitimized by the law, facilitated by the government, and affiliated with well-known corporate groups. For example, plantation and

forestry companies that performed aggressive land dispossession during the pandemic were affiliated with several palm oil and forest conglomerates in Indonesia, large national and global corporations, whether as suppliers, partners, or subsidiaries. The list includes Sinar Mas Group, Wilmar Group, Salim Group, Surya Dumai Group, Darmex Group, Sampoerna Agro Group, Triputra Group, PT. Gudang Garam, Cargill, Unilever, Shell Company, Korindo Group, Garyon Development Ltd. of Hongkong, Vily Wood Investment Ltd. of Hongkong, and APRIL, Texmaco, Marubeni, and First Resources Group.

Figure 6. Plantation companies affiliated to large business groups

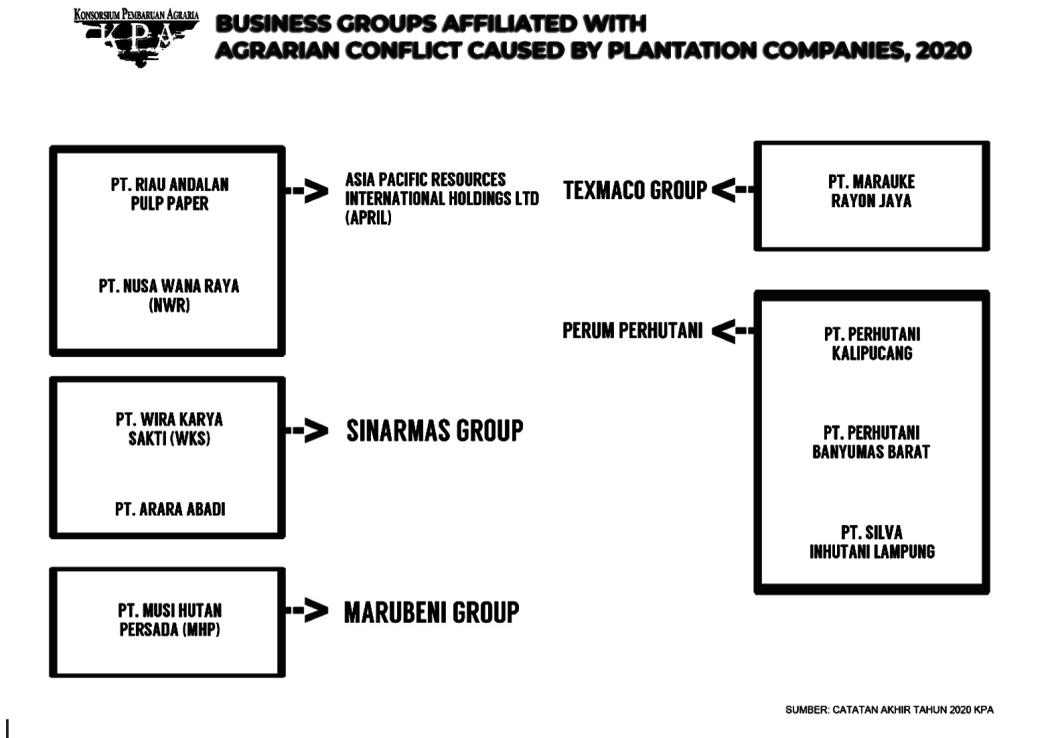


The persistence of evictions and aggressive dispossession of land by plantation and forestry companies in the midst of an economic recession is a reflection of how business players and giant business entities in the said sectors used the momentum of the crisis to accumulate their wealth by confirming claims and expanding their land holdings. Thus, historical records during the pandemic period reveal that the economic crisis that hit the nation actually served as the turning point of efforts to expand land monopolies and agrarian resources of conglomerate groups and large-scale business entities.

Lessons from the pandemic period also show the different situations faced in cities and villages, and their correlation with investment and the escalation of conflict. Cities experienced a downturn in business and investment in 2020, because of the widespread viral outbreak and stringent PSBB policies. Many trading areas and manufacturing companies in urban areas were forced to stop their activities, and even close down. Meanwhile in the villages, the situation is not as severe as in the city. Therefore, agrarian/

natural resources based companies are still free to operate in villages, including in areas of agrarian conflict. That is why, during the pandemic period, villages remained as targets of massive expansion for investment and the accumulation of wealth by business entities. While large companies that have business investments in many sectors may face constraints in urban areas, they are able to focus on their agrarian-based businesses in rural areas.

Figure 7. Forestry companies affiliated to large business groups



Agrarian conflict behind National Strategic Projects (PSN)

Throughout 2020, KPA recorded 30 incidents of agrarian conflicts in the infrastructure development sector. Among these, 17 were caused by the launch of the National Strategic Project (PSN) and the development of the National Tourism Strategic Area (KSPN), which includes the construction of airports, toll roads, dams, ports, and tourism areas and their supporting infrastructure.

Several cases related to PSN, including KSPN, are old cases that recurred this year, while the rest are new cases due to land acquisition processes for infrastructure development. One of these was the conflict which arose due to land acquisition for the construction of toll roads along Padang-Pekanbaru. This project consists of six sections: Section I (Padang to Sicincin); Section II (Sicincin to Bukittinggi); Section III (Bukittinggi to Payakumbuh); Section IV (Payakumbuh to Pangkalan); Section V (Pangkalan to Bangkinang); and, Section VI (Bangkinang to Pekanbaru). Ironically, the residents who are to be affected

were unaware of this mega project construction plan from the beginning. The resulting threat of eviction from their settlements and rice fields led to protests by residents of Nagari Koto Baru, Lima Kota Regency, West Sumatra.

In addition, there was the plan to build the North Bali Airport in Gerokgak District, Buleleng Regency, Bali. Initially, this project was targeted for construction in the eastern part of Buleleng, specifically in Kubutambahan, Buleleng. However, the project location was moved, threatening partial displacement of Sumberklampok Village. This plan triggered protests from villagers as the settlement from the provincial government's asset claims has not yet been completed, and now there is a plan to build an airport that will displace portions of the cultivated land and villages that they have been fighting for decades. The location has even been proposed to the President as one of the Priority Locations for Agrarian Reform (LPRA).

Furthermore, several infrastructure conflict incidents erupted again this year. One of these was caused by the construction of the Mandalika Circuit in West Nusa Tenggara, the compensation process of which has not yet been completed. Then, there is the development of premium tourism areas in Lake Toba and Labuan Bajo which are still ongoing and threaten the survival of the local community.

The process of land acquisition for infrastructure development projects often results in the same complex problems year after year. And the appeals or protests of the affected communities continue to be dealt with using processes that are closed, intimidating, manipulative, and even violent.

Law No. 2/2012 concerning Land Acquisition for Development in Public Interest has provided options for compensation to affected residents. In addition to compensation money, there are options for granting replacement land, resettlement, capital participation (share ownership), and other forms agreed to by both parties. Unfortunately, the rights of the affected people to these options are often not granted, or are deliberately covered up by taking advantage of the citizens' ignorance of their rights as regulated by the law. Instead of presenting the various options, the government tends to direct and encourage monetary compensation, which often does not benefit the affected residents due to corrupt and manipulative practices of the officials in the field.

Further, regarding land acquisition, Law No. 11/2020 concerning Job Creation (Omnibus Law) has undergone a major revision that is certain to have a negative impact. This is because the Omnibus Law has expanded the scope of the term "public interest" to now apply to not only infrastructure projects, but also to land acquisition for PSN, KEK, tourism, mining, property business, and the need to develop food security areas. All these sectors could now use this new legal instrument.

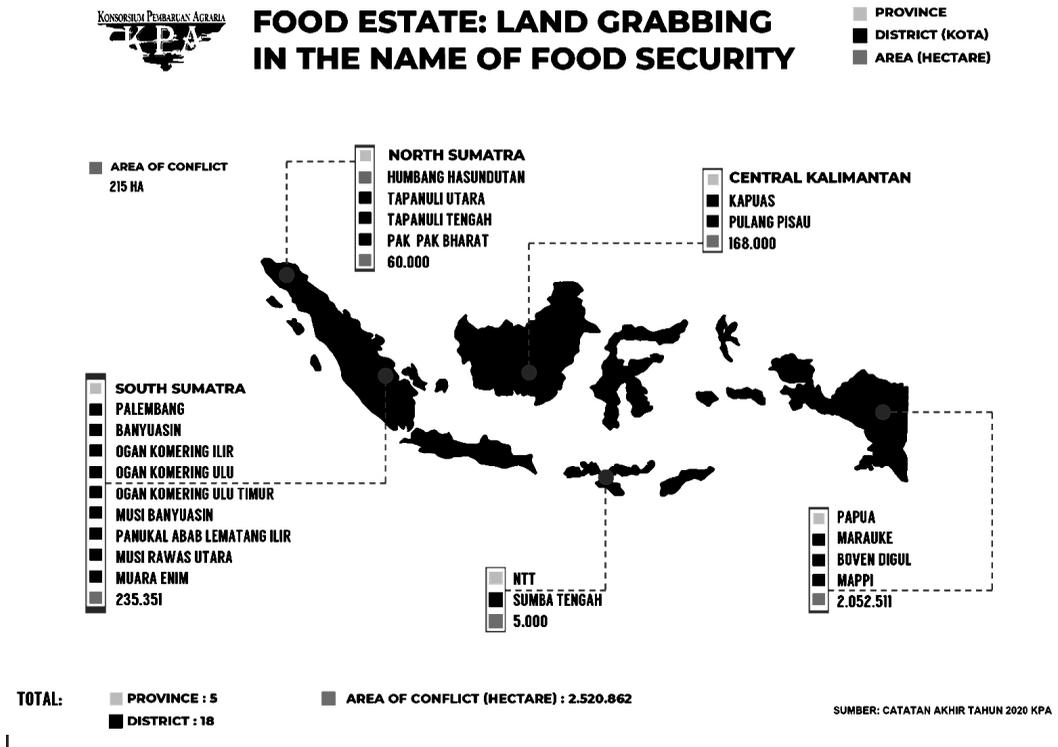
The Omnibus Law shall diminish the rights of citizens to object, to participate in processes, and to access information. Previously, public participation in determining the

approval or objection to the location of a development project was guaranteed in Law No. 2/2012. However, the Omnibus Law has now eliminated the opportunity for affected residents to veto the development plan if it is felt that it will cause more losses.

Food Estate: Aggressive Dispossession of Land in the Name of Food Security

Although not a new program, the Food Estate or National Food Barn program in the Jokowi era was the government’s response to the threat of the food crisis in Indonesia during the pandemic period. This program is intended to not only overcome the threat of the current food crisis, but to improve food security in Indonesia in the future as well.

The Food Estate Program is included in the list of National Strategic Projects (PSN) for 2015 to 2019. Among the target projects is the national food granary program that is planned Figure 8. Distribution of agrarian conflicts due to food estate development



to be established in several locations: 1) Papua [1.2 million hectares], 2) West Kalimantan [120,000 hectares], 3) Central Kalimantan [180,000 hectares], 4) East Kalimantan [10,000 hectares], and 5) Maluku [190,000 hectares].

From these initial targets, the government revised several PSN targets through Presidential Regulation No. 109/2020, concerning the Third Amendment to Presidential Regulation No. 3/2016 on Accelerating the Implementation of National Strategic Projects. One of the revised projects is the Food Estate program. In the President’s Limited Meeting (Ratas) regarding the Food Estate program on 23 September 2020, President Jokowi

gave directions and at the same time revised the previous food barn program target to five locations. In the first phase, the project will be implemented in Central Kalimantan (168,000 hectares) in Kapuas and Pulang Pisau districts; in North Sumatra (60,000 hectares), specifically in Humbang Hasundutan Regency, North Tapanuli Regency, Central Tapanuli Regency, and Pak-Pak Bharat Regency.

The second phase will then be accomplished in South Sumatra, East Nusa Tenggara to Papua. In South Sumatra, this food barn program will be opened in nine districts/cities covering 235,351 hectares, namely: 1) Palembang, 2) Banyuasin, 3) Ogan Komering Ilir, 4) Ogan Komering Ulu, 5) Ogan Komering Ulu Timur, 6) Musi Banyuasin, 7) Panukal Abab Lematang Ilir, 8) Musi Rawas Utara, and 9) Muara Enim.

As for East Nusa Tenggara (NTT), a food barn will be opened in Central Sumba Regency covering an area of 5,000 hectares. In Papua, food barns will be opened in Merauke, Boven Digoel, and Mappi districts, covering an area of 2,052,551 hectares. Especially in Merauke, the government will continue the food barn project that was initiated during the term of President Soesilo Bambang Yudhoyono (SBY) through the Merauke Integrated Food Energy Estate (MIFEE) project in 2011. The MIFEE project was an ambitious undertaking that in the end had many failures.

The current similarly ambitious project does look very promising, particularly as it is wrapped in a food security narrative. However, learning from past experiences, the government should rethink this grand plan. Records show how the same policy had failed miserably in the era of Soeharto and SBY's government. Apart from stalling, such projects have resulted in the accumulation of land tenure by large companies through practices involving aggressive dispossession of land, marginalization of farmers, and environmental degradation.

First, there is the threat of aggressive dispossession of land and agrarian conflicts. One example of these is the land clearing project for a food barn in Pollung District, Humbang Hasundutan, which has claimed the lives of several victims. Out of the 1,000 hectares of land clearing targeted in 2020, 215 hectares have been released. However, this has triggered an eruption of agrarian conflicts because the food barn location is in customary territory.

If the government does not adhere to the principle of prudence in the land acquisition process for the location of this food storage project, it can only be imagined how extensive the agrarian conflicts and aggressive dispossession of land will be, caused by the implementation of this Food Estate project. Moreover, reflecting on the government's approach, it is often reckless in issuing location permits without first assessing the situation in the field. Issuing permits on lands that are claimed as State land or no-man's land, even though, based on the facts in the field, these have clearly become cultivated land, settlements, even villages and suburbs, may well be the cause of agrarian conflicts and casualties.

Second, the Food Estate project has actually marginalized peasants from the world of agriculture itself. While the project is indeed talking about food, it is not designed to position peasants as the main food producers. This is because the food security program relies on food production from upstream to downstream on the shoulders of large food corporations. This means that matters of food and agricultural products will be fully left up to the agri-food corporations. Meanwhile, peasants and villagers are directed to become workers in the locations of the Food Estate. In effect, the State is encouraging the marginalization of farmers and the loss of small farmer families (depeasantisation) in a massive and structured manner.

As reported by the Ministry of Agriculture, for the Food Estate Project in Humbahas alone, there are already several private corporations ready to invest, such as PT. Indofood, PT. Calbe Wings, PT. Champ, PT. Semangat Tani Maju Bersama, PT. Agra Garlica, PT. Agri Indo Sejahtera, and PT. Karya Tani Semesta.

Third, the Food Estate has the potential to damage the environment, because most of the project's locations are on peat land. An earlier project initiated by President Soeharto to locate one million hectares of paddy fields on peatland, not only ended in complete failure, but also leads to very severe environmental degradation.

The economic and food crisis caused by this pandemic should have alerted the government and all parties as to where the development system that has been running so far must be overhauled. In other words, this food crisis should be an opportunity to change the structure of tenure and land use in rural areas, remodel the rural monoculture landscape into food sovereign villages based on farmer households, and ensure that farmers have sufficient land and strengthened capacity for agriculture. This could be done through providing State lands from PTPN, PERHUTANI, HTI claims, including abandoned private plantations, vacant land in villages and cities for the people to develop agricultural centers, livestock facilities, and food gardens to minimize the impact of this food crisis.

The experience of KPA during the pandemic and decades of struggling for land rights has proven that villages and suburbs that are food sovereign, which have resilience amidst the economic crisis and the threat of the current food crisis, could only be created in areas where farmers and their families farm their own land for food crops. Even during the pandemic, villages like these still experienced a food surplus and were able to be at the forefront of mobilizing food donations to food insecure areas — including distributing the harvest to cities that had become epicenters of the virus spread.

Unfortunately, instead of implementing agrarian reform and enhancing the production capacity of the farmers as national food producers, the government is repeating the old model and past mistakes of the previous government through food liberalization and militarization. Building a Food Estate based on monoculture agriculture by relying on the management and development of corporations not farmers is far from the principles of food sovereignty and the people's economy that we aspire to.

Increased Agrarian Conflict with the Army

In 2020, the army institution (TNI) was often the actor causing agrarian conflicts with communities to arise. Within the year, 12 agrarian conflict incidents resulted from the military institution's claims on land and community settlements. Nine were cases of claims of assets (land) by the Indonesian National Armed Forces, while a community conflict was each claimed for a combat training center, an airfield, and an army hostel. These conflicts involved the Indonesian Army and the Air Force, including the Raci Air Force, Hasanuddin XIV Military Command, Southwest Aceh Military Command 0110, Minahasa Kodim, Tambrauw Military Command, and Yonif 141/Ayjp Muara Enim.

Several other agrarian conflicts that emerged this year were due to claims of Indonesian National Armed Forces. One example is the agrarian conflict between residents of Bara-Baraya Village, Makassar and Kodam XIV Hasanuddin (14th Military Regional Command). The dispute stems from the claim of the TNI and the claiming heirs of 28 Bara-Baraya residents, namely Moeding Daeng Matika, over a three-hectare piece of land that has been occupied the residents since 1960. Evidence of the settlement is corroborated proof of ownership rights from residents. Moeding Daeng Matika and the Kodam claimed the area as an Army dormitory land.

In Aceh, agrarian conflicts occurred between residents of Lama Tuha Village, Kuala Batee District, Aceh Barat Daya District, and Kodim 0110 Abuya. This conflict resulted from the Kodim's shooting and kidnapping of residents to intimidate them, and pave the way for the Kodim's plan to acquire 56 hectares of land occupied by the residents.

Agrarian conflicts between the people and the TNI are common in Indonesia, ever since the Old Order government. However, until now, there has yet to be an equitable solution for farmers and communities in conflict with the TNI. In fact, the government often sides with the TNI, and even seems to allow acts of violence and the deployment of heavy equipment to destroy farmers' crops and displace residents from their land. One example is the agrarian conflict in Urut Sewu, where the government unilaterally gave land certificates to the TNI, despite historical basis and the position of the farmers being stronger than that of the Army.

Conclusion and Recommendations

In the reform era accompanied by a pandemic, the aggressive dispossession of people's land is carried out through various regulations designed to produce spatial reorganization for new capital accumulation. Monoculture plantation development, infrastructure development, special economic zones, food estates, "New Bali" premium tourism, mining business, forest swapping, property business, manufacturing and fisheries industries, and so on, are forms of spatial reorganization, which are increasingly positioning Indonesia as a provider of raw materials, a source of cheap labor, a user of dirty energy sources, and a market for the global manufacturing industry.

For the people, 2020 has been a year of large-scale, aggressive dispossession of land. In the midst of the pandemic and the resulting economic recession, it turns out that consolidation and expansion of land tenure for business purposes, especially plantations and forestry, are increasingly being executed by private and State enterprises. In fact, the pandemic situation is being used to provide momentum for land acquisition and capital expansion resulting in aggressive land dispossession which is facilitated by law.

The ease with which aggressive dispossession of land and the extraction of natural resources is carried out is also supported by the development of an increasingly interconnected infrastructure network. Large-scale and aggressive dispossession of land has caused widespread emergence of structural agrarian conflicts in many parts of the country.

The increase in the number of agrarian conflicts in the plantation sector by 28 percent from last year, and by as much as 100 percent in the forestry sector with affected families reaching 135,332 households, proves that the pandemic has not stopped the rate of expansion investors. This situation is tragic, because it takes place at a time when people are struggling to survive the spread of the COVID-19 pandemic and the effects of a weakened economy. Moreover, agrarian conflicts are always accompanied by violence and arrests in the affected communities.

From 2015 to 2020, the total number of structural agrarian conflicts has risen to 2,288 cases. After six years, with the manner in which President Jokowi's government has responded to and handled agrarian conflicts and the violence that has occurred, it can be concluded that the biggest obstacle to resolving agrarian conflicts is no longer a matter of weak political will. Rather, it is an attitude of neglect and a lack of urgent action by the State towards agrarian conflicts and their aftermath. This neglect is a reflection of the government's unwillingness to acknowledge the existence of this structural problem, which continues to escalate and become more acute. To date, there has been no serious, institutionalized, systematic, cross-sectoral and authoritative effort to resolve agrarian conflicts — both old and new — completely.

Neglect also results in the government failing to uncover the root of the problem and the "tangled threads" of agrarian conflicts. Ironically, all these are actually acknowledged and understood and are, in fact, constantly being discussed, such as the unequal structure of ownership, control, exploitation, and utilization of agrarian resources. The continued failure to address this situation of inequality for decades, including in the last six years, only serves to produce more vast land monopolies by a handful of groups.

The neglect and lack of action by the State to address the large-scale, aggressive dispossession of land practices that are detrimental to the people and exacerbate this inequality, opens the veil to reveal how strong the involvement of the political and business elite is in the conflicts that erupt. In fact, this situation has the potential to worsen with the passage of the Job Creation Law that is highly supportive of capital interests.

In the Job Creation Law, it is explicitly evident that land and other agrarian resources are again prioritized for large-scale business entities. In fact, agrarian conflicts, aggressive dispossession of land, and inequality are further facilitated by the new law and various derivative government regulations (RPP). Legal alignments and special facilities for investors and giant business entities will also further encourage security forces to commit brutality in support of business interests in conflict areas.

Until the sixth year of the current administration, we see how the Joko Widodo government has failed to provide a sense of security, protection, and fulfillment of rights to the majority of peasants and small communities, who have long wanted conflict resolution within the framework of agrarian reform. Tens of thousands of villages, suburbs, agricultural land areas, community gardens, settlements, public facilities, and community facilities have not yet been released and liberated from the claims of State-owned enterprises or BUMN assets (PTPN HGU, PERHUTANI) — private plantations (abandoned, expired, and active HGU), forests, provincial government assets, HTI permits, HPH, and conflicts over the transmigration program and land acquisition.

Finally, the pandemic crisis and large-scale, aggressive dispossession of land throughout 2020 have caused farmers, farm laborers, fisherfolk, indigenous peoples, women and children in poor rural and urban communities to live in worse situations than before.

Therefore, the following recommendations are put forward:

First, a paradigm shift is necessary in the recognition of people's rights to land, in the understanding and practices regarding "State land" and "forest areas," as well as how the government and security forces respond to the existence of agrarian conflict itself as a structural problem.

Second, a political breakthrough is also required in order to complete such a paradigm shift, not to return to the old and usual ways or "business as usual." This underscores the urgency of establishing a special agency for the resolution of structural agrarian conflicts, in line with the objectives of agrarian reform. In this way, the process of releasing the concession claims and rights mentioned above, which have ensnared the community for decades, shall be realized concretely, systematically, quickly, and on target — given that the various existing institutions for complaint and conflict resolution have proven unable to deliver the results as expected by the wider community.

Third, there is an urgent need to undertake the process of restructuring land tenure and redistributing it to farmers and poor communities who are experiencing prolonged agrarian conflicts. Therefore, a fundamental change is needed not to reduce Agrarian Reform from just an ordinary land certification program.

The Joko Widodo administration must recognize that neglecting to resolve agrarian conflicts and allowing inequality of land tenure to persist will lead to greater social, economic, and

political turmoil in the future. Moreover, a close examination of the substance of the Job Creation Law reveals that new legal instruments contained therein would make it even easier for the aggressive dispossession of land and natural resources, as well as the eviction of communities — making the future situation of agrarian conflicts in Indonesia even more dire than it is now.

Moreover, 2020 has given a strong indication that, in the midst of a struggling economy, large-scale, aggressive dispossession of land has not decreased. ■

ACRONYMS

KNPA	National Committee for Agrarian Reform
KPA	Konsorsium Pembaruan Agraria
LPRA	Priority Locations for Agrarian Reform
PSBB	Large-Scale Social Restrictions
TNI	Indonesian National Armed Forces
UUPA	Agrarian Basic Law

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Furthermore, thank you to all parties who have provided input on this conflict report to continue to develop a reference for information and data on agrarian conflicts in Indonesia.

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Evictions Continue: The Reality of Landless and Informal Settlers

2020 Nepal Land Conflict Monitoring Report

Binod Gautam

Community Self Reliance Centre (CSRC)

Rationale of the study

Ownership of land is associated with power and wealth. Not only do those who control land control its produce but also the many people who are dependent on it. Thus, the social stratification that emerged put landowners as elite rulers of society (Parlevliet, 2009). Those who have land ownership rights can exercise other rights as well, such as the right to housing, the right to education, the right to health, and the right to live a dignified life (Kaplan, 1995).

Land issues have always been among the contentious issues in Nepal (Dhakal, 2011). “Land conflicts in the country have multiple dimensions, the most common form of land conflicts includes inheritance conflicts among family members, boundary conflicts between neighbors, conflict between landless people and government authorities or local communities, and conflict between land owners and tenants, among others” (IOM, 2016). The government’s development projects also affect the lives of landless and land-poor farmers with the threat of displacement from their place of origin. For instance, on 30 August 2019, the Social Welfare Council, the arm of the government that monitors national and international non-government organizations, decided to list the “game changer” projects of Nepal (Shrestha, 2019). Similarly, the National Planning Commission (NPC) has also listed some mega projects such as the Kathmandu-Tarai fast track, the East-West electric railway, some hydropower projects, etc. as the game changer projects. The main objective of these projects is to uplift Nepal as a developing country from a least developed country. However, there is another grim story behind these projects, which has been shadowed in the name of development. No institutions have been formed to analyze the effect of such projects and their long-term impact on the lives of thousands of landless and land-poor farmers in Nepal.

These game changer projects have directly affected the lives of thousands of landless and land-poor farmers through displacement from their place of origin. The government’s

authorities are claiming that their projects will fulfill the aim of the government for a “Happy Nepali and Prosperous Nepal.” However, the incidence of conflict between government and the affected family members is increasing as the government demolishes the houses of landless and informal settlers, evicting them from unregistered land where they have been living for decades.



An old woman weeps when security personnel demolished her hut in Banke district

In Nepal, the development agenda and projects are always set by the government’s authorities or development partners without consulting with local people. These authorities and development partners are largely unaware of the relation of land with the people’s daily lives. Only compensation in the form of money is offered, which does not respect the culture, values, and heritage of the local people. Thus, the people sometimes oppose the development agendas or projects set by the government. In this study report, the Community Self Reliance Centre (CSRC) has tried to analyze the nature of land conflict in Nepal, the driver forces behind it, the total number of cases monitored, and recommendations to the government and civil society organizations (CSOs) for the mitigation of land conflict in Nepal.

Objectives of the study

The main objective of this study is to document major conflict-related cases, analyze them based on their nature and issues, and recommend how the concerned authorities should take necessary actions to mitigate such conflict. Specifically, the study has the following objectives:

- to describe the *prevalence and types* of land and natural resource conflicts in Nepal;
- to discuss the *impacts and outcomes* of land and natural resource conflicts on communities, as well as on land rights defenders;
- to analyze major legal frameworks to safeguard the rights of people in order to minimize land conflict in Nepal; and,
- to draw up *recommendations* based on the study findings and consultations with victims and government stakeholders in Nepal.

Concepts and definitions used in the study

Conflict: Disagreements, public complaints, and protests involving arguments, physical assault, violence, and lawsuits. These are often caused by feelings of unfairness, injustice, suspicion, anger, emotion, and mistrust regarding control over resources or differences in ideology (Martinelli and Almeida, 1998, as cited in Upreti, 2004). Conflict —

whether “manifest” meaning visible or “latent” meaning invisible — “occurs because of difference in values, beliefs and interests, ambiguity over responsibility and authority, poor communication, and unwillingness to respond to social, political, cultural, technological, economic, and social changes” (Buckles, 1999; Walker and Daniels, 1997, as cited in Upreti, 2004).

In the case of Nepal, social and resource conflicts emerge due to the failure to meet social, political, and economic needs, scarcity of resources, corruption, bad governance, poverty, and inequality (Upreti, 2002 as cited in Upreti, 2004). Other causes of conflict are contradictions and inconsistencies in the application of formal legal procedures and customary practices, differences in local norms and beliefs, as well as management differences (Oli, 1998, as cited in Upreti, 2004). In addition, corruption, abuse of authority, misuse of power, illegal forms of pressure, lack of transparency, and deviation from public duties also trigger conflict (Upreti 2002; Panday 2001, as cited in Upreti, 2004).

Aggressor: A stakeholder whose claim over the land under contestation is not inherent to their survival and identity

Arbitrator: A third party facilitator authorized to study the context and the interests of stakeholders to make a decision on the conflict

Land Rights Holder: A stakeholder whose rights to and relationship with the land under contestation is held under law, tenure reforms or custom, and inherent to their survival and identity

Land Rights Defenders: Stakeholders who may be Land Rights Holders or support groups assisting Land Rights Holders to defend their land rights

Mediator: A person or institution designated to de-escalate conflict and to set rules of engagement in managing/resolving the conflict

Mega Project: Projects involving large-scale investment and the acquisition of large areas of land; with multiple persons (more than two) involved as contractors.

Methodology and data sources

CSRC collected land conflict data from 13 different districts: Surkhet, Siraha, Sarlahi, Makawanpur, Mahottari, Lalitpur, Banke, Bardiya, Chitwan, Kailali, Kathmandu, Jhapa, and Parsa in consultation with its District Land Rights Forum (DLRF) members. Prior to the selection of land conflict related cases, a simple database system was developed and sent to the DLRFs to collate land conflict related data. The data reported by the DLRF members showed that these six districts (namely Parsa, Siraha, Bardiya, Surkhet, Kathmandu and Lalitpur) have a high rate of land conflict related cases (more than 50 in 2020). In addition, the following data collection tools were used to conduct the study:

Media Monitoring: Four national newspapers — *Kantipur*, *Nagarik*, *Naya Patrika*, and *Kathmandu Post* — are the main sources of case collection. In the same way, three online portals — *setopati.com*, *onlinekhabar.com*, and *nepalpress.com* — were also visited to obtain necessary secondary data especially the news of land conflict focusing on the above 13 districts of Nepal.

Information Collection from DLRFs: Some primary information of the affected population, such as names of victims, ages, types of violence, perpetrators, and causes of conflict, were collected from the members of DLRFs and Village Land Rights Forums (VLRFs) that have been working in these areas.

Key Informant Interview (KII): To gather information in relation to reported conflicts, five land rights activists were interviewed, as well as the chairperson of the National Land Rights Forum (NLRF), six family members of victims, and two representatives of local governments who are responsible for the settlement of land-related disputes.

Document Review: A range of published and unpublished study reports produced by various government and non-government organizations and agencies were reviewed to extract relevant information. The representative cases of land conflict were also validated from these reports and publications.

Field Visits: A team of CSRC visited the affected areas two times to observe the situation, and to collect quantitative and qualitative information on land conflict cases. The members of affected households, representatives of local governments, and representatives of land rights forums were consulted during these field visits.

Report Validation Workshop: A validation workshop with government line agencies, UN agencies, and civil society organizations was conducted on 19 July 2021, to validate the findings and solidify or refine the recommendations included in this report. The recommendations, suggestions, and comments resulting from the validation workshop were also incorporated in this report.

The collected data were recorded in a standard database system developed in consultation with a team from the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). The details of the information in the database were then analyzed and presented in bar chart, pivot table, and other data presentation formats of Microsoft Excel.

Scope and limitations of the study

This study has been conducted to prepare a concise Land Conflict Monitoring Report based on the guidelines developed by ANGOC in consultation with Land Watch Asia (LWA) and, therefore, it has been guided by more secondary information. The land conflict related cases from 1 January 2020 to 31 December 2020 have been monitored and

analyzed to accomplish this study. Out of two types of conflicts, this study has covered the cases of manifest (visible) conflict and not latent (invisible) conflict. Media sources, affected persons, and other stakeholders were interviewed to further elaborate on the information of the cases.

Brief overview of the country context and legal framework

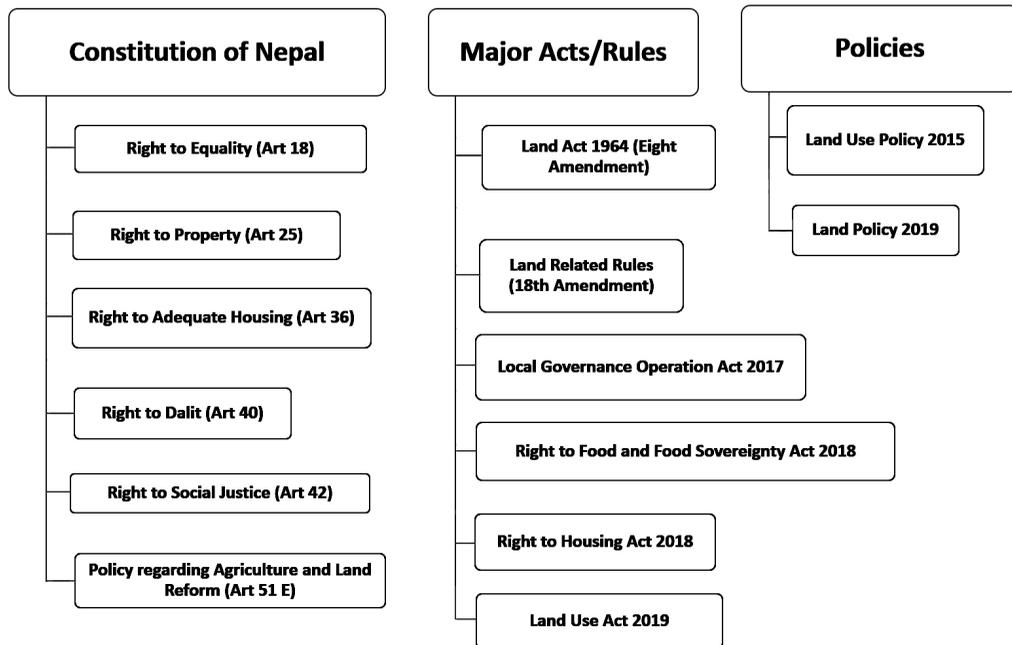
Up to 25 percent of Nepal's population is estimated to be landless or near-landless. The bottom 47 percent of agricultural households control only 15 percent of agricultural land, while the top five percent control more than 37 percent. There is a human rights consequence to such landlessness which has far-reaching impacts. Among these are exploitative labor conditions for tenant farmers and near bonded-labor conditions for bonded laborers; often violent evictions; lack of access to traditional resources (e.g., fisheries and forests) for tribal and indigenous groups. Further consequences are the lack of access to water and food resources; limited access to the police and the judiciary; and, discrimination against women, *Dalits*, ethnic and religious minorities, and tribal groups who are a large proportion of Nepal's landless people (Wickeri, 2011).

The Constitution of Nepal has guaranteed fundamental rights to protect, respect, and remedy of land rights of all people. The Right to Equality (Article 18) clearly states that all citizens shall be equal before the law and all people are to be treated equally. In the same way, the Right to Property (Art 25) outlines that the State shall not, except in the public interest, acquire, requisition or create any encumbrance on the property of any person. The Right to Women (Article 38) guarantees that both spouses shall have equal rights in property and family affairs. Finally, the Right to Dalit (Article 40) obliges the government to provide land to the landless Dalit as per the law. The fundamental rights enshrined in the Constitution are guaranteed equally to all citizens regardless of their caste, ethnicity, and access to natural resources. Similarly, the Constitution has a Policy Regarding Agriculture and Land Reform in Article 51 (E), providing for scientific land reform abolishing dual land ownership, as well as ensuring tenure security of landless and land poor families.

Similarly, the Constitution and the Local Government Operation Act have guaranteed 22 different rights of agricultural workers, and have ensured autonomy of local governments to devise their own rules and regulations related to governance, protection, and utilization of land, forest, and water resources under their jurisdiction. They are also empowered to prepare long-term development plans, formulate policies and implement them. However, since Nepal has only recently transitioned to federalism, most of the local government units — among 753 local units in total — are still unaware of available resources, such as land, water, forest, and so on, and their potential for growth within their boundaries and the revenue they can generate. Local governments also have the right to resolve land-related disputes but lacks trained human resources for this at the local government level.

Besides constitutional provisions, there are other laws that safeguard the people's rights over land. The Government of Nepal formulated a Land Use Policy in 2015 with the aim of

Figure 1. Summarized Land Laws in figure by the author.



protecting land and land resources, ensuring optimum use and effective management. The Land Use Policy reads that “in the context of Nepal, on account of fast-growing population, internal migration, unmanaged and rapid urbanization, among others, encroachment over arable lands, forests, government and public lands, various natural resources is rampant these days, and the protection thereof has posed a challenge now. Disaster-risks such as: soil erosion, floods, and landslides are escalating by the impact of geographical and geological conditions and/or ecological changes” (MoLRM, 2015).

In the same way, the Members of Parliament have amended the Land Act 1964 (eight times) and included provisions to giving land to the landless and informal settlers who have been living in public places for more than 10 years. This Act has paved the way for the granting of land certificates in areas where landless and informal settlers have been living for long periods. The Land Related Rules (18th Amendment) is also concerned with securing land rights of landless and informal settlers (those who are living in unregistered land). The rules clearly state that informal settlers who are living in vulnerable locations such as disaster-prone areas, forests, near roads and other vulnerable areas should be relocated to safe zones. The Right to Food and Food Sovereignty Act 2018 and the Right to Housing Act 2018 are also concerned with ensuring land to the landless and land poor families.

In the same way, a ruling by the Supreme Court is also recognized as a formal legal directive for High and District Courts. Deciding on a case of forceful eviction, the Supreme

Court on 30 July 2020 directed all tiers of government not to resort to forceful eviction of people from their settlements, no matter where they are living. In effect, government must respect the order of the Supreme Court.

Major Factors that Fuel Land Conflicts in Nepal

Land has been taken as one of the fundamental natural resources for living, an economic asset for production, a legal entity with multiple rights over it and, above all, a societal factor for self-actualization. Therefore, ownership of land has multi-faceted understandings in different parts of the world. For a developing country like Nepal, having diverse societal arrangements, the land tenure system plays an important role in the economic, social, and political structure. However, thousands of people are deprived of the right to land ownership as well as denied equitable justice. “In Nepal, the most common forms of land-related conflicts include forceful eviction, conflict over boundaries and land demarcation, conflict between tenants and landlords, encroachment of public land, control of *Guthi* land (land allocated for religious purposes) and its revenues, land registration and cancellation and conflict over inheritance” (Sharma et al., 2014, as cited in IOM, 2016). Some of the factors that fuel land conflict in Nepal are summarized in the following sections.

Historical Factors

In Nepal, ownership of land has been associated with wealth and power for centuries, with landowners being the elite, ruling class. This phenomenon can be traced back to when Prithvi Narayan Shah used land as a political tool to maintain authority by granting land ownership titles to his supporters. This feudal system was further exacerbated all through the Rana regime where highly corrupt structures — such as the *Jimidari*, *Birta*, *Jagir*, *Kipat*, and *Rakam* systems — flourished in favor of the aristocrats who exploited poor peasants. The Land Reform Act 1964, introduced during King Mahendra’s rule, put an end to such systems. However, corruption persisted in the *panchayats* and land seizing at the expense of the landless ensued. Years of rising resentment against discriminatory, exploitative land practices — even following the shift to multiparty democracy — led to a decade-long armed conflict where Maoists forcefully seized and redistributed land. Although the signing of the Comprehensive Peace Accord in 2006 brought renewed commitments of proper scientific reform, progress has been limited and land remains a critical issue in the country.

Non-Implementation of Laws

Land ownership patterns continue to determine the economic prosperity, social status, and political power of Nepalese individuals and families. Throughout the country’s history, the political process favored a certain social class, and the poor performance of the State’s land reform initiatives led to grossly unequal land distribution, further institutionalizing the inequalities among the citizens (Dhakal, 2011). Several laws have sought to address the pertinent issues of land and agrarian issues in Nepal. However, the

local authorities are reluctant to implement such laws. In fact, it has been shown that the District Administration Office, local governments, and other local agencies are themselves involved in the expulsion of people from their place of origin (CSRC's data source). Such government practices run counter to the prevailing laws and regulations in Nepal – a number of which have been partially implemented, such as the constitutional provisions on fundamental rights (including the right to housing), and provisions of the Land Policy and Land Use Act. In addition, the Supreme Court of Nepal has issued stern orders for compliance with due process (providing compensation, alternative measures, etc.) before implementation of any development projects. However, the government appears not to be serious about implementing the Court's order and other existing laws.

Politics and Power

Land has become a major source of revenue in Nepal. Some companies are involved in land speculation and selling at exorbitant prices. Furthermore, the practice of expelling the landless and informal settlers who are living in public areas is increasing. Some representative cases reveal that powerful individuals and entities – through the illegal exercise of power – influence and involve government agencies to expel settlers from their places, and then they register the land in their name for plotting. At the same time, government also gains revenue from such plotting companies or individuals (Punthoki, 2019). Political biasness is another cause of land conflict in Nepal. Local representatives who win a local election without the voter support of the majority of the landless and informal settlers in their area then threaten these people with expulsion in the name of preservation of government land. Out of 19 recorded cases, five reported that conflict ensue due to political biasness.

Tenure Security

About 25 percent (337,370) (Land Issues Resolving Commission, n.d.) of Nepal's people are landless. They are living in slum areas or other public properties and spend their lives working on farms owned by others. In the same way, 18 percent (232,040) (Land Issues Resolving Commission, n.d.) are living in informal settlements. The government often evicts such landless and informal settlers in the name of constructing government projects. However, they do not follow due process, i.e., free, prior and informed consent (FPIC), provision of alternative housing and livelihood (THRDA, 2020).

Prevalence of land conflict in the country

Number, distribution, size of land conflicts

Since the beginning of 2020, CSRC reported 19 cases of land conflict based on media sources. A total of 940 households (HHs) were directly affected by these conflicts in 13 districts. The total contested land area was 113.29 hectares.

Land Conflict Incident in the National Park in Bardiya

Source: CSRC

In 2006, a human settlement was established in the open space of the buffer zone at Jharniya National Park in Bardiya district, with initially 105 households. Some of these households were those of elite families, who had registered land in other areas. The real landless, who did not have any registered land, demonstrated against the elite group. Eventually, the well-off families left the area, leaving only 45 landless households who have no other option except to live in the public land.

The landless people started cultivating the unused land by dividing three *Katta* (approximately 1,014 square meters) for each household. The land was suitable for paddy and vegetable plantation, and the produce provided livelihood opportunities for the landless and poor families who had settled there – in fact allowing them to survive for six months. When the elite families left the area, individual landless families started cultivation of seven *Katta* of land. “We were planting corn without any obstruction for seven months,” some reported. They protected the areas nearby their settlement, and even nabbed intruders two times.



As a result, the elite families in the neighboring community spied on the community members in the National Park area, confronted the settlers, and lobbied for the area to be cleared. They exerted pressure for the open spaces to be used for cultivation rather than human settlement. The resulting confrontation between the two sides turned violent.

The authorities of the National Park deployed army and police personnel at midnight of 13 February 2009, and the office of the National Park had the human settlement set ablaze and many people were arrested without any reason.

Mostly children, women, and senior citizens were affected by this brutal incident at the National Park, as they did not have options to migrate to other areas. The Park authorities continued to arrest the people in the area, with almost all – except children, senior citizens, and other dependents – being arrested several times. Twenty people, including seven women, were arrested. The men were released after 25 days, whereas the women were released after seven days.

The Army continued to guard the human settlement and to arrest people for no reason. When the poor people cooked meat in their houses, the Army personnel would check whether it was obtained by poaching wild life animals. They would threaten the settlers to leave the place, but the landless poor had no other option except to continue living in that place. Therefore, they did simply remained in hiding inside their households.

The indigenous *Tharu* people also faced severe brutality while in custody in the National Park. The Park administration provided them with mats and quilts for sleeping and lower-quality rice for them to cook for themselves while in custody. Initially, the National Park authorities threatened to confine the *Tharu* inside the jail forever. They were eventually released on bail for one or two years. However, they were required to pay a fine for “encroaching on the land of National Park.” As a result, they were compelled to make loans with interest rates of up to 36 percent.

Thus, the 45-settler households in the National Park continued to live under threat. The people from neighboring villages were happy when the indigenous *Tharu* were arrested from their homes. Meanwhile, the Park authorities destroyed the houses of the landless people and planted trees in the area in 2014 – while threatening to arrest anyone who destroyed the trees. Finally, the indigenous *Tharu* people migrated to other areas and again constructed huts on public land. However, they are deprived of the right to use the land where they have planted seeds and constructed houses.

In instances where aggressors harassed or community members, the main perpetrators were the police, involved in 79 percent of the 19 cases; followed by the army/military, involved in 11 percent of the cases. Similarly powerful perpetrators, such as an ex-minister, landlords, and political cadres, were involved in the remaining 10 percent of the cases. Table 1 presents the case data according to the district, the agency involved, the number of affected households, and the cited justification of the projects.

Nature and causes of land conflict

There are several dimensions to the nature of land conflict in Nepal. The most common is conflict between landless peasants and government authorities in the course of setting development agenda. There are also conflict which ensue in the transfer of household property from one person or party to another, especially from parents to their sons/daughters. Boundary issues between communities create another contentious issue in Nepal, posing a challenge to settlement due to the lack of proper legal mechanisms at the local level.

Finally, conflicts between landlords and tenants have existed for decades in Nepal, denying the land rights of tenant farmers. Data from the Ministry of Land Management Cooperatives and Poverty Alleviation (MoLMCPA) reveals that, of the total 275,431 tenant farmers in the country, 140,153 have lodged applications demanding their ownership of land. However, only 76,375 cases have been settled and 63,758 remain pending at the district revenue office. Thus, tenant farmers who had tilled their landlords' property for years are still deprived of receiving the land ownership due them. The resulting land conflicts are due to ignorance of the rights of landless and land poor peasants, misunderstanding, disputes, non-implementation of laws, political bias by authorities such as government agencies.

The data reveals that the most common form of conflict within the 13 districts covered by this study was forceful eviction of landless and peasant squatters who were living on public land, due to the lack of their formal tenure security such as formal land certificates. Altogether, 940 households of the total study area of 13 districts were affected in 13 different cases of land conflict. Among these, the State and its agencies were the main actors in the creation of conflict, while the primary cause of the conflicts was the construction of development projects in the name of progress. Out of the 940 households, 508 were directly affected by government development projects, 53 landless and land-poor people were threatened with death, 49 of them were threatened with displacement,

Table 1. Affected HHs and involved agencies in land conflicts

District	Agency	Affected HHs	Project Justification
Surkhet	Local Government	59	Road expansion
Siraha	Powerful individual	165	Land plotting
Makawanpur	District Administration Office	43	Protection of public land

Mahottari	Army camp	30	Expansion of Army camp
Lalitpur	Police	55	Construction of road
Bardiya	District Administration Office	141	Protection of National Park
Chitwan	National Park	10	Protection of National Park
Banke	Powerful individual	19	Land plotting
Kailali	Local Government	10	Construction of Municipal building
Sarlahi	Local Government/DAO	47	Protection of forest land
Kathmandu	Powerful individual	57	Protection of own land for road expansion
Jhapa	Local Government	7	Protection of public land
Parsa	Government of Nepal	297	Development of dry port
TOTAL		940	

and 13 individuals were harassed. Among the 117 individual victims directly affected in the conflicts – most of whom were threatened with eviction – 80 were male and 37 were female.

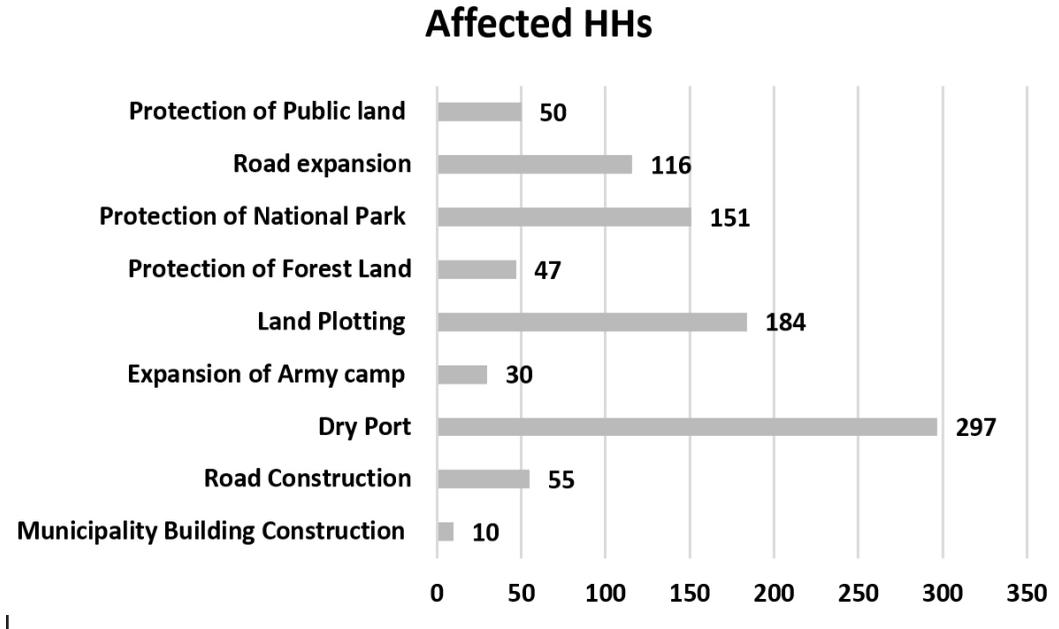
In the total 13 cases of 13 districts covered in this study, the State and its agencies, such as the District Administration Office (DAO), the District Forest Office (DFO), and the Department of National Parks and Wildlife Conservation, were involved in the forceful eviction of landless and informal squatters. In almost all cases, powerful individuals such as political leaders and the wealthy easily influenced the government authorities to misuse their power for the forceful eviction of landless, informal settlers, and tenant farmers from public land. The major causes of the resulting conflicts were identified through key informant interviews (KII) and consultations, and have been summarized in the succeeding sections.

Landlessness

The primary cause of land conflict in Nepal is landlessness and government's refusal to accept informal tenure, thereby giving justification to the forceful eviction of squatters from public and forestland, and destroying their houses. At the same time, corrupt politicians convince the landless squatters to vote for them during the elections. Then, once they are in office, they send letters to the landless families to leave the public places they are occupying. Without formal land certificates, these landless squatters cannot exercise their rights of tenure over the settlement area.

Dual Ownership

Despite being formally abolished in 1996, dual land ownership continues to exist in Nepal.

Figure 2. Affected HHs and project justification

The Department of Land Management (DoLM) attributes the persistence of dual ownership to absent claimers, unpaid dues by landowners, and unidentified owners. This situation not only diminishes agricultural productivity but also creates disputes among tenants, landlords, and government officials. Tenants continue to be evicted by landlords for fear of losing 50 percent of their land because of this continuing practice of dual ownership.

Structural Barriers

In addition, there are deeper causes of land conflicts that surpass the formal institutional structures. Land conflicts are exacerbated by the self-centered attitude of a multitude of actors, who engage in land grabbing, use public and private land illegally, manipulate the land market to their advantage owing to their power and position, and engage in nepotism and corruption. It should also be noted that land conflicts are often a reflection of deep-rooted societal conflicts born out of inequality or unfair distribution of wealth, discrimination of women or ethnic minorities, as well as marginalized groups' lack of voice and power. Such structural barriers increase the likelihood of land-related conflicts in Nepal.

Traditional Land Registration System

The Land Revenue Office, survey offices, and other land related government offices of Nepal are still using a traditional, paper-based system for land registration. This old form of management and documentation system does not provide necessary information to

BHATARAM THARU, 59 of Barbardiya Municipality – 7 Banphanda of Bardiya district was living in public land for 31 years. The land belonged to Bardiya National Park. According to him, the Department of National Parks and Wildlife Conservation deployed Nepali Army several times to demolish the houses of 46 indigenous *Tharu* people using elephants and bulldozers. They reconstructed their houses in the same place. However, the Department of National Parks and Wildlife Conservation demanded them to leave their place several times. The landless indigenous *Tharu* does not have any alternative except to live in that place because they have been cultivating the land. Lohani Tharu, 70, chairperson of Village Land Rights Forum, said, “We are always in trauma. The government did nothing to us. We afraid when we see army personnel on the road. They accused us we had land in other places. If we have land in other places why should we stay under threat in this place?”

the landowners or government agencies, making it difficult to determine who are actually landless and who informal settlers are. This system is also far less secure than current electronic forms of documentation. Thus, Nepal’s government agencies are facing major problems in verifying the data on the land-holding population of the country.

Impacts and outcomes of land conflict

The forceful eviction of landless and informal settlers severely violates the fundamental rights of people in Nepal. In particular, this practice has disrupted their housing rights, food and food sovereignty rights, the right to health, and the right to education. Beyond these, the victims of forced evictions have lost their rights to dignified lives due to the brutal acts of the government and its agencies.

Citing government involvement in the violation of human rights of landless and informal settlers, two human rights activists lodged a complaint at the National Human Rights Commission (NHRC) regarding a brutal incident at a National Park in Bardiya district on 5 June 2020. The NHRC has called the attention of government and shown its serious concern on the involvement of government and its agencies in the violation of human rights by evicting helpless and poor people in this incident.

Article 36 of the Constitution of Nepal on Violation of Housing Rights has guaranteed housing rights as a fundamental right of the people of Nepal (The Constitution of Nepal). In the same way, Clause 4 of the Housing Act 2018 stipulates that it is government’s duty to protect the housing rights of its people. In the same way, Clause 40 of the Food and Food Sovereignty Act 2018 has mentioned that the State can punish the perpetrators involved in the forceful eviction of any people, as such eviction also violates the right to food and food sovereignty of the victims. Bimala Shrestha, District Secretary of the DLRG, Surkhet, said, “The local government has sent letters to the informal settlers to leave the public places within 15 days. The poor, helpless informal settlers do not have any alternatives except living in the side of the road. They have organized in VLRGs and protested the government several times. However, the government’s agencies threaten them to burn down the houses during night. The people are living under mental trauma.”

Responses to the conflicts

By the State

On 18 July 2020, the Supreme Court of Nepal issued a verdict against the government for its decision to evict the landless and informal settlers of Chitwan district, with the office of Chitwan National Park burning down two houses and depriving the settlers of other rights for encroaching on public land within the premises of the National Park.

The ruling of the Supreme Court directed the government not to involve itself in such incidents without presenting alternatives to the landless and informal settlers. However, the government apparently did not take this verdict seriously. For instance, in response to the Court's ruling, the incumbent Minister of Forest and Environment, Shakti Bahadur Basnet, said that the government had not destroyed houses in the National Park in Chitwan. According to him, only two cowsheds were destroyed by the military. However, in reality, a group of military had set ablaze two houses and eight others were destroyed in the incident. After criticism from all stakeholders, the Minister was called to present to a parliamentary committee the government's response to the criticisms. It was expected that the government would apologize and announce the granting of a relief package for the victims, but the government continued to hide the realities and claimed that no houses were destroyed due to land conflict. Out of the 19 cases of land conflicts covered in this study, the government responded positively to only two cases – and only after a third party like a CSO or the National Human Rights Commission (NHRC) pointed out to the government that the eviction of landless and informal settlers is a serious form of human rights violation.

By CSOs

The District Administration Office of Bardiya district, on 16 May 2020, sent a letter addressed to 142 landless people of Barbardiya Municipality Ward-7 of Bardiya who were living in the land of the National Park in the same area. They were being charged with land encroachment. All victims were members of the Village Land Rights Forum (VLRN), and they came to CSRC requesting to initiate steps for justice. CSRC, in coordination with some lawyers, lodged an application at the NHRC demanding justice for the landless people in this case. As per the demand, the NHRC directed government to ensure the housing rights of landless people, stating that the eviction of people from their place of residence is a serious human rights violation that goes against the Constitution of Nepal.

CSOs have always stood for human rights and social justice in Nepal, with land rights also being taken as human rights. A number of CSOs have formed people's organizations to exert pressure on the government to be more responsible for ensuring people's housing rights in Nepal. If any government agencies decide to evict landless and informal settlers

from public land areas, the members of the different Land Rights Forums (community-based organizations) report this to CSOs, including CSRC, for legal remedy.

CSOs are also raising awareness on the right to land and its relation to human rights, through regular meetings, discussions, and movements. The role of CSOs in community empowerment is important in raising people's awareness to demand their rights. In the same way, CSOs have played crucial roles in championing land-related laws in Nepal. The Government of Nepal formulated a Land Policy in 2019 for ensuring proper access to and management of land and land resources for the sustainable prosperity and development of the country. CSRC served as secretariat in the formulation of this Land Policy upon the request of the then Ministry of Land Reform and Management (MoLRM) in collaboration with the National Land Rights Forum (NLRF), ActionAid, Oxfam, CARE, DANIDA, HUGOU, LWF, International Land Coalition (ILC), and Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). CSRC has also been collaborating with the Global Land Tool Network (GLTN) and UN-Habitat since 2017 to facilitate the process of finalization of land policy together with the MoLMCPA.

In addition, CSOs played an important role in endorsing Land Act (8th Amendment), Land Use Act 2019 by collecting recommendations from fellow CSOs and other stakeholders. CSOs were also consulted before finalizing the draft versions of Land Use Act 2019, Land Act (8th Amendment) 2019, and Housing Act 2018. As per the amended Land Act, the landless and informal settlers will be provided with land certificates from the Government of Nepal.

By Communities

In Nepal, the members of communities cannot stand alone against the government's illegal moves. They are powerless, while government authorities can mobilize the police and the military to demolish the community members' houses and other infrastructure. However, the right to housing of every citizen has been constitutionally adopted in Nepal. Anyone can lodge a complaint with the NHRC or file a case in court against the government if they are evicted or ordered to be evicted from their place of origin. Out of 19 cases documented by CSRC for this study, the affected communities demonstrated against the perpetrators of illegal evictions, such as local governments, National Park and Conservation authorities, and powerful individuals in three cases; and lodged a complaint at the NHRC and the Supreme Court in two cases. In one of these cases, as mentioned earlier, the Supreme Court directed the government to reverse its decision to evict the landless and informal settlers from their area.

Recommendations

The following areas of action are thus forwarded:

- The Government of Nepal should speed up the implementation of the Land Act 1964 (8th Amendment). The Act has clearly stipulated that the government should provide land to the landless and to informal settlers who have been living more than 10 years in unregistered land. As part of the proper implementation of this Act, the government should provide alternatives before evicting the people from their place of living.
- Due to the lack of a Land Use Plan at the local level, the fragmentation of land (both agricultural and public) is increasing in urban areas, resulting in a negative impact on agricultural productivity and food security, while it often also results in conflicts between different groups and communities.
- Government staff, more specifically those working at the district land offices, should be trained on conflict-sensitive approaches, Alternative Dispute Resolution (ADR), and gender sensitivity to enhance their capacity to deal with the growing number of local level land-related disputes or conflicts.
- The political parties should strive to achieve a common understanding around land reform issues. This common understanding among all parties would create a favorable environment and lay the foundation for the implementation of future land reform that considers expectations and views of the vulnerable and affected communities, thereby addressing many of the protracted land conflicts in Nepal.
- The manifestos of most of the political parties have incorporated issues of land reform. However, the promises made in the manifestos remain far from being fulfilled. It is therefore important that the political parties work towards fulfilling those promises, so that grievances among people in relation to land can be addressed.
- Low-cost housing alternatives should be explored through feasible private/public/donor partnerships; and, skills development training should be provided to the landless and informal settlers to improve their economic prospects.
- All existing land data should be updated and digitized, and all offices should be digitally equipped with expert staff before such data is handed over to local governments. Local governments should then immediately work on creating an integrated cadastral record system. ■

ACRONYMS

AAN	Action Aid Nepal
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CSOs	civil society organizations
CSRC	Community Self Reliance Centre
DAO	District Administration Office
DFO	District Forest Office
DLRF	District Land Rights Forum
DoLRM	Department of Land Reform and Management
GoN	Government of Nepal
KII	Key Informant Interview
LWA	Land Watch Asia
LWF	Lutheran World Federation
GLTN	Global Land Tool Network
MoLMCPA	Ministry of Land Management, Cooperatives and Poverty Alleviation
MoLRM	Ministry of Land Reform and Management
NGO	Non-government Organization
NHRC	National Human Rights Commission
NLRF	National Land Rights Forum
NPC	Nepal Planning Commission
SC	Supreme Court

DEFINITION OF TERMS

Terminology	Definition
Jimidari	The process of tax collection at village level in the Terai region (southern part of Nepal) by a powerful individual called <i>Jamidari</i> (Dhakal, 2011).
Birta	Land grants made by the State to individuals usually on an inheritable and tax-exempt basis; abolished in 1959 (Dhakal, 2011).
Jagir	Raikar land assigned to government employees in lieu of salaries; abolished 1952.
Kipat	Customary rights, including as recognized/granted by Ranas to an indigenous group, recognizing its collective right to the land and right to practice its customary land system (Dhakal, 2011).
Rakam	Unpaid and compulsory labor services due government; abolished 1963 (Dhakal, 2011).
Land conflict	A situation wherein “two or more stakeholders compete for control over land and/or resources, including decision making and truth” (ANGOC, 2019).
Land dispute	A situation wherein two or more stakeholders with presumed equal power compete for land and/or resources, including decision-making and truth (ANGOC, 2019).
Land grabbing	Obtaining, appropriating or seizing of land unscrupulously or forcibly or unfairly by a nation-State, or organization, or an individual and disregarding the tenancy rights of the peasants and the farmers, including customary rights, and debilitating the productivity of land and leading to violation of the right to feeding oneself (CSRC, 2005).
Monitoring	Process of checking the progress (changes) or quality of something over a period of time, especially under systematic review. Monitoring may include observing changes or trends in terms of events, activities, human behavior, or living conditions (ANGOC, 2019).

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From Loss of Land to Loss of Life

2020 Philippines Land Conflict Monitoring Report

Michele Robin E. Salcedo, ANGO

Background

*L*and rights are human rights, noting the deep interrelatedness of land with other human rights (livelihood, shelter, culture, identity, property, among others). Land and natural resources are indispensable components for most human activities, thus these usually play a role when a conflict ensues. Growing populations and the increasing demand for food, minerals, and fuel add more pressure to the world's limited and depleting resources. In Asia, the ensuing conflicts 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 (Quizon, 2019). With varying social status of stakeholders, fighting for the right to have access and ownership of land and resources has not been so peaceful.

Land conflicts throughout time have resulted in violence, loss of life, and deterioration of livelihood. In recent years, civil society organizations and activists have observed an increase in the number and intensity of such conflicts across Asia and the world. In 2019 alone, Global Witness (2020) recorded 26 murders related to agribusiness in the Philippines, that is 90 percent of all agribusiness-related attacks in Asia, and the highest share of agribusiness-related killings globally. It was also found that mining was the sector with the highest incidence of deaths worldwide and the Philippines had the most mining-related killings with 16 deaths.

In 2020, the world was brought to a standstill by a pandemic. In the Philippines, a nationwide lockdown was implemented in an attempt to contain the spread of the novel coronavirus disease (COVID-19). According to land rights activists who have been keeping an eye on the growing number of conflicts, restrictions on movement have made farmers

and indigenous peoples more vulnerable to losing their land (Chandran, 2020). As farmers were unable to work in their fields and indigenous peoples were barred from forests, encroachment became easier for illegal loggers and other businesses. The Netherlands Land Academy (LANDac), listed four main concerns about the impacts of the pandemic on land governance. First was the “loss of assets and land access for poor people, and growing inequality” (paragraph 11) in both urban and rural areas. In urban areas, population density and the heightened risk of COVID infection may be used as justification for forced evictions, resulting in pressures on rural lands also as de-urbanization persists. Second was the “lack of due diligence in land-based investments” (paragraph 27). In an attempt to recover from a looming financial crisis, governments may be enticed into inequitable investments. Third was the “reduced quality of land governance services” (paragraph 31). Lastly, was the prolonged suspension of civic space brought about by State-declared emergencies and lockdowns. LANDac (2020) fears these could result in or exacerbate widespread grabbing of land, water, and forests.

As it happens, infrastructure projects under the current administration’s “Build, Build, Build” program are expected to aid in boosting the Philippines’ economic recovery after the 16.5 percent contraction in the gross domestic product (GDP) for the second quarter of 2020 brought by the pandemic (Crismundo, 2020a). There are eight large dams under this flagship infrastructure program that pose threats to communities such as displacement and flooding (IBON Foundation, 2018). In addition to this, copper mining was among the five key sectors identified by the government to attract foreign investors along with the aerospace, automotive, information technology and business process management, and electronics sectors (Crismundo, 2020b).

This report has been prepared to contribute to the discourse on land and resource conflicts, in order to better understand the trends and the conflicts’ drivers, and thus develop adequate recommendations to address both the root and immediate causes of such conflicts.

This report is part of the *Defending Land Rights and Human Rights Defenders* regional initiative by the Land Watch Asia Working Group on Land Rights as Human Rights (LWA WG LRHR), involving six countries in Asia: Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines.

Similar land conflict monitoring reports on land conflicts and violations against rural stakeholders were produced by ANGOC and its partners in Asia in 2018.¹ This initiative thus sustains the efforts of the LWA WG LRHR to refine, systematize, and standardize the methodologies used for monitoring land conflicts and violations against land rights across the region.

¹ These reports may be accessed at: <https://angoc.org/portal/in-defense-of-land-rights-a-monitoring-report-on-land-conflicts-in-six-asian-countries/>

Objectives of this report

This study aims to gather evidence that will characterize the land and resource conflict landscape in the Philippines and serve as a point of engagement with critical duty bearers. Specifically, the objectives of the study are to:

- describe the *prevalence and types* of land and natural resource conflicts;
- examine the *nature and causes* of land and resource conflicts;
- discuss the *impacts and outcomes* of land and natural resource conflicts on communities, as well as on land rights defenders; and,
- draw up *recommendations* based on the study findings and consultations.

Definition of concepts used in the study

Following the 2018 study on *Land Conflicts and Rights Defenders in the Philippines* (Salomon, 2018; Salomon, 2019), **conflict** is defined as “a situation wherein two or more stakeholders compete for control over land and/or resources, including decision-making and truth’ (pp. 19). This study investigated three facets of land and resource conflicts namely: a) case, b) relationships, and c) incidents.

The **case** details the storyline of the conflict. It describes the location, duration, size of land or resource in conflict, and the types of land and resource involved based on the actual use of communities. In this study, the types of land and resource in conflicts were summarized in five categories as follows:

- *Agricultural lands* used for growing crops, raising livestock, and other agricultural land activities in the lowlands.
- *Ancestral domains* or “areas generally belonging to indigenous cultural communities/ indigenous peoples (ICCs/IPs) comprising lands, inland waters, coastal areas, and natural resources therein, held under a claim of ownership, occupied or possessed by ICCs/IPs, by themselves or through their ancestors, communally or individually since time immemorial, continuously to the present except when interrupted by war, force majeure or displacement by force, deceit, stealth or as a consequence of government projects or any other voluntary dealings entered into by government and private individuals/corporations, and which are necessary to ensure their economic, social and cultural welfare” (RA 8371, 1997).
- *Resources used in fishing, aquaculture, and use of fishponds and coasts* or resources used/accessed for activities related to breeding, rearing, and harvesting of fishes and other aquatic resources utilized as food.
- *Housing* such as spaces or areas used for shelter or settlements. This includes informal settlements.
- *Agroforestry, people-based plantations/community plantations* and other agricultural activities in forests/uplands. This includes forests, natural parks, and conservation areas.

Relationships are sets of competitive interactions between two or more stakeholders involved in a conflict. In this facet, the study explores the actors in conflict, the type of conflict, and the actors' response to conflict. The key stakeholders in conflict were categorized into rights holders and duty bearers.

Rights holders refer to the individuals or communities whose rights to land under contestation are held under law, tenure reform/s or custom, and whose relationship to land is inherent to their survival and identity. This includes smallholder farmers/producers, landless farmers, tenants, indigenous peoples (IPs), fisherfolk, and forest users, dwellers and protectors. Rights holders also include individuals or communities who are physically occupying the land albeit lacking legal ownership or tenure rights such as informal settlers.

Duty bearers are entities *identified by the rights holders* as competitors and enablers with more power and whose claim over land under contestation is not inherent to their survival and identity. This includes private companies/corporations, powerful individuals, government, State-owned enterprises, the military, as well as other rights holders.

Conflicts were categorized into six types which are enumerated and defined in Table 1.

Table 1. Definition of types of land and resource conflict in the Philippines

Type of Conflict	Definition
Private investments	Conflicts between communities and privately-owned corporations
Government projects	Conflicts involving government-led infrastructure projects, demolitions or clearing operations, and military actions
Clashing tenure systems	Conflicts brought by inconsistencies in laws/policies, or clashes between laws and customs
Resource conflicts	Conflicts involving the use of resources designated for communal use, which include conservation areas and national parks, protected forests, forest use, and fisheries
Resistance to land reform	Conflicts involving landlords against landless or tenant farmers including resistance to land distribution, and prevention of land installation within the context of land and resource tenure reforms as legally-mandated by the State
Public-private partnerships	Includes economic zones/land concessions, projects on generating or harnessing power/electricity, and tourism, wherein the government and the private sector jointly implement an economic venture

To further describe the relationship of stakeholders involved in the conflict, the study looked into their responses to conflict which were categorized into the following:

- *Withdrawal/Escape*: leaving the conditions of conflict, often leading to abandoning or surrendering their rights to obtain conditions of non-violence;
- *Retaliation*: returning an attack or violence;

- *Peaceful demonstration and other non-violent acts*: non-violent conflict management and/or resolution strategies which may include, among others, dialogues, facilitation, mediation, and submission of petition letters; and,
- *Conflict Management*: a range of actions which includes:
 - *Negotiation* - direct parties in conflict engage in dialogue to arrive at a workable solution;
 - *Court, NHRI, Legal remedy* - conflict management approach which uses the legal system to facilitate the solution to conflicts and to seek justice - usually through courts, National Human Rights Institutions or counsel, among others.
 - *Administrative mechanism* - parties approach administrative offices such as grievance desks of companies, local government units, and government agencies, in an attempt to resolve the conflicts; and,
 - *Customary mechanism* - using customary/traditional rules and laws in solving conflicts.

Incidents refer to events or a string of events that indicate an ongoing conflict. This facet describes the manifestations of a conflict such as the number of individual and/or community human rights violations (HRVs), number of victims, type of violation, sector of victims, alleged perpetrators, as well as responses to incidents of HRVs. Specifically, the study describes HRVs committed against the rights holders such as the following:

- **Physical violations** such as killing, injury, disappearance, detainment, eviction;
- **Psychological violations** such as grave threat, the threat of displacement, harassment/intimidation, persecution trauma, including threats of physical violations (of killing, injury, detention);
- **Political violations** such as criminalization, dispossession, forcible entry, trespassing or encroachment, tagging/coloring/labelling (“red-tagging”)²;
- **Economic violations** such as destruction of property, termination of jobs/employment, unfair contracts, denial of benefits; and,
- **Ecological violations** such as contamination of resources, pollution, deforestation, destruction of biodiversity, depletion of forest/wildlife/ecosystem, depletion of productivity, increased climate vulnerability.

The study also looked into incidents of human rights violations committed against an individual or community considered as land and resource rights defenders. This was based on Global Witness’ definition of land and environmental defenders who are:

“People who take a stand and carry out peaceful action against the unjust, discriminatory, corrupt or damaging exploitation of natural resources or the environment. This covers a broad range of people. Defenders often live in communities whose land, health and livelihoods are threatened by the operations of mining, logging, agribusiness companies or other industries. Others will be defending our biodiverse environment. Others will

² In the Philippine context, “red-tagging” is the term often used when activists, individuals, or groups are alleged by State institutions to be members or supporters of the Communist Party of the Philippines, the National Democratic Front, and/or the New Peoples’ Army.

be supporting such efforts through their work – as human rights or environmental lawyers, politicians, park rangers, journalists, or members of campaigns or civil society organisations, for instance.” (p. 40)

Perpetrators are actors identified by rights holders who committed violence against rights holders as well as land and resource rights defenders.

Methodology

■ **Data gathering**

This **descriptive study** focused on reported land and resource conflicts from 1 January to 31 December 2020. The **secondary** data used for this study were sourced from publicly accessible online reports of violations, as well as reports from civil society organizations and their partner-communities. Most of the information included below is from online sources. Broken down further, 51 percent of the sources are online mainstream media reports, followed by reports from civil society organizations (CSOs) (18.8 percent), social media platforms (12.9 percent), and academic institutions (11.9 percent). The rest of the sources are from government and Commission on Human Rights (CHR) reports (5.4 percent).

- Publicly available information found online were verified, summarized, and collated to describe the land and resource conflict landscape in the Philippines as well as HRVs committed against rights holders and their defenders. Cases and incidents were included only if:
- they came from credible online sources such as mainstream media and people’s organization (PO)/CSO platforms; the details such as names, dates, locations, size of land or resource contested, rights holders and duty bearers involved could be validated with two or more other online sources.³

In several instances, case studies and case reports from CSOs were included in the database. Kaisahan (Solidarity Towards Agrarian Reform and Rural Development) also provided a database of status of cases involving their partner-agrarian reform beneficiary communities.

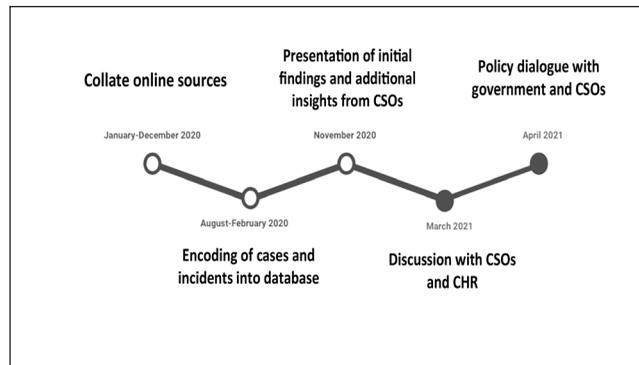
Incidents of HRVs that are not tied to any case of conflict were included if there is a clear and documented connection between victims and land or resource issues.

Information gathered was encoded into a database. Through the *Defending Land Rights and Human Rights Defenders* initiative, a regional database was developed by ANGOC and Land Watch Asia, a regional CSO campaign involving six Asian countries. The regional database was then adjusted to fit the Philippine context and was employed in this study.

³ There are a few instances wherein a case or incident was included in the database despite coming from only one source, because of the completeness of information found in the source material and the deemed reliability of the report.

■ Research Process

From January 2020 to January 2021, ANGOCC gathered, verified, and collated secondary data used in the study. To gather additional insights and recommendations, the initial findings were presented to CSOs working with the rural sector in November 2020. These findings were then presented in a validation workshop in March



2021 where the Commission on Human Rights and other CSOs provided their feedback. Finally, the findings of the study were presented in a multi-stakeholder policy dialogue on 22 April 2021, participated in by 67 participants (34 males, 33 females) from government line agencies, executive branch offices, legislative branch offices, human rights offices, civil society and faith-based organizations, international and intergovernmental organizations, and basic sector representatives. During the dialogue, the relevance of this topic and the analyses forwarded in this report were affirmed. Participants also provided additional recommendations which were then included in this report.

■ Scope and limitations of the study

The study documented cases of conflict with manifestations of violence, as well as latent cases where the community and other rights defenders perceive an ongoing imminent threat to ownership of or access to land and resources. It also included incidents of violence against land rights defenders that were not tied to one specific conflict. Affected family and friends of rights holders/defenders were also included in reports as collateral victims of an HRV incident.

Excluded in the study were individuals and community members who were labelled as part of rebel groups without documented refutation from multiple sources. As the study aims to broaden the discourse on the experiences of communities in conflict, it was framed from the perspective of the communities as well as the CSOs and defenders who support them. Duty bearers in conflicts as well as the perpetrators of HRVs were identified according to whom the victims and their communities recognize as their offenders. Given time and resource constraints, the study did not further investigate into the accuracy and probable legal basis of actions of the identified perpetrators reported in the secondary materials used in the study. There were also cases and incidents that did not meet the set of criteria of the study because of limited or incomplete information.

Given the limitations of mobility and face-to-face gathering brought about by the COVID-19 pandemic, the study heavily relies on reported and publicly available materials online. As such, the figures in this report do not claim to be representative of the *full extent* of the state of land and resource conflict across the Philippines. At the same time, it should be

noted that there are many cases of conflict and incidents of HRVs that remain unreported or undocumented.

While there was conscious effort to include conflicts involving urban lands and fisheries resources, the data-gathering team was only able to capture a few such cases.

Thus, ANGOC and the LWA WG LRHR continue to improve on methods in monitoring and reporting land and resource conflicts as well as incidents of HRVs, with the aim of greater visibility and stronger actions to address these issues.

Brief Overview of the Country Context and Legal Framework

Legal framework and policies on addressing land and resource conflicts and promoting human rights⁴

Human rights in the legal framework

The Philippines is a signatory to the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and other human rights conventions and treaties. State policies to implement these instruments and to fulfill human rights of its citizens are enshrined in the 1987 Constitution. Article II, Section 11 of the Constitution declares value for dignity of every human and full respect for human rights as State policies.

Article III of the Philippine Constitution (Bill of Rights) enumerates civil and political rights of persons, or protections against abuse by the State. Included under this article are the right to due process, right to privacy, right to free speech, right to religion, right to political beliefs, right to association, among others.

Meanwhile, Article XIII (Social Justice and Human Rights) delves into the economic, social, and cultural rights of Filipinos, or entitlements that shall allow for a life of dignity. Under Article XIII, the Congress is mandated to enact measures that promote social, economic, and political equality through equitable distribution of wealth and power. The State shall thus regulate the acquisition, ownership, use, and disposition of property. The same Article outlines State policies on agrarian and natural resource reforms for the benefit of small farmers, fisherfolk, indigenous peoples, as well as urban land reform and affordable housing for rural and urban dwellers.

Various tenure and asset reform laws have since been enacted, pursuant to Article XIII of the Constitution. Among such legislations are the Comprehensive Agrarian Reform Law/CARL (1988, amended in 2008), Indigenous Peoples' Rights Act/IPRA (1997), and

⁴ For further information on the legal framework on land rights in the Philippines, please refer to Quizon, et al. (2018): <https://angoc.org/portal/state-of-land-and-resource-tenure-reform-in-the-philippines-2018/>

Philippine Fisheries Code/PFC (1998, amended in 2015).⁵ A 2018 review of rural asset reform implementation reveals that, although significant improvements may be noted in providing individuals and communities with ownership and control over resources, asset reform in the country remains largely unfinished (Quizon et al., 2018). Beyond issues related to these programs' coverage, slow or loose implementation, resource reforms in the country have also been hindered by the conflicting laws and overlapping jurisdictions of agencies. In many cases, corporate activities encouraged by the State to foster economic growth also impinge on the land and human rights of communities. A discussion on how these grievances and conflicts related to land and resources are being addressed, and an assessment of the effectiveness of such mechanisms, are included in the following section.

Human rights bodies in the Philippines

Article XIII of the Constitution also provides for the creation of the Commission on Human Rights (CHR). The CHR is a body independent from the rest of the government, mandated to conduct investigations on violations of civil and political rights of vulnerable groups in society. Beyond investigation, the Constitution grants it authority to provide legal measures to protect the human rights of persons within the country and Filipinos abroad; to provide legal aid to underprivileged persons whose rights have been violated; to monitor the Philippine Government's compliance with international human rights treaty obligations, and to recommend to Congress measures to promote human rights.

In the executive department, pursuant to Administrative Order No. 163 of 2006, the Presidential Human Rights Committee (PHRC) is tasked to assess and monitor the human rights situation in the country, and to formulate the National Human Rights Action Plan (NHRAP) to guide the executive's measures to protect and fulfill human rights. This body, chaired by the Executive Secretary, is also tasked to assist victims of human rights violations, ensure compliance with international human rights obligations, and to regularly convene with the President.

Lastly, within the two legislative chambers of the Philippines, there are also specialized committees that initiate the formulation and review of laws related to human rights – the House of Representatives Human Rights Committee and the Senate Committee on Justice and Human Rights.

Protection of land rights defenders

Although there are proposals filed in Congress, there is presently no law on protecting and promoting land and human rights defenders. The justice system provides for the legal protection of land rights defenders involved in legal battles. However, in recent years, there have been increased reported incidents of alleged State attacks against rights defenders.

⁵ The Urban Development and Housing Act/UDHA (1992) was also enacted to address concerns of urban dwellers and informal settlers.

This leads to concerns on who should provide protection in instances when the State itself perpetrates rights violations.

Availability and effectiveness of existing land conflict prevention and resolution mechanisms⁶

To prevent conflicts over land and resources, safeguard processes, community participation mechanisms in decision-making bodies, and transparency mechanisms have been included in the country's legal framework (Salomon, 2018; Salomon, 2019).

■ Procedural Safeguards

Procedural safeguards refer to mechanisms and certifications that individuals, government bodies, or corporations must comply with when dealing with interests on land and resources. These safeguards include permits and licenses from government agencies that regulate businesses, land use, and the environment and the practice of securing free, prior, and informed consent (FPIC) for dealings involving indigenous peoples.

However, there have been numerous reports about the non- or faulty implementation of these safeguards.

For example, indigenous peoples have reported that corporations or government agencies circumvent or dilute the FPIC process by, among other means, ignoring the need to seek permission from communities before initiating exploratory activities for a project, by seeking the permission of "leaders" who do not represent the communities, by misleading communities and capitalizing on their lack of ability to understand contracts in English during consultation processes.

On another note, there are also heavy limits on the conversion of agricultural lands. However, agricultural land conversion remains rampant and to the detriment of small farmers. According to available data on land conversion, around 1.7 million hectares of ricelands have already been converted from 1980 to 2012 (PSA, 2012). Further, of the 1,887,986 hectares of irrigated areas in the Philippines, about eight percent (150,686.40 hectares) have been converted and considered permanently non-restorable as of 2017 (NIA, 2017). This reveals that existing protections and limits as enshrined in the Comprehensive Agrarian Reform Law (CARL), Comprehensive Agrarian Reform Program with Extensions and Reforms (CARPER), and the Agriculture and Fisheries Modernization Act of 1997 (AFMA) on the conversion of agricultural lands, particularly irrigated and irrigable lands, have been ineffective in protecting the security of tenure of farmers.

■ Representation and Participation Mechanisms in Decision-Making Bodies

If and when properly utilized, representation and participation mechanisms can provide rural communities an effective avenue to register their concerns in governance processes

⁶ This section is heavily drawn from the 2018 LWA Land Conflict Monitoring Report in the Philippines. Please refer to Salomon (2019) and Quizon et al. (2018) for more information on the availability and effectiveness of measures to address conflicts in the Philippines.

thereby allowing them to prevent and even address issues that cause and sustain land and resource conflicts (Quizon, 2018).

One of the participation mechanisms for the indigenous peoples is through the Indigenous Peoples Mandatory Representation (IPMR). IPMRs are selected to represent their respective indigenous communities in various local legislative bodies at the municipal and village levels.

Criticisms have been raised, however, regarding the full utilization of this representation and participation mechanism – to wit: a) the selection of representatives is vested with the government, and b) there are no formal mechanisms for these representatives to report back to the sectors/communities they represent. This therefore increases the likelihood or risk that the accountabilities of representatives who participate in governance bodies will tend to favor the government, particularly the officials who have selected and maintain them in their position, rather than the sectors they supposedly represent – as has been reported by some indigenous communities in the Philippines.

■ **Transparency and Access to Data**

The Philippines has implemented Executive Order No. 2, series of 2016, which states that all executive departments of government are mandated to uphold citizen constitutional rights to information and articulates the State's policies on full public disclosure and transparency in public service. If implemented properly, transparency mechanisms can offer and facilitate informed decisions to prevent land and resource conflicts or to protect their land and resource rights from potential threats.

While the different land agencies make some of their data public, there are still some challenges in terms of the types of data available, the data quality, and accessibility. Table 2 presents some of these challenges.

While there are executive-level efforts to mainstream Executive Order No. 2, more meaningful reforms on Freedom of Information (FOI) will be achieved if the country enacts a law on FOI.

Table 2. Some remarks on the data availability, quality, and accessibility provided by land agencies

Land Agencies	Remarks on data provided, the quality, and accessibility of land tenure data
Department of Agrarian Reform, Land Registration Authority	<ul style="list-style-type: none"> • Do not make data on land tenure publicly available • Certain data requests require fees to allow access to information • Delays in compliance of both agencies are expected when requests are made
National Commission on Indigenous Peoples	<ul style="list-style-type: none"> • Provides information free of charge for ICCs/IPs • Requests made by citizens who are not ICCs/IPs (requesting for copies of data on ancestral domains) are requested for resources at cost of production

Department of Environment and Natural Resources ⁷	<ul style="list-style-type: none"> • Publicly releases summaries of land tenure, and natural resource utilization and management instruments they issue annually • Except for one of its attached agencies, the National Mapping and Resource Information Agency (NAMRIA), official requests for data can be made, and the bureaus will offer information for free • Delays can be expected, though, for the fulfillment of data requests
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Conflict Resolution

During instances of grievances or conflicts between various parties where land or a resource is involved, affected communities or individuals may seek recourse through several means. Conflict resolution mechanisms are categorized into courts, quasi-judicial bodies in government agencies, administrative channels/solutions, local and customary practices of mediation, and various forms of dialogue. Among the simplest forms of conflict resolution is through convening dialogues with the parties involved, while perhaps the most effective way to resolve a conflict with finality is by going through the judicial system.

While these mechanisms, in theory are set up to support and uphold the rights of various stakeholders, challenges within the different systems of conflict resolution may, in fact, further the suffering of the victims – particularly in the context of defending the right to a particular piece of land or a resource by rural communities.

The table below presents the summary of the different land conflict resolution mechanisms and some remarks on their effectiveness in terms of pursuing final solutions to land and resource conflicts, based on existing studies and reports and community experiences.

Table 3. Remarks on the effectiveness and/or efficiency of the different conflict resolution mechanisms in resolving land and resource conflicts

Conflict resolution mechanism	Remarks on the mechanisms' efficiency and/or effectiveness in resolving land and resource conflicts
Courts	Decisions take three to 17 years
Quasi-judicial bodies	More efficient avenues than courts; however, available data cannot indicate the extent of effectiveness
Administrative channels	Cannot properly perform their functions as there are hindrances in the implementation of asset reform laws
Local dispute resolution mechanisms	Relatively effective
Multi-sectoral dialogues	Results differ based on the willingness of the stakeholders to subject themselves to the process of mediation

Courts

Courts are often used as a last resort when all other forms of conflict resolution have been exhausted. Courts adjudicate cases of various disputes and conflicts, including those related to land and resources. Apart from courts being already congested with pending

⁷ In terms of public land deals, DENR data are often publicly disclosed, but often at the stage when the projects have already been approved and up for procurement.

cases in their dockets, delays in settling land and resource conflict cases are caused by, among others, unfamiliarity of some judges and lawyers with laws on agrarian reform ICCs/IPs and the environment. Legal court battles, therefore, take from three to 17 years to arrive at a final decision for land and resource conflicts (ALG, 2017).

■ **Quasi-judicial bodies**

Some government agencies, particularly those with mandates on asset reform, have quasi-judicial powers/functions to settle land and resource disputes under their jurisdiction.

For cases involving private lands covered by the Comprehensive Agrarian Reform Program (CARP), the Department of Agrarian Reform (DAR) has the DAR Adjudication Board (DARAB) for the national level, the Provincial Agrarian Reform Adjudicator (PARAD) for the provincial level, and the Regional Agrarian Reform Adjudicator (RARAD) for the regional level. Disputes and conflicts involving public domain land, on the other hand, are decided by the Alternative Dispute Resolution (ADR) Board of the DENR at the regional level. Finally, the National Commission on Indigenous Peoples (NCIP) has the power to adjudicate disputes and conflicts involving ancestral domains.

The DAR keeps records of the cases filed with and resolved under them. However, available data from the said agency do not indicate whether the decisions made were in favor of the agrarian reform beneficiaries or the landowners. As for the NCIP, it is still finalizing its guidelines on operationalizing its quasi-judicial functions.

Nonetheless, available data shows that quasi-judicial bodies are more efficient avenues of conflict resolution than courts.

■ **Administrative channels**

Land and resource conflicts may also be resolved through administrative remedies crafted by the government agencies through the implementation of existing policies and guidelines.

However, the expiration of an agrarian reform mandate and issuances of certain policies hinder the implementation of asset reforms in private agricultural lands, forestlands, and ancestral domains, therefore limiting or immobilizing the administrative channels to provide solutions to land and resource conflicts.

In terms of cases involving private agricultural lands, the expiration of the land acquisition and distribution component of the CARP in 2014 has provided the opportunity for landowners to question the Notices of Coverage (NOCs) issued after 2014 or NOCs that are erroneous and were not corrected before 2014 (Quizon, 2018). Further, DAR Administrative Order No. 6, series of 2017 puts on hold an existing policy that provides the mandate to the DAR to assist in the installation of Agrarian Reform Beneficiaries (ARBs) in their landholdings even if there are cases filed in court. This policy, therefore, prevents the

processes of land awarding and installation of CARP to proceed when there is a pending case filed involving the ARB and his/her landholding.

For the CARP implementation in public lands, the DENR has completed the implementation of asset reform in public lands covering 1,335,999 hectares; hence, they are no longer processing applications for the CARP in the DENR (Quizon, 2018).

For ancestral domains, Joint Administrative Order #1 of 2012 (JAO 1) – established to resolve overlapping claims within ancestral domains – has instead caused hindrances to the issuance and registration of Certificates of Ancestral Domain/Land Title (CADTs/CALTs). When an overlapping claim is found within an ancestral domain, the NCIP is obliged to seek a Certificate of Non-Overlap (CNO) from the DAR, DENR, and Land Registration Authority (LRA). This requirement however, was not mandated to the DAR, DENR and LRA when overlaps are found within landholdings under their jurisdictions – thereby effectively delaying the issuance and registration of CADTs/CALTs, while other land tenure instruments and resource use and management agreements were allowed to proceed.

■ Local Dispute Resolution Mechanism

Local dispute resolution mechanisms come in the form of officially recognized bodies under the local government units (LGUs), as well as mechanisms operated by non-government bodies such as Indigenous Political Systems and CSOs.

One important local dispute resolution mechanism is the *Katarungang Pambarangay* or Barangay Justice System. It is a community conflict resolution structure at the village level, administered by the Chief Executive (*Punong Barangay*) that utilizes a *Lupong Tagapamayapa* or a board of village peacekeepers to de-escalate and resolve conflicts of all types. Anecdotal sources on the implementation of this government-administered mechanism have revealed a relatively effective system for de-escalating violence, although it may be limited in resolving issues relating to the use, control, and/or transfer of land and natural resources.

Indigenous peoples may also resolve disputes among themselves through traditional justice systems. This may also extend to disputes between indigenous and non-indigenous persons if the latter agree to go through the traditional mechanism.

Several civil society organizations also facilitate the resolution of conflicts through mediation. A CSO initiative (by MedNet) on facilitating conflict resolutions at the local level have been attested to as effective in resolving conflicts when parties in conflict are willing to subject themselves to the process of mediation.

■ Multi-sectoral Dialogues

The effectiveness of multi-sectoral dialogues organized by CSOs is usually dependent on the willingness of the perpetrators or conspirators to collaborate in conflict resolution and policy reform initiatives. Hence, such dialogues may not generally yield consistent results.

Prevalence of Land and Resource Conflicts in the Country

Conflicts involving land and resources in the Philippines remain prevalent, and disputes over the right to own and/or access land and resources continues to be violent. This study was able to document a total of 223 ongoing cases of conflict taking place within 5.55 percent (1,665,399 hectares) of the total territory of the Philippines, an additional 1.55 percent from the four percent found during the 2018 study. These conflicts affect roughly 507,884 households and 68,001 individuals. The duration of conflict ranges from less than a year to 73 years. The most frequent documented cases have been enduring for more than 21 years (22.2 percent). The cases that have just started in 2019 and 2020 are mostly conflicts involving resources used for housing (62.5 percent). For cases of conflict that have been persevering for 21 years and more, the majority involves agricultural lands (58 percent) where three-fifths of the conflicts are caused by private investments on plantations. This is followed by conflicts involving ancestral domains (24 percent) where half of the conflicts are caused by private investments in mining activities. Table 4 provides the breakdown of duration of ongoing cases of land and resource conflicts.

Table 4. Duration of land and resource conflicts

Duration of conflict	Percentage Among Cases
Less than 1 year to 1 year	4.0%
2 to 5 years	12.9%
6 to 10 years	15.1%
11 to 15 years	21.8%
16 to 20 years	10.2%
21 years and above	22.2%
No data	13.8%
TOTAL	100.0%

For the year 2020, data gathered indicated that **CARAGA and Davao remain to be the regions with the highest number of cases of conflict** with 50 cases (21.1 percent) and 36 cases (15.2 percent), respectively. In the 2018 study, it was found that the majority of the documented cases of conflict were located in Region 13 [CARAGA] (21 percent) and followed by Region 11 [Davao Region] (18 percent). In terms of size of resource in conflict, Region 2 (Cagayan Valley) has the largest coverage with 396,892 hectares (23.83 percent of the total area in study) and followed by Region 3 (Central Luzon) with 251,151 hectares (15.081 percent).

Compared to the 2018 study, the region with the largest coverage in conflict was Region 10 (Northern Mindanao) with 318,371 hectares (25 percent of total area affected), followed by Region 4-B (MIMAROPA) with 315,714 hectares (24 percent) and Region 13 (CARAGA) with 208,293 hectares (16 percent). Table 5 presents the breakdown of the number of cases and size of resource conflict per region for the year 2020.

Table 5. Distribution of cases and size of resource conflict per region

Name of Region/Province	Frequency	Percentage	Size in ha	Percentage
National Capital Region (NCR)	6	2.52	33	0.002
Cordillera Administrative Region (CAR)	3	1.3	11,687	0.702
1- Ilocos Region	4	1.7	87,082	5.229
2- Cagayan Valley	5	2.1	396,892	23.832
3- Central Luzon	16	6.8	251,151	15.081
4A- CALABARZON	12	5.1	36,150	2.171
4B- MIMAROPA	21	8.9	239,498	14.381
5- Bicol Region	2	0.8	4,567	0.274
6- Western Visayas	15	6.3	160,853	9.659
7- Central Visayas	5	2.1	5,676	0.341
8- Eastern Visayas	17	7.2	38,974	2.34
9- Zamboanga Peninsula	No data	No data	No data	No data
10- Northern Mindanao	24	10.1	225,555	13.544
11- Davao Region	36	15.2	56,474	3.391
12- SOCCSKSARGEN	19	8	45,194	2.714
13- CARAGA	50	21.1	105,613	6.342
Bangsamoro Autonomous Region in Muslim Mindanao (BARMM)	2	0.8	No data	No data
TOTAL	237	100	1,665,399	100

It can be gleaned from Table 5 that the total number of cases documented by the study is not equal to the total number of cases according to the distribution by region. This is because there were cases of conflict which covered more than one region.

In terms of the type of land or resource involved in conflict, the study was able to account for a total of 229. Majority of the cases involved only one type of land or resource (89.5 percent). Other cases involved two, three, and four types of land or resource (7.9 percent, 2.2 percent and 0.4 percent, respectively). **For cases of conflict involving only one type, the most frequent was among agricultural lands (53.9 percent). In terms of size, conflicts are most prevalent in ancestral domains (724,629.70 hectares or 52.06 percent) and agroforestry areas (517,099 hectares or 37.15 percent).** Majority of the type of conflict occurring in agricultural lands arise from private investments (73.6 percent) and resistance to land reform (14.5 percent) where the size of land contested averaged 42 hectares. Conflicts occurring in ancestral domains also largely involve private investments (41.2 percent) as well as clashing tenure systems (21.6 percent); while the size of ancestral domains contested averaged 9,000 hectares. Table 6 below presents the distribution of conflicts involving only one type of land or resource according to frequency and size.

Table 6. Distribution of conflicts involving only one type of land or resource according to frequency and size

Type of Resource Use	Frequency distribution (%)	Size (ha)	Size (%)
Ancestral domains	25.2	724,629.70	52.06
Agroforestry and people-based plantations	3.4	517,099.00	37.15
Agriculture	53.9	75,872.40	5.45
Fishing, aquaculture, and use of fishponds and coasts	6.8	67,308.90	4.84
Housing	10.7	6,980.20	0.5
TOTAL	100.0	1,391,890.20	100.00

Conflicts involving agroforestry and people-based plantations have the second largest coverage because these involve protected areas undergoing illegal forest activities. Among these is the largest protected natural park in the Philippines located in Region 2 (Cagayan Valley). Covering a total of 359,486 hectares, the Northern Sierra Madre National Park (NSMNP) is home to around 25,000 people, 1,800 of whom belong to the indigenous group of Agtas (EJ Atlas, 2015). Illegal logging in the NSMNP operated by commercial logging firms as well as small logging groups has caused massive deforestation, irreversible biodiversity loss, and soil erosion weakening the Sierra Madre's capacity to protect against flooding during typhoons.

For cases involving multiple types of land and resources, conflicts are most frequent and prevalent among the compounds of agricultural lands and ancestral domains covering 42.03 percent (127,568.711 hectares). Table 7 illustrates the various cases of conflicts involving multiple types of land and resources.

Among the conflicts involving agricultural lands and ancestral domains is that involving the Tampakan Project located along the boundaries of Regions 11 (Davao) and Region 12 (SOCCSKSARGEN). With a total area of 23,571 hectares, it is the largest undeveloped copper-gold site in Southeast Asia and the Western Pacific (Chavez, 2020). Once extraction begins, it will become the largest copper mine in the Philippines. The holder of the 25-year mining permit, Sagittarius Mines, Inc. (SMI), estimates that it will take 70 years to excavate all deposits in the area. As it lies within the ancestral domains of *B'laans*, around 4,000 of them are estimated to be facing displacement once excavation begins (Chavez, 2020). The project is also feared to pose a pollution threat to the nearby watersheds of the Catisah Allah, Marbel, and Padada rivers. The targeted area for the mine's waste will also be located near Mal River, one of the largest river systems in Mindanao. Key biodiversity wetlands, such as Buluan and Liguasan Marsh, are also seen to be at risk from the project's mine tailings. According to the South Cotabato Irrigators Agricultural Farmers' Federation Inc., around 4,293 hectares of farmlands depend on these watersheds involving 1,873 farmers (Estabillo, 2012). Because of the project's open-pit method, it is estimated to clear 3,935 hectares of forests and arable lands (Chavez, 2020). Despite massive opposition from various groups, the Tampakan Project seems to be gearing up for extraction after the extension of SMI's Financial or Technical Assistance Agreement (FTAA) for another 12

years in an order dated 8 June 2016 — but was only made known to the public in January 2020.

Table 7. Distribution of conflicts involving multiple types of land or resources according to frequency and size

Number of type of resources involved	Type of Resource Use	Frequency distribution (%)	Size (ha)	Size (%)
2	Agriculture; and ancestral domains	25	127,568.711	42.03
2	Ancestral domains; agroforestry and people-based plantations	8.33	75,671.000	24.93
2	Fishing, aquaculture, and use of fishponds and coasts; and housing	8.33	30,029.000	9.89
2	Ancestral domains; housing	12.5	7,987.230	2.63
2	Agriculture; and fishing, aquaculture, and use of fishponds and coasts	16.67	6,732.000	2.22
2	Agriculture; and housing	4.17	248.000	0.08
3	Ancestral domains; fishing, aquaculture, and use of fishponds and coasts; and, housing	4.17	24,520.000	8.08
3	Agriculture; fishing, aquaculture, and use of fishponds and coasts; and, housing	16.67	17,828.000	5.87
3	Agriculture; ancestral domain; fishing, aquaculture, and use of fishponds and coasts; and, housing	4.17	12,923.000	4.26
TOTAL		100.00	303,506.941	100.00

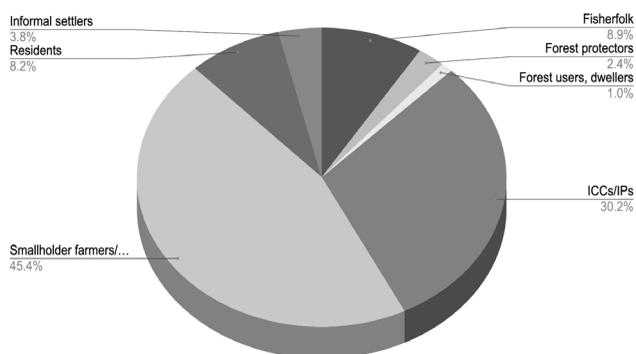
Nature and Causes of Land Conflict

To determine the nature of conflict, the study looked at the relationships formed between stakeholders in conflict. Although the majority of the recorded cases had a one to one ratio of rights holders against their adversaries (79.91 percent), there were cases where one group of rights holders was facing multiple groups of duty bearers (8.93 percent). Likewise, there were cases where multiple groups of rights holders faced against only one duty bearer (8.04 percent).

Figure 1 illustrates the distribution of the types of rights holders documented by the study. **Majority of the rights holders in conflict consist of smallholder farmers/producers (45.4 percent) and ICCs/IPs (30.2 percent).**

On the other hand, Figure 2 shows the number of duty bearers involved in conflict. A

Figure 1. Distribution of types of rights holders involved in conflict



huge group of duty bearers are private companies/corporations (64.3 percent) followed by the government with (15.1 percent). The third most frequent duty bearers are other rights holders (6.5 percent).

Figure 3 illustrates the comparison of conflict relationships found by the 2018 and 2020 studies. In the former,

Figure 2. Number of duty bearers identified by rights holders in conflict

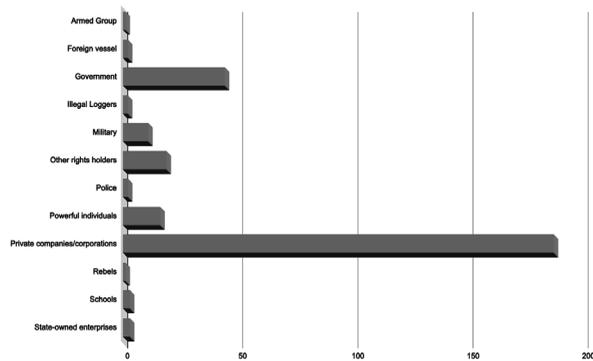
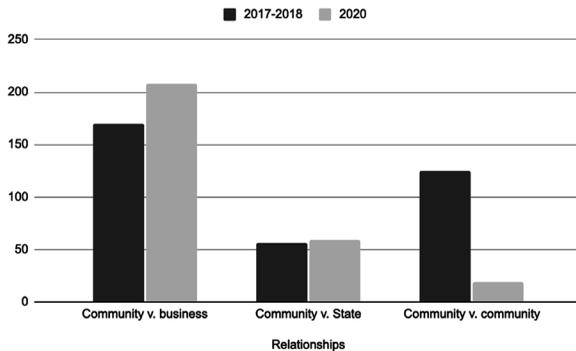


Figure 3. Conflict relationships found in the 2018 study in comparison with the present study



the majority of the cases that occurred in 2017 to 2018 consisted of conflicts between community members against businesses (48 percent). It also found more conflicts among community members (36 percent) than conflicts between community members and the government (16 percent) as compared with the present study that found 6.64 percent and 20.63 percent, respectively.

The difference between the information found in the two studies may be explained by the varying data-gathering methods. While the 2018 study gathered information from National Government Agencies (NGAs) in addition to CSOs and online sources, the present study only used publicly available secondary sources which do not often report on inter-community conflicts. Thus, the figures may not be taken to imply that conflicts among communities are decreasing.

It is apparent however, that despite the difference in data-gathering methods used, **since 2017, private companies/corporations remain to be the most frequently reported duty bearers in land and resource conflicts.**

The study found a total of 290 relationships grouped into 36 sets where the most frequently reported was that between *smallholder farmers/producers* against *private companies/corporations* (36.2 percent), followed by *ICCs/IPs* against *private companies/corporations* (13.1 percent), and *ICCs/IPs* against *the government* (7.96 percent). Table 8 ranks the sets of relationships between rights holders and duty bearers documented by the study. **It can**

be observed that across all types of rights holders included in the study, the most frequent duty bearers against them are private companies/corporations.

Table 8. Distribution of types of relationships formed between rights holders and duty bearers

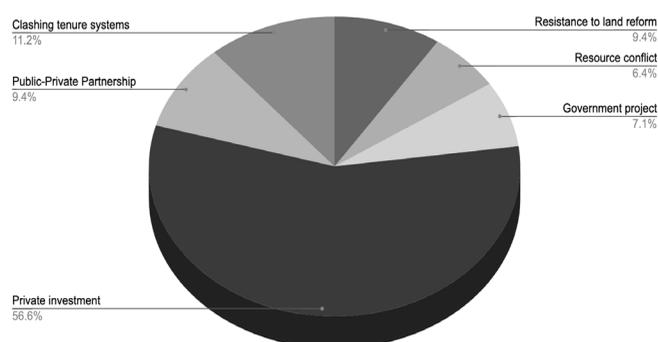
Rights holders and duty-bearers in conflict	%
<i>Smallholder farmers/ producers</i>	45.1
Private companies/corporations	36.2
Powerful individual	4.5
Government	2.4
Others (educational institutions, military, other smallholders)	2.0
<i>ICCs/IPs</i>	30.1
Private companies/corporations	13.1
Government	7.2
Military	2.8
Other rights holders-smallholder farmers/producers	2.4
Other rights holders-ICCs/IPs	1.4
Other rights holders-Forest dwellers	1.0
Others (State-owned enterprise, armed group, illegal loggers, residents, powerful individuals)	2.2
<i>Fisherfolk</i>	8.9
Private companies/corporations	6.6
Government	1.0
Foreign fishing vessels	0.7
Others (military, other fisherfolk)	0.6
<i>Residents</i>	8.3
Private companies/corporations	6.2
Government	1.4
Powerful individual	0.7
<i>Informal settlers</i>	3.7
Government	2.4
Private companies/corporations	0.7
Others (state-owned enterprise, police)	0.6
<i>Forest protectors</i>	2.3
Private companies/corporations	1.0
Other rights holders-Smallholder farmers/producers	0.7
Others (government, illegal loggers)	0.6
<i>Forest users, dwellers</i>	1.0
Private companies/corporations	0.7
Government	0.3

Conflicts wherein the government was identified as the duty bearer often involved ICCs/ IPs (52 percent), followed by informal settlers (15 percent) and smallholder farmers/ producers (15 percent) as rights holders.

For conflicts among rights holders, the majority of the cases of conflict involved ICCs/IPs (79 percent). Conflict relationships between ICCs/IPs and smallholder farmers/producers were most frequent (37 percent), followed by conflicts among ICCs/IPs (21 percent).

Figure 4 illustrates the six types of conflict identified in the study. **As a large number of the duty bearers involved in conflict are private companies/corporations, the majority of the conflicts are in the context of private investments (56.6 percent).** This is followed by conflicts arising from clashing tenure systems (11.2 percent).

Figure 4. Distribution of types of land and resource conflicts



The land and resource conflicts were classified into 19 subtypes as enumerated in Table 9. Conflicts in the context of plantations were the most frequent (32.02 percent) followed by mining (16.98 percent) and overlapping claims (8.3 percent). In terms of the size of land or resources involved, conflicts pertaining to illegal forest activities have the largest coverage with 35.52 percent of the total study area. This is followed by conflicts on encroachment into ancestral domains (15.28 percent), projects on generating or harnessing power/electricity (15.08 percent) and mining (14.69 percent).

Table 9. Distribution of specific types of land and resource conflicts according to frequency and size

Specific types of conflict	% of cases out of the total	% area of contested land or resource
Plantation	32.08	5.57
Mining	16.98	14.69
Overlapping claims	8.30	8.01
Acquisition and distribution	7.17	1.07
Projects on generating or harnessing power/electricity	7.17	15.08
Encroachment into ancestral domains	4.91	15.28
Illegal forest activities	4.15	35.52
Demolitions or clearing operations (including threats)	3.40	0.002
Tourism	3.02	0.29
Infrastructure	2.64	0.15
Land conversion	2.64	0.80
Military operations	1.89	No data
Ecological damage/conflict impacts on the environment	1.51	0.48
Land grabbing	1.13	0.47

Economic Zones/Land concessions	0.75	0.78
Land reclamations	0.75	1.81
Subdivision construction	0.75	0.002
Armed conflicts	0.38	No data
Encroachment of foreign fishing vessels	0.38	No data

Conflicts involving plantations occurred only between private companies/corporations against smallholder farmers/producers (92.9 percent) and ICCs/IPs (7.1 percent). Half of the conflicts on mining, perpetrated also by private companies/corporations, are against ICCs/IPs (50 percent). Mining conflicts also involve smallholder farmers/producers (22.7 percent), residents (15.9 percent), and fisherfolk (11.4 percent).

Impacts and Outcomes of Land Conflict

As was observed in this study, many land conflicts bring about violence against individuals and communities. Others result in environmental or ecological damage. In 2020, despite the country's firm restrictions on the people's movement to contain the increase of COVID-19 cases, incidents of land and resource conflict-related human rights violations against rights holders and their defenders continued to be reported. The study found **147 incidents of violations against rights of individuals and communities. These incidents involved 287 individuals and 58,295 households.**

The study grouped the incidents of HRVs into three categories namely: a) individual, b) community, and c) both individual and community. Figure 5 shows the monthly number of incidents for each of the three categories recorded by the study. It can be observed that **the four months when the total number of incidents of HRVs are highest are also the first four months (March, April, May and June) of the implementation of the nationwide community quarantine due to the COVID-19 pandemic.**

For individual incidents of HRVs, the months of May, October, and April had the highest number of victims with 63, 53, and 37 individual victims per month, respectively. Figure 6 describes the monthly number of individual victims of HRVs in contrast with the number of incidents.

On frequency and types of recorded violence/attacks against individuals and communities⁸

Majority (51 percent) of the individual victims of violence were not linked to one specific case. There were 69 victims (24 percent) of violence who were human rights defenders

⁸ The incidents of violence included in this study are those that have been reported by public sources. The study team recognizes that many attacks against individuals and communities are not reported, and that the data gathering might not have captured all reported attacks.

(HRDs), activists, or persons working with communities to claim their rights to land and resources. The study also found victims of HRVs who were civilians. Table 10 lists the frequency of incidents of *all* recorded forms of violence per region, along with the total number of affected individuals and communities.

Table 10. Distribution of all individual and household HRV victims per region

Name of Region/Province	Percentage of total number of incidents	Total number of individual victims of HRVs	Total number of community (HH) victims of HRVs
National Capital Region (NCR)	4.1 %	2	22,600
Cordillera Administrative Region (CAR)	2.1 %	3	11
1- Ilocos Region	No data	No data	No data
2- Cagayan Valley	6.8 %	8	47.6
3- Central Luzon	14.4 %	24	950
4A- CALABARZON	11.6 %	19	26,426
4B- MIMAROPA	8.2 %	14	No data
5- Bicol Region	1.4 %	6	800
6- Western Visayas	8.9 %	137	321
7- Central Visayas	6.8 %	17	22
8- Eastern Visayas	8.2 %	15	3,125
9- Zamboanga Peninsula	No data	No data	No data
10- Northern Mindanao	2.7 %	5	No data
11- Davao Region	6.8 %	18	35
12- SOCCSKSARGEN	5.5 %	8	1,100
13- CARAGA	8.9 %	10	243
Bangsamoro Autonomous Region in Muslim Mindanao (BARMM)	3.4 %	1	2,614
TOTAL	100 %	287	58,295

There are 287 individual victims recorded in the study, 143 of which are associated with a case. Among the four types of HRVs, political violence has caused the most number of individual victims at 155 and almost half of these (80) involved tagging/coloring/labelling. The next type of HRV that affected the most number of individual victims is physical violence at 138, where majority (49) specifically involved detainment (see Table 11).

Table 11. Number of victims of HRVs according to type of violence

Type of HRV	Specific type of violence	Number of victims associated with a case	Total number of victims found by the study
Physical violence	Killing	11	38
	Disappearance, abduction, illegal detention or arrest	13	40
	Injury or assault	7	10
	Detainment	33	49
	Torture	No data	1
Sub-total		64	138
Psychological violence	Harassment, intimidation, persecution, trauma	55	72
	Threat of killing	1	4
Sub-total		56	77
Economic violence	Loss of employment	53	53
	Destruction of property	12	13
Sub-total		65	66
Political violence	Criminalization/trumped up charges	56	60
	Tagging/coloring/labelling	37	80
	Dispossession	12	12
	Forcible entry, trespassing, or encroachment	No data	3
Sub-total		105	155

Incidents are counted according to the place in which each occurred in conjunction with the date that it occurred. Hence, there are incidents of HRVs with multiple victims. Some of the victims were also reported to have experienced more than one type of violence. It was found that, of those tagged, 93.75 percent⁹ were also victims of physical violence, with 35 (46.7 percent) detained, 30 (40 percent) killed, and 10 (13.3 percent) being victims of disappearance, illegal detention, or arrest.

About 44.7 percent of the victims killed were smallholder farmers/producers, 26.3 percent were ICCs/IPs, 21.1 percent were HRDs, 5.3 percent were civilians, and 2.6 percent were fisherfolk. Thirty-nine percent of those killed were in Region 6 (Western Visayas).

⁹ Victims include both those involved in cases of conflict and those not tied to any land or resource conflict.

Figure 5. Distribution of incidents by month

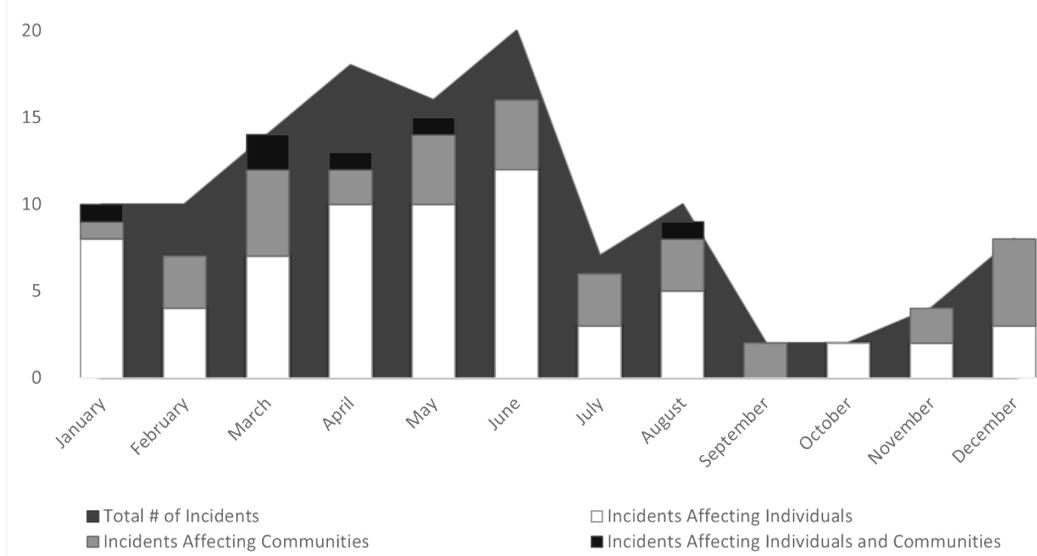
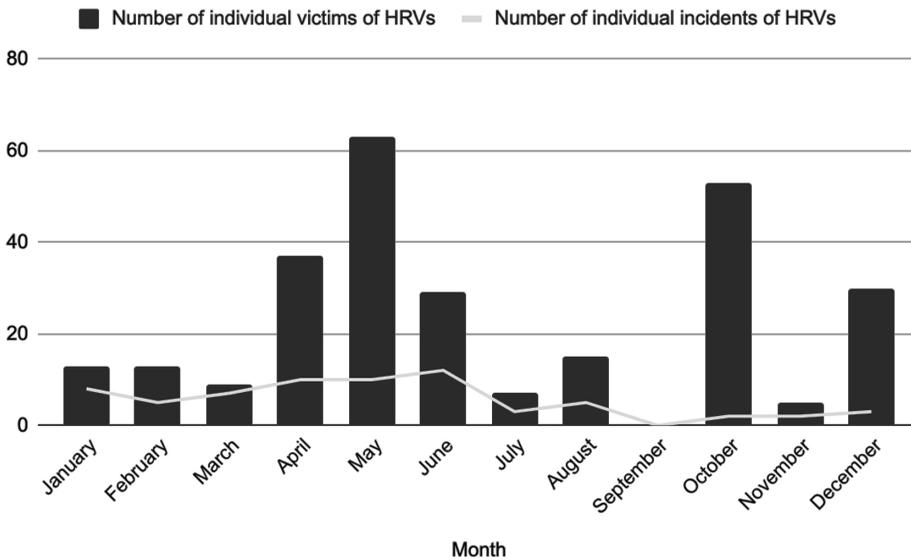


Figure 6. Monthly number of individual incidents and victims of HRVs



Majority of the victims of violence were males, except for those in incidents of “injury or assault” and “harassment, intimidation, persecution, trauma” where the victims were mostly females (see Table 12).

The gender (41.38 percent of victims) was not specified in the reports. Of those incidents where the gender of the HRV victim is indicated, the majority (70.4 percent) were reportedly males.

Table 12. Distribution of types of individual HRVs according to gender

Type of HRV	Specific type of violence	Male	Female
Physical violence	Killing	83.9%	16.1%
	Disappearance, abduction, illegal detention or arrests	83.9%	16.1%
	Injury or assault	40%	60%
	Detainment	53.6%	46.4%
	Torture	100%	0%
Psychological violence	Harassment, intimidation, persecution, trauma	43.8%	56.3%
	Threat of killing	50%	50%
Economic violence	Loss of employment	Unspecified	Unspecified
	Destruction of property	76.9%	23.1%
Political violence	Criminalization	28.6%	71.4%
	Tagging/coloring/labelling	77.2%	22.8%
	Dispossession	83.3%	16.7%
	Forcible entry, trespassing or encroachment	Unspecified	Unspecified

The study also found victims of violence who were elderly (aged 60 and above) as well as minors (18 and below). Among the eight elderly victims, three were killed, three were victims of disappearance, abduction, illegal detention or arrest, one was detained, and another was tortured. Half of them were tagged as members of rebel groups. One smallholder farmer/producer victim was reported to have mental health problems. He was killed along with four other smallholder farmers/producers in Sorsogon whom State forces had tagged as members of rebel groups.

Among the 13 victims who were minors, five experienced psychological violence such as harassment, intimidation, persecution, and one experienced threats (of killing, injury, detention) – trauma. Some of them experienced physical violence, where three were detained, two were victims of injury and assault, and two were victims of disappearance, abduction, illegal detention, or arrest. One of the minors detained is an infant who was detained with her mother.

Due to having incidents of HRVs involving more than one victim and with most of them having experienced multiple types of violations, the number of perpetrators broken down in Table 13 is *not* equal to the number of individual victims. Rather, it presents the breakdown of the perpetrator for each type of individual HRV committed. Over all, the majority of the perpetrators of individual HRVs were State agents (209) and powerful individuals

(161). A huge portion of the State agents mentioned in reports of HRVs were the military (41.9 percent), police (30.6 percent), and police together with the military (19.4 percent). Majority (110) of all the physical violence was also perpetrated by State agents (see Table 13). A large portion of psychological violence—specifically harassment, intimidation, persecution and trauma, as well as loss of job/employment and criminalization—were initiated by powerful individuals. Tagging and forcible entries were largely done by State agents.

Table 13. Perpetrators of individual Human Rights Violations

Type of violence	Perpetrator							TOTAL
	State agents (Military/ Police)	Paramilitary	Non- State armed group	Private company/ corporation	Criminal syndicate	Powerful individual	Unidentified assailants	
OVERALL TOTAL	209	3	5	26	2	161	29	435
Physical								
Killing	27	1	1	–	1	–	8	38
Injury or assault	4	–	3	–	1	–	2	10
Disappearance, abduction, illegal detention, or arrest	34	1	1	–	–	–	4	40
Torture	1	–	–	–	–	–	–	1
Detainment	44	–	–	–	–	5	–	49
Total	110	2	5	0	2	5	14	138
Psychological								
Threat (of killing, injury, detention)	2	–	–	–	–	–	2	4
Harassment, intimidation, persecution, trauma	10	–	–	–	–	52	10	72
Total	12	–	–	–	–	52	12	76
Economic								
Destruction of property	1	–	–	12	–	–	–	13
Loss of job/ employment	–	–	–	1	–	52	–	53
Total	1	–	–	13	–	52	–	66
Political								
Criminalization	7	–	–	1	–	52	–	60
Tagging/ coloring/ labelling	76	1	–	–	–	–	3	80

Forcible entry, trespassing, encroachment	3	-	-	-	-	-	-	3
Dispossession	-	-	-	12	-	-	-	12
Total	86	1	-	13	-	52	3	155

The 2018 study recorded more victims killed (61) than the 2020 study (38). This is because of the difference in the scope of duration of the two reports. The 2018 study covered 18 months (January 2017 to June 2018) while the scope of the current study was only 12 months (January 2020 to December 2020). However, the difference in the number of victims killed in the two studies **does not** imply that HRVs are decreasing.

It was likewise observed that, in both studies, the majority of the perpetrators of killings reported were State agents. In the 2018 report, 66 percent of killings were committed by the military; while in the 2020 study, 61.5 percent were reportedly committed by various State forces such as the military (41.7 percent), police (20.8 percent), and joint forces of the military and police (37.5 percent). Among the victims reportedly killed by State agents, 95.8 percent were also victims of tagging.

Furthermore, 55 percent of the incidents of HRVs were committed against communities. ICCs/IPs and smallholder farmers/producers were the most affected sectors of community violence (see Figure 7). Half of all incidents of community violence were sustained violations to be discussed later in the report.

Figure 7. Distribution of victims of community violence, per sector

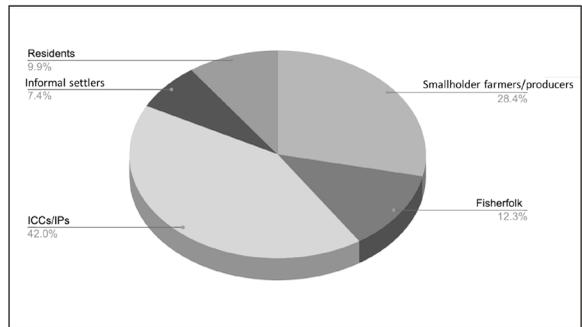


Table 14 shows that the most frequent type of community violence is displacement, followed by forcible entry and lack or faulty implementation of FPIC. It was also found that communities are also victims of tagging/coloring/labelling perpetrated by State agents (83.3 percent) and powerful individuals (16.7 percent). Among the five community victims of tagging, three were ICCs/IPs and two were fisherfolk communities. Moreover, there were incidents of individual HRVs in 40 percent of the occurrences of community tagging.

Some communities also experienced multiple types of violence. Out of the 34 incidents of displacement, 32 percent were incidents of threats and impacts to the environment. In the 48 incidents of threats and impacts to the environment, 35 percent experienced accompanying incidents of community violence. The types of violence with the highest number of victims were those of displacement and contamination of resources/pollution.

Table 14. Number of community victims of HRVs according to type of violence

Type of HRV	Specific type of violence	Number of Incidents	Number of victims per household
Community violence	Denial of benefit	1	No data
	Destruction of property	3	401
	Disenfranchisement	6	48
	Displacement	34	28,317
	Dispossession	2	No data
	Forcible entry/lack of or faulty FPIC	13	35
	Grave threats	1	No data
	Harassment, intimidation, persecution, trauma	5	37
	Threat of displacement	6	26,000
Threats and impacts to the ecology	Contamination of resources/pollution	15	27,371
	Depletion of productivity brought by pollution or destruction of biodiversity	6	No data
	Destruction of biodiversity	18	4,333
	Increased climate vulnerability	9	No data

Private companies/corporations were identified as the perpetrators in the majority of all types of HRVs committed against communities, followed by State agents. Notably, in a big portion of the incidents of community HRVs, the reports did not identify the perpetrator (16). Displacements, being the most frequent type of HRV against community as well as the type of HRV with the highest number of victims, were reportedly perpetrated largely by State agents and private companies/corporations. Majority of threats and impacts to the ecology were carried out by private companies/corporations.

Table 15. Distribution of perpetrators of community violence

Type of violence	Perpetrator						
	State agents (Military/Police)	Non-State armed group	Private company/corporation	Private armed groups	Powerful individual	Unidentified	Foreign fishing vessels
OVERALL TOTAL	35	6	45	3	8	16	4
Community violence	30	6	16	2	5	10	1
Denial of benefit	-	-	-	-	1	-	-

Destruction of property	2	-	-	-	-	-	-
Disenfranchisement	2	-	2	-	-	2	-
Displacement	11	6	10	2	3	2	-
Dispossession	1	-	-	-	-	1	-
Forcible entry/ lack of or faulty FPIC	5	-	4	-	-	4	-
Grave threats	1	-	-	-	-	-	-
Harassment, intimidation, persecution, trauma	3	-	-	-	-	1	1
Tagging/coloring/ labelling	5	-	-	-	1	-	-
Threats and impacts to the ecology	5	0	29	1	3	6	3
Contamination of resources/pollution	1	-	11	-	2	1	-
Depletion of productivity brought by pollution or destruction of biodiversity	-	-	1	-	1	1	3
Destruction of biodiversity	4	-	10	1	-	3	-
Increased climate vulnerability	-	-	7	-	-	1	-

On land and resource conflicts with human rights violations

From the 223 ongoing cases found in the study, recent HRVs against individuals and communities were present in 54 cases (23 percent). BARMM, NCR, and Region 3 (Central Luzon) have the highest proportion of cases with incidents. All of the cases in BARMM have manifestations of conflict, including an armed conflict between government forces and militant groups taking place within ancestral domains that forced 600 families in South Upi, Maguindanao to leave their homes on 31 December 2020. In NCR, where 83 percent of the cases have manifestations of conflict, HRVs include communities experiencing threats of displacement (60 percent), actual displacement (20 percent), and ecological damage/conflict impacts on the environment (20 percent). NCR is also the region with the highest number of community victims with 22,600 households. Region 3 (Central Luzon) is the region with the highest percentage of manifestations of conflict and it has the highest incidents of HRVs among the cases with incidents. Cases in Region 6 (Western Visayas) have the highest number of individual victims of HRVs.

Table 16. Distribution of land and resource conflict cases with HRVs per region and number of individual and household victims

Name of Region/Province	Number and percentage of cases with incidents within the region	Number of individual victims of HRVs	Number of HH victims of HRVs
National Capital Region (NCR)	5 (83.3%)	No incident recorded	22,600
Cordillera Administrative Region (CAR)	0	No incident recorded	No incident recorded
1- Ilocos Region	0	No incident recorded	No incident recorded
2- Cagayan Valley	2 (40%)	2	No incident recorded
3- Central Luzon	10 (62.5%)	14	950
4A- CALABARZON	4 (33.3%)	7	26,426
4B- MIMAROPA	5 (23.8%)	1	No incident recorded
5- Bicol Region	1(50%)	1	800
6- Western Visayas	5 (33.3%)	76	321
7- Central Visayas	3 (60%)	No incident recorded	22
8- Eastern Visayas	2 (11.8%)	No incident recorded	3,125
9- Zamboanga Peninsula	0	No incident recorded	No incident recorded
10- Northern Mindanao	3 (12.5%)	4	No incident recorded
11- Davao Region	4 (11.1%)	13	No incident recorded
12- SOCCSKSARGEN	3 (15.8%)	3	No incident recorded
13- CARAGA	3(6%)	No incident recorded	111
Bangsamoro Autonomous Region in Muslim Mindanao (BARMM)	2(100%)	No incident recorded	2,314
TOTAL	54 (23%)	121	56,669

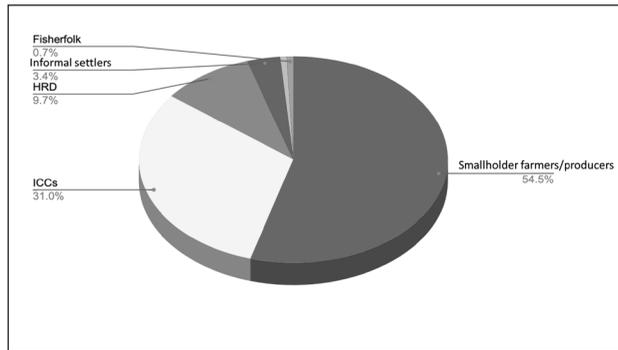
Most of the individual victims of violence linked to specific cases were smallholder farmers or producers (54.5 percent), while 31 percent belong to indigenous groups or communities. Fourteen individuals (9.7 percent) were activists and rights defenders (see Figure 8).

There are also a few instances in which civilians not directly involved in the conflict are affected by violence, as was the case when a civilian/relief worker was killed in an ambush attack by Bangsamoro Islamic Freedom Fighters (BIFF) who have an ongoing conflict affecting ICCs/IPs in South Upi, BARMM.

Majority (94.6 percent) of victims of criminalization or trumped-up charges were smallholder farmers/producers. Because of such charges, the victims also suffered harassment, intimidation, persecution, and trauma as well as loss of job/employment. These attacks were mostly perpetrated by powerful individuals (60.5 percent) resisting land reform. In one recorded case in October 2020, the Regional Trial Court (RTC) Branch 54 in Bacolod City issued arrest warrants for 56 farmers in Negros for alleged violation of Republic Act 9700

CARP Extension with Reforms (CARPER). Five of the farmers were already arrested, while four served with arrest warrants have long passed away. The victims were claiming their rights to 248 hectares of redistributed agricultural lands, believed to be part of the 1,000 hectares land owned by the Yusay family and whose representative filed the complaint against the farmers.

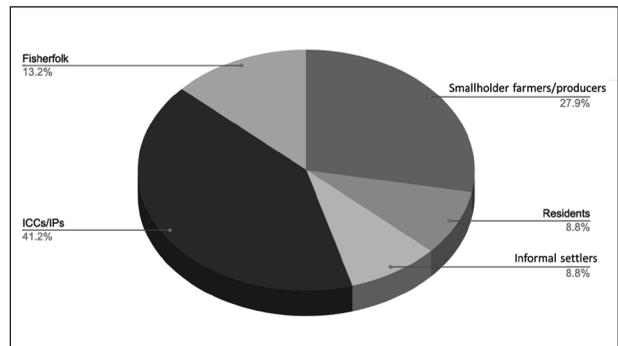
Figure 8. Distribution of individual victims of HRVs in cases of land and resource conflicts, per sector



Meanwhile, the study found that violence against communities was most prevalent among ICCs/IPs (41 percent). This is followed by violence against communities of smallholder farmers/producers (28 percent) and fisherfolk (13 percent). This distribution of household victims per region is reflected in Figure 9.

Among the killings linked to a certain case, the majority of the victims are ICCs/IPs (82 percent). **The Jalaur Mega Dam project was found to be the deadliest case of conflict.** In December 2020, nine members of the Tumandok tribe who had long opposed the construction of the dam were killed in Iloilo and Capiz. In addition to the killings, 19 other ICCs/IPs were red-tagged and detained. Reports refer to police and military as alleged perpetrators of the violence. Prior to the incident, the Tumandoks had been likewise red-tagged as members of the NPA.

Figure 9. Violence against communities in cases of land and resource conflicts, per sector



As is the general trend, victims in conflict cases faced multiple forms of violence:

- Of those red-tagged, 61.1 percent were also victims of detainment, 27.8 percent were killed, 11.1 percent were victims of disappearance, abduction, illegal detention, or arrest.
- Around 12.5 percent of victims of physical violence were also victims of psychological violence. Region 6 (Western Visayas) accounts for 92 percent of the victims of harassment, intimidation, persecution, and trauma. This was largely as a result of the cases involving Tumandoks in the Jalaur Mega Dam project and the resistance to land reform involving farmers in Negros.
- Ninety-four percent of victims of harassment, intimidation, persecution, and trauma had also experienced loss of job/employment.

On Sustained Violations

The study also distinguished between incidents that occurred during specific months from sustained types of HRVs where the individual or community perceived threats for a prolonged period. **Out of the 147 incidents of HRVs, 41 (or 28 percent) are sustained.** However, because the study focused more on incidents with identifiable dates of occurrence as part of its verifying process, the study did not further investigate the actual duration of these sustained violations. This type of HRV had one incident of individual HRV, 38 incidents of community HRVs, and two incidents of both. **The victims of prolonged HRVs included 14 individuals (4.8 percent) and 53,704 households (92.12 percent).** The sectors of individual victims with reports of prolonged HRVs were from ICCs/IPs (1; 7.14 percent) and smallholder farmers/producers (13; 92.85 percent). For the community victims, the majority of the sectors experiencing prolonged threats were smallholder farmers/producers (35.9 percent), followed by ICCs/IPs (25.6 percent) and fisherfolk (20.5 percent). Other sectors include residents (12.8 percent), forest protectors (2.6 percent), and informal settlers (2.6 percent).

Prolonged HRVs against communities included either physical, psychological, political or economic community violence (24 percent), impacts to the environment (37 percent), or a combination of both (39 percent). Figure 10 shows that the majority of the incidents of sustained community HRVs involved displacement or threats of displacement, affecting a total of 49,860 households.

The 26,000 fishing families (Antonio, 2020) living along the coastline from Bacoor City to Cavite City constituted the majority of the households who were reported as experiencing prolonged threat of displacement. This was due to the proposed reclamation project for the Sangley Point International Airport (SPIA). Majority of the identified

perpetrators of prolonged threats of displacement were private companies/corporations (53.8 percent), powerful individuals (23.1 percent), and State agents (23.1 percent). Examples of these State agents included the DENR for the Manila Bay Reclamation Project posing a threat to urban poor families living in coastal areas, the Bases Conversion and Development Authority (BCDA) for the New Clark City (NCC) feared to displace Aetas in Capas, Tarlac, and military operations in ICCs/IPs communities in Mindanao. Out of the 13 incidents of prolonged threats of displacement, 69 percent also experienced ecological impacts and threats to their environment.

Figure 10. Distribution of physical, psychological, political and economic community violence in sustained HRVs

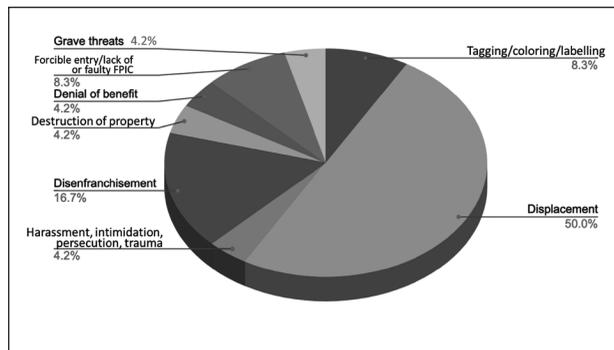
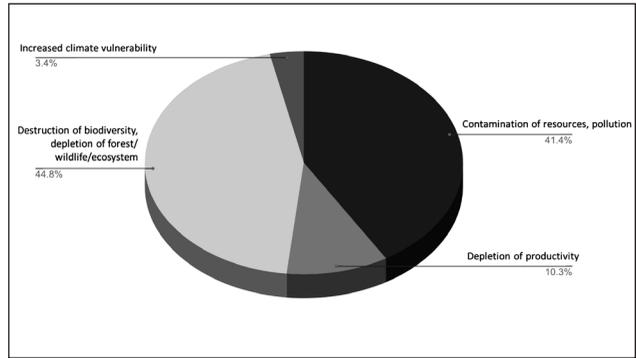


Figure 11 shows the various types of prolonged ecological HRVs experienced by communities where the majority of HRVs include destruction of biodiversity (44.8 percent) and contamination of resources or pollution (41.4 percent). Majority of prolonged ecological HRVs were perpetrated by private companies/corporations (66.7 percent), followed by State agents (19.1 percent) and powerful individuals (7.4 percent). Other perpetrators include foreign fishing vessels (3.7 percent) and private armed groups (3.7 percent).

Figure 11. Types of prolonged ecological HRVs experienced by communities



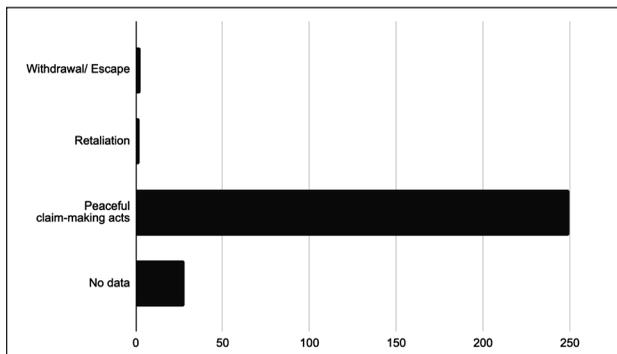
Responses to the Conflicts

Majority of the response of rights holders in conflict were through peaceful claim-making acts (88.3 percent), which means they choose to fight for their rights to own or access land and resources through amicable and legal processes (see Figure 12). Such processes include peaceful demonstrations (46.4 percent), negotiation (22.4 percent), legal remedies (17.2 percent), administrative (13.2 percent) and customary conflict resolution mechanisms (0.8 percent). In some of the cases, the response of the community was not reported (9.9 percent).

There were two cases (0.7 percent) where the rights holders chose to engage in violence—apparently since both cases had a history of violence committed by duty bearers. In the case in Palawan, reports say the provincial government had resolved to provide its forest rangers with firearms to protect them against armed groups involved in illegal forest activities. In the case in South Cotabato, some members of ICCs/IPs had admitted to engaging in violent conflict to defend their lands against the Tampakan project.

There were three cases (1.1 percent) where the community, particularly ICCs/IPs and

Figure 12. Distribution of community response to land and resource conflicts



fisherfolk, eventually chose to yield, withdraw, or escape the conflict. It should be noted that these communities did not only or immediately choose to escape conflict. They opted to do so after withstanding years of conflict and fear surrounding their everyday lives. According to the UN (Abo and Ayao, 2020), even amidst a pandemic and despite strict lockdowns, the number of victims

of intermittent conflict continued to rise in central and southwestern Mindanao. For the first quarter of 2020, at least 26,300 individuals were forced to leave their homes. In BARMM, ICCs/IPs fled their homes to escape being caught in the crossfire between armed groups and State forces. In Surigao del Sur, 67 Manobo families also fled their homes in fear of hostilities between State forces and insurgent groups.

Among the cases of those who chose to withdraw from conflict were those of fisherfolk who had been turned away by foreign fishing vessels while accessing their fishing grounds. In this case, the State was expected to protect them and their rights to access resources. Of particular relevance to small fisherfolk is the ongoing territorial dispute involving the West Philippine Sea. Beyond an issue of national sovereignty, this is also an issue of preferential rights among Filipino fisherfolk – small fisherfolk are being deprived of their preferential rights to fish in municipal waters and territorial waters, by both local and foreign entities. Unfortunately, the monitoring initiative of this study was not able to gather enough cases to provide rich insight into this particular concern.

To describe conflict resolution attempts in land and resource conflicts, the study monitored corrective responses of duty bearers involved in conflict, as well as third party actors in conflict. Actions were considered “corrective” if they aim to help rights holders in claiming their rights and access to land and resources. In the majority of the cases, it was reported that **no corrective actions were taken** (68.4 percent) in response to the conflict. In addition to this, a large portion of the cases have **no reported corrective action** (11.8 percent).

Corrective actions were only reported in 19.7 percent of the cases. Of these actions, 84.4 percent were undertaken by the government, 2.6 percent by the private companies involved in conflict, and 2.2 percent by third party actors. Among the corrective actions by government recorded by the study were: a) conduct of mediation dialogues between rights holders and duty bearers, b) issuance of legal documents to stop operations of mining firms, c) imposing fines on businesses for their violations and impacts on the environment, d) filing diplomatic protests against foreign fishing vessels encroaching on Philippine fishing waters, and e) awarding of tenurial instruments to rights holders.

Recommendations

In the validation workshop organized by ANGOC on 4 March 2021, CSO participants formulated the following recommendations based on the findings of the study:

For the government

General recommendations:

- As a signatory to the Universal Declaration of Human Rights and being the primary duty bearers of human rights obligations, the government must ensure the fulfillment

of international commitments at the domestic level by implementing all the provisions of the Declaration and other related treaties.

- As children and the elderly have been casualties in land and resource conflicts, the government must also demonstrate commitment in protecting the rights of vulnerable sub-populations especially in regions where conflict is chronic.
- The government must allow and practice transparent and verified investigations, and effective remedies for human rights violations such as incidents of killings, torture, displacement, and political violence. The CHR and other human rights mechanisms must be engaged to hold human rights violators to account.
- Government, the CHR, and civil society alike must condemn baseless “red-tagging,” and support the work of human rights defenders, protecting the many victims of malicious tagging.

On the implementation of existing policies:

- The government must continue to carry out and commit to the completion of land and resource reforms for farmers, indigenous peoples, fisherfolk, and urban dwellers, to secure rural stakeholders’ access to land and thus prevent conflicts. Specifically, it must complete all land and resource reform programs pursuant to the Constitution, and to existing laws such as the Comprehensive Agrarian Reform Program Extension with Reforms (CARPER), Indigenous Peoples’ Rights Act (IPRA), the Fisheries Code, and the Urban Development Housing Act (UDHA).
- Given the many concerns of indigenous peoples on the circumvention or non-implementation of the free, prior and informed consent (FPIC) process, the National Commission on Indigenous Peoples (NCIP) should undertake a review of the FPIC and revise as needed towards the strengthening of the implementation of its guidelines.

On monitoring and addressing conflicts:

- Land agencies should enhance and intensify monitoring and documentation of land and resource conflicts in implementing resource reform programs and make the data on land conflicts available to the public. A joint monitoring tool on monitoring conflicts may be explored between government agencies and civil society organizations.
- Agencies that are concerned with the approval and implementation of energy and infrastructure projects should investigate the social and environmental impacts of large investments, factoring in the potential effects of the investment on climate change adaptation as well. Adequate remedies should be put in place in instances where there are proven negative effects on communities.
- Land and justice agencies should establish an efficient and practical system to address overlapping claims on land. Upon the recommendation of indigenous peoples, the DAR-DENR-LRA-NCIP JAO 1 series of 2012, which makes ancestral lands/domains highly vulnerable to encroachment as it exacerbates the delay in processing and registration of CADTs, should be nullified. In lieu of JAO 1, a multi-sectoral conflict resolution mechanism should be established at the local level (*barangay*, municipality) to immediately respond to community grievances.

- Cases of red-tagging, harassment, and other violence against rights defenders must be reported and endorsed to the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearances, Torture and Other Grave Violations of the Right to Life, Liberty and Security of Persons (IAC)¹⁰, created under Administrative Order 35 series of 2012. A system of referral to the IAC must be included in official conflict resolution mechanisms and frameworks.

On addressing policy gaps:

- Noting that most conflicts on land and resources are in the context of business and private investments, a National Action Plan (NAP) on the UN Guiding Principles on Business and Human Rights (UNGPs) should be formulated. The NAP is seen to define a national framework to prevent and address business-related human rights violations, and to intensify safeguard mechanisms to prevent future injustices brought by land and resource investments. In the absence of a NAP, agencies should integrate the Business and Human Rights principles in their policies and programs.
- The National Land Use Act (NLUA) must be passed by the Philippine Congress to prevent further land use conversion of agricultural and forest lands as well as summary evictions and demolition of housing units of urban poor dwellers.
- Of equal importance is the need to enact into law the following pending bills deemed integral to preventing and addressing conflicts:
 - Indigenous Community Conserved Areas (ICCA), in recognition of IPs as stewards of the environment, in light of the rising number of resource conflicts caused by disagreements between IPs, government, and/or the private sector on the use and management of resources.
 - Act Defining and Penalizing Red-Tagging, in light of the increasing prevalence of malicious tagging of human rights defenders, activists, and local organized community members — especially since red-tagging is found to coexist with physical and other forms of violence in many cases.
 - Bill on Protecting Human Rights Defenders, in light of the increasing reports of violence against human rights defenders.

For businesses

- Private corporations and businesses must consciously practice corporate social responsibility by respecting and observing FPIC of all communities before, during, and after all areas of its value chain's operations.
- They must observe transparency, inclusivity, and due diligence throughout the entire process from project conceptualization, to identifying risks and opportunities, to the

¹⁰ The IAC's mandate is "to serve as the government's institutional machinery dedicated to the resolution of unsolved cases of political violence in the form of extra-legal killings (ELK), enforced disappearances (ED), torture and other grave violations of the right to life, liberty and security of persons." The IAC has the function to inventory cases of political violence, prioritize unsolved cases for action, and monitor cases with an updated database. It is chaired by the Secretary of Justice and is composed of the following members: Chairperson of the Presidential Human Rights Committee; Secretary of the Department of Interior and Local Government; Secretary of the Department of National Defense; Presidential Adviser for Political Affairs; Chief of Staff of the Armed Forces of the Philippines; Director General of the Philippine National Police; and, the Director of the National Bureau of Investigation.

conduct of social-environmental impact assessments, to negotiation and finalization of contracts, and to benefits sharing. Annual sustainability reports must be submitted to the Securities and Exchange Commission (SEC), in accordance with SEC's Memorandum Circular No. 4 Series of 2019.

- In contracts entered into with farmers, fisherfolk, and indigenous peoples, private corporations and businesses must clearly include provisions that legally bind them to indemnify and provide adequate remedies in cases where individuals, communities, or the environment, are negatively affected by the investments.

For the financial sector (banks and investors)

- Banks and investors must ensure that the businesses they engage with are complying with Environmental, Social, and Governance Standards.
- In line with the Sustainable Finance Framework of the Bangko Sentral ng Pilipinas, the financial sector must integrate sustainability measures within financing policies and disclose environmental and social risk reports.

For the Commission on Human Rights (CHR)

- The CHR should continue monitoring and investigation work on land and resource conflicts, sustaining partnerships with civil society. The Commission should also clearly tag and identify cases of human rights violations which are related to land and resource conflicts.
- The CHR must persist in reminding and recommending actions for the government to uphold their duty to protect, respect, and fulfill human rights.

For Civil Society Organizations (CSOs)

- CSOs must continue multi-stakeholder dialogues on land and resource conflicts, and strengthen constructive and nonviolent conflict management efforts.
- CSOs must also continue organizing and empowering the marginalized and vulnerable sectors to allow them to effectively defend their land and resource rights. Conflict monitoring tools and reports must be disseminated to communities to empower and to educate them about other cases of conflict which they can use as reference for their own struggles.
- CSOs must improve conflict and human rights violations reporting and monitoring practices. Key information for case-building (such as the duration of conflict, area of resource covered by conflict versus area of resource threatened by conflict, stakeholders involved, responses of stakeholders to conflict) must be validated and included in reports.
- Monitoring, sharing of data, and analysis on land and resource conflicts must continue, in order to pursue evidence-based recommendations and to strengthen civil society campaigns. CSOs must also build a strong community of practitioners on land and resource conflict monitoring, resolution, and management.

The challenges of addressing land and resource conflicts are complex and daunting. The involvement of the different stakeholders is critical, not just in the monitoring of such conflicts but also in formulating and taking immediate actions to resolve them. ■

LIST OF ACRONYMS

ADR	Alternative Dispute Resolution
ALG	Alternative Law Group
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
ARB	Agrarian Reform Beneficiary
BIFF	Bangsamoro Islamic Freedom Fighters
BSP	Bangko Sentral ng Pilipinas
CADT	Certificate of Ancestral Domain Title
CALABARZON	Cavite-Laguna-Batangas-Rizal-Quezon
CALT	Certificate of Ancestral Land Title
CAR	Cordillera Administrative Region
CARL	Comprehensive Agrarian Reform Law
CARP	Comprehensive Agrarian Reform Program
CARPER	Comprehensive Agrarian Reform Program with Extensions and Reforms
CHR	Commission on Human Rights
CLOA	Certificate of Land Ownership Award
CLT	Certificate of Land Transfer
CNO	Certificate of Non-Overlap
CSO	civil society organization
DAR	Department of Agrarian Reform
DARAB	Department of Agrarian Reform Adjudication Board
DENR	Department of Environment and Natural Resources
FOI	Freedom of Information
FPIC	Free, Prior, and Informed Consent
FTAA	Financial or Technical Assistance Agreement
HRD	Human Rights Defender
HRV	Human Rights Violation
ICCs	Indigenous Cultural Communities
IP/s	indigenous people/s
IPMR	Indigenous People's Mandatory Representative
IPRA	Indigenous Peoples' Rights Act
JAO 1	Joint DAR-DENR-LRA-NCIP Administrative Order #01, Series of 2012
KP	<i>Katarungang Pambarangay</i> (Barangay Justice System)
LGU	local government unit
LRA	Land Registration Authority
LWA	Land Watch Asia
MIMAROPA	Mindoro-Marinduque-Romblon-Palawan
NAP	National Action Plan
NCIP	National Commission on Indigenous Peoples
NCR	National Capital Region
NEDA	National Economic and Development Authority
NIA	National Irrigation Authority
NHRI/C	National Human Rights Institution/Commission
NPA	New People's Army
PARAD	Provincial Agrarian Reform Adjudicator
PO	people's organization
PSA	Philippine Statistics Authority
RARAD	Regional Agrarian Reform Adjudicator
SMI	Sagittarius Mines, Inc.
SOCSCSARGEN	South Cotabato-Sultan Kudarat-Saranggani-General Santos
UDHA	Urban Development and Housing Act
UNGPs	United Nations Guiding Principles on Business and Human Rights

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DISCLAIMER

The views contained in this report do not necessarily reflect those of ILC, UNDP B+HR Asia, and GIZ.



Land Watch Asia Working Group on Mainstreaming Land Rights as Human Rights



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.

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Centre for Legislative Research and Advocacy (CLRA) is an independent, not-for-profit, non-partisan initiative, which works to support and strengthen Parliament and legislatures so as to realize the values of democratic governance. Through research, advocacy, networking, and other allied activities, CLRA seeks to promote and reinforce the constitutionally assigned roles and functions of parliamentary institutions. This includes supporting institutional development and capacity building aimed at cultivating a well-functioning, sustainable and pluralistic system of democratic polity. CLRA is the pioneer organization in this comprehensive area of work in India. CLRA works closely with civil society groups, parliamentary institutions, legislators, political parties, civil servants, and media to create participatory and collective wisdom and praxis in the policy and decision-making process.

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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.

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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 attain 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.

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Established in 1994, the **Konsorsium Pembaruan Agrarian (KPA)** or **Consortium for Agrarian Reform** 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 sustained policy advocacy initiatives 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.

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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.

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Founded in October 1998, the **Social Development Foundation (SDF)** aims 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 policymakers, social movements, academics, lawyers, and civil society organizations.

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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.

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The 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.

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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.

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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).

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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. The shared goal of ILC's over 250 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's network in Asia is a coalition of 54 organizations working on land issues across 13 countries. The ILC Asia network comprises of regional, national, and local civil society organizations, producers and farmers, indigenous peoples, pastoral organizations, as well as research institutes, non-governmental organizations, and constituency-based organizations. ILC-Asia is committed to monitoring national governments' adherence to the Sustainable Development Goals (SDGs), promoting the Voluntary Guidelines on Responsible Governance and Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT), to supporting World Forum on Access to Land, to putting forward the principles of Food Sovereignty, and to developing a space for dialogues on the UN Guiding Principles on Business and Human Rights through the National Action Plans (NAPs).

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The United Nations Development Programme (UNDP) supports governments in the development and implementation of National Action Plans for the UN Guiding Principles on Business and Human Rights. UNDP also works with civil society by providing grants to organizations in the region in support of human rights defenders, and works with businesses in developing due diligence tools, conducting training for staff, and supporting impact assessments.

UNDP's BHR+Asia project promotes and supports the implementation of the UN Guiding Principles on Business and Human Rights (UNGPs) through regional efforts focused on advocacy, policy development, technical advisory support, capacity building, awareness raising, innovation platforms, regional peer learning events, and South-South cooperation. UNDP supports dialogue, awareness and training on the UNGPs in Bangladesh, India, Indonesia, Malaysia, Myanmar, Sri Lanka, Thailand, and Viet Nam.

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The Land Watch Asia Working Group on Land Rights as Human Rights (LWA WG LRHR) is a platform of civil society organizations from Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines working towards the recognition of land rights as human rights, through evidence-based advocacy and multi-stakeholder policy dialogues at national and regional levels. The LWA WG LRHR is presently engaged in mainstreaming land rights in the implementation of the UN Guiding Principles on Business and Human Rights, examining the trends in land grabbing in Asia, and monitoring land and resource conflicts and their effects on rights defenders and communities.

ANGOC serves as the convener of this working group.

Following the reports prepared in 2018, civil society organizations from Bangladesh, Cambodia, India, Indonesia, Nepal, and the Philippines once again prepared land conflict monitoring reports to understand the nature, drivers, and impacts of land conflicts, as well as document attacks against communities and land rights defenders. Grounding on the findings, recommendations are presented to address the immediate and root causes of land and resource conflicts. The six country reports and regional summary also reflect the initial attempt of civil society organizations to implement common methods in monitoring and a unified framework for analyzing land conflicts.



ASIA

