



WORKSHOP DESIGN

In terms of design, the workshop was divided into the following:

- seven country presentations of LWA partners;
- three Mekong country presentations (Lao PDR, Myanmar, Vietnam);
- presentation and validation of GLTN scoping study on land tenure initiative in Asia-Pacific;
- inputs on global processes (Post-2015 SDGs, Voluntary Guidelines, Responsible Investments for Agriculture and Food Systems, Post-International Year on Family Farming, ILC's People-Centered Land Governance);
- inputs from three research/academic institutions in improving the monitoring framework (Bangladesh, Indonesia and Philippines); and
- parallel small group discussions (to discuss how to further improve the monitoring framework, how to link the monitoring initiative with post-2015 SDG processes and how to foster networking and exchange of information)

COUNTRY PAPERS¹

BANGLADESH

Land Reform Monitoring Report 2014

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Land Governance Issues/Updates

As early as its 2011 Land Reform Monitoring Report, Bangladesh had formulated a Land Reform Development Index (LRDI), which was acclaimed by the academia, practitioners, and the society at large as an innovative and practical endeavor to track the state of land reform of a country. However, in its Report for 2014, it was pointed out that the experiences of acceptance of the LRDI and its outcomes by the government are yet to be satisfactory. The expected positive results are acknowledged to be dependent on the government's commitment and seriousness in addressing land reform itself.

¹ ANGOC shall produce a separate publication containing the abridged country monitoring reports (Bangladesh, Cambodia, India, Indonesia, Nepal, Pakistan and the Philippines), a regional summary and the updated land monitoring framework.

Indicators Used/Key Findings

Despite the updated information/data in this latest Report, it was also noted that, during the last three years, the value of the overall LRDI has remained almost unchanged—except for certain indicators, which are actually manifestations of a worsening situation (e.g., issues related to land grabbing and associated indicators, number of people killed per 100,000 population, etc.). In the last three years as compared to 2010-11, the absolute number of people killed due to land-related disputes and litigations has increased. However, the relative number has not increased, primarily due to Bangladesh’s increased population size during this period. Therefore, the relevant index value measured in terms of “number of people killed per 100,000 population” remains the same or near the same.

What is the practical use of the above LRDI results for development and monitoring of land reform in Bangladesh? The following could be the key directions to address:

- The overall LRDI in 2011 was 0.225. This has gone down to 0.221 in 2013. In a best land reform environment, LRDI should be close to 1. The country’s LRDI is closer to “zero,” implying that land reform is still in its embryonic stage. Therefore, vigorous efforts are needed to accelerate land reform in Bangladesh.
- Relatively speaking, both blocks of land reform (“access to land” and “land tenure”) are lagging much behind the expected level. However, between the two, the “access to land” block is lagging behind the “land tenure” block

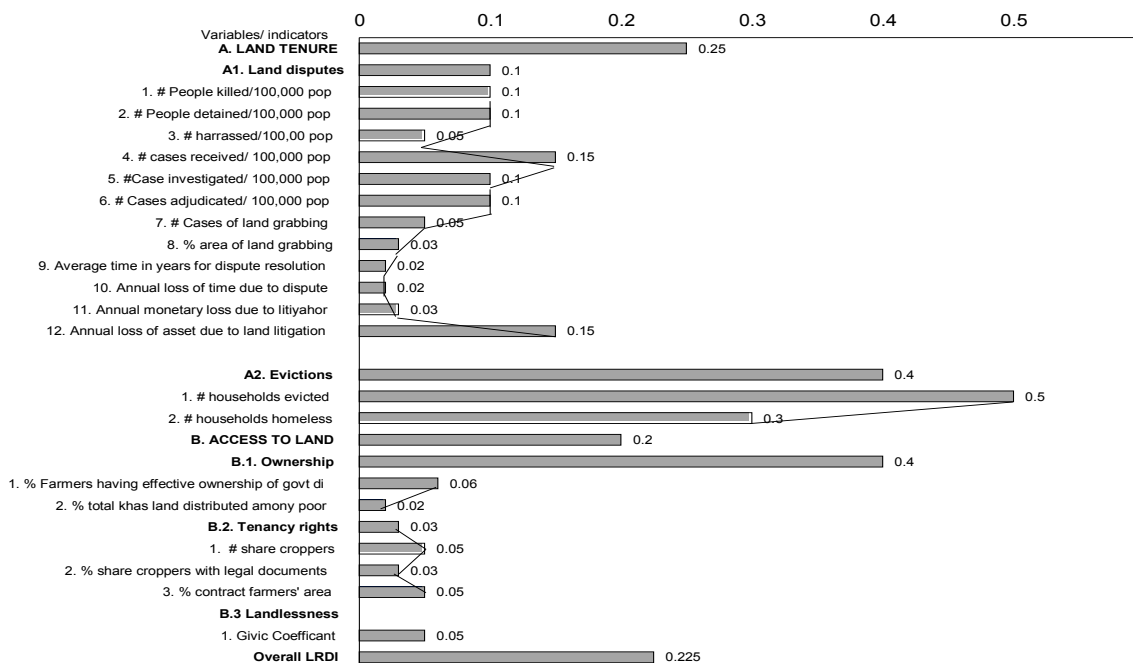



Figure 1: Land Reform Development Index (LRDI), Bangladesh 2010 and Three Years After

Source: Barkat, A. (2015) *Land Reform Report 2014: Bangladesh*. Association for Land Reforms and Rural Development (ALRD) and Human Development Research Centre (HDRC) [Unpublished].



(with transformed value* of 0.2 and 0.25, respectively). This implies that, although attention should be given to both blocks, greater emphasis should be given to the “access to land” block.

- Indicators with transformed value* — say those equal to or less than 0.02 — represent the least addressed domains of land reform, and therefore need aggressive interventions (including advocacy efforts).

**the formula for computing the transformed value is explained in the full country paper (contact <alrd@agni.com>)*

Recommendations

On possible new variables and indicators to be included in the Land Reform Monitoring Framework—specifically for the Bangladesh context—were also put forth: (i) Grabbing of land and forest of the indigenous peoples, religious minorities and other marginalized peoples; (ii) Acquisition of *khas* land (government-owned land) by state agencies for non-agricultural purposes (e.g., military cantonment, paramilitary purposes, so-called development projects, etc.); (iii) Vested Property Return Act implementation status; (iv) Status of implementation of CHT Accord, especially those related to resolution of land disputes; and (v) Land-related acts and policies implementation status.

If any of the suggested variables and indicators are to be included in the LRMF, this must be done by relevant stakeholders in a participatory way. Further, two different LRDI will need to be developed:

one for comparison purposes with other countries, and the other for understanding the dynamics of LRD in Bangladesh itself.

On Land Reform Development and Implementation of the LRMF

On the Macro-level

1. Institute a learning process of constructing a Land Reform Development Index (LRDI) and the monitoring scheme and tools with land-rights based NGOs working in the real field.
2. Continue more research on this endeavor for further refinement and consensus building involving the core team members deployed by ANGOC.
3. Organize large-scale dissemination meetings (seminars, conferences) to sensitize all relevant persons both at home and abroad including the development partners.
4. Share the LRDI and the associated monitoring scheme and tools with the relevant persons/departments in the National Parliament, government, academia, and civil society.
5. Organize expert group meetings to work out expected ideal situation/normative scenario for each indicator by time deadline (e.g., reduce the number of people killed/100,000 population by 10 times by the year 2020, and so on).
6. The government should get out of ‘politics of statistics’ and all national statistical documents should be designed to ensure comparability.



On the Micro-level

1. Undertake vigorous advocacy towards stopping land grabbing—involving Parliamentarians (for making relevant laws), law enforcement agencies, the Ministry of Land and the Ministry of Law, and the broader civil society.
2. Organize proactive efforts not only to ensure distribution of un-distributive *khas* land to the eligible poor, marginalized, and women, but also provide them with subsidized input, low/zero interest bank loan, and linking effectively with the market.
3. Reduce land dispute and litigations through an Alternative Dispute Resolution (ADR) mechanism to be instituted by the government in which the land rights-related NGOs and civil society may play a pivotal role.
4. Have civil society take to Parliament the newly-devised laws/amendments on land-water-forest that have been analyzed from a rights-based approach, have these passed, then ensure their implementation.
5. Institute a strong, active and permanent advocacy to stop/minimize the practice of evictions without prior acceptable rehabilitation.
6. Provide legal deeds for all share-croppers—with both government and civil society working hand in hand on this matter—in order to ensure empowerment of the tenancy right.

INDIA

Homestead Land in India: A Research Report


By Jill Carr-Harris and Aasha Ramesh

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Land Governance Issues/Updates

The distribution of homestead lands emerged as a national priority in India in 2012, preceding the large people's Jan Satyagraha march in October of that year. The Union Government was looking for a way to advance the land reform agenda without disrupting the interests of the current landholders. Thus the distribution of shelter land found its way into the listing of the Ten-point Agreement that was signed between the Government of India and the Jan Satyagraha in Agra on 11 October 2012 and has remained an important point of consultation with the new Government in power.

At the time of the discussions around the Ten-point Agreement in late 2012, the then ruling United Progressive Alliance (UPA) government headed by Congress finalized the draft of the Homestead Act for Parliamentary approval. The Planning Commission in the 11th Plan document had already recognized the "right to a roof over one's head to be seen as a basic human right" (Kumar, 2010).



Why the Homestead Land Issue is So Critical - At the national level in India, it has become apparent that land is being earmarked increasingly for corporations at the expense of the poor. So much so that a high-level report of the Committee on the State of Agrarian Reforms and the Unfinished Task in Land Reform spelled out 350 recommendations, specifically addressing *homestead rights*. It recognized that homelessness is an incidence of landlessness and was an urgent priority.

In 2012, the Rural Development Ministry and the Ekta Parishad advocacy team drafted the Rural Homestead Rights bill (*Annexure 1 in the full country paper*). It was based on the fundamental rights of the Constitution, and therefore gave the responsibility to the federal state to make and implement laws on homestead land, even though agricultural land was primarily a state subject. In effect, this Rural Homestead Rights bill seemed like a political opening in furthering the land reform agenda. It meant that state governments would be compelled to draft this act in their own states, focusing on all those without land on which to live.

However, when the new Government of Narendra Modi came to power, the land reform agenda and the draft Homestead bill was eclipsed by the introduction of a Land Ordinance (through an emergency Executive Order) in December 2014 and again in April 2015. This Land Ordinance (2014/15) modified the “Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement” Act, 2013 (Act No. 30 of 2013), virtually stripping it of the guarantees

protecting farmers (especially small and marginal ones) and the landless poor against dispossession and displacement. As this was part of the larger plan of increasing investment and industrialization, the Land Ordinance favored development based on urbanization, industrialization, massive infrastructure development, and so forth. This meant that homestead protection and distribution for rural people was suddenly replaced with government priorities towards urban housing and the establishment of 100 smart cities.

Currently there are ongoing efforts to have a National Homestead Rights Act in India as well as to formulate state acts. However, as homestead land is poorly researched, ongoing political advocacy requires more evidence-based studies to counter the government’s negligence on delivering land reform. Of the two states which are the subject of this research study, Bihar currently has a draft Homestead act while Telangana has none to date.

Indicators Used

The aim of this study was to raise the issue of homestead land once again, by showing the layering of injustices that have occurred particularly for the marginalized sections of the society—and to show homestead land as an important aspect of the land reform agenda in India.

The research problem explored was the number of people that do not have ownership rights but that reside in semi-permanent or permanent housing. The study also looked at the policies which



provide for homestead plots; and raised the distinction between those who have a homestead but no title, and those who are homeless due to lack of any physical shelter.

The Bihar and Telangana studies each surveyed two districts and each covered 400 households, totaling 800 surveys in four districts of two states. The survey form had 25 questions related to all aspects of homestead. (*The questionnaire is an Annex to the full country paper.*)

Key Findings and Analysis

From the Bihar Study - The Bihar study points to the various groups of Dalits and their acute situation of landlessness in the context of a genuine shortage of revenue land for homestead. The survey and focus groups showed how important it is to regularize the land on which people are currently living. Most of those surveyed lacked title, not the actual possession of land. Giving a land deed removes the family's insecurity. This would be most helpful to Dalit caste groups in helping to reduce discrimination, to agricultural laborers in increasing their negotiating space with landlords, and especially to women who are managing the households.

There is no denying that the problem of regularizing a three-decimal² plot, in which a family is currently living, does not address the family's expansion and space issues. This minimum plot size


does not allow for a milch cow or a small kitchen garden or any form of livelihood generation. However, given the current low availability of land in Bihar, such regularization is a first and necessary step. Otherwise, land pricing will make even a three-decimal piece of land an unfulfilled dream for those most in need.

Also it has to be borne in mind that the settlements which people inhabit are primarily caste-based neighborhoods. By regularizing where the communities live, the low castes will have some security as well as some power of decision making.

From the Telangana study - In the Telangana state study, the focus was on showing the relation of homestead land to the marginalized groups such as Dalits, *adivasis* or pastoral people. The Government had given land of 1 to 1.5 decimals for Scheduled Castes (SCs) and asked them to build their houses on it, but the communities were not aware of how to obtain their titles. Nomads, in contrast, wander around and are compelled to settle down on a piece of land identified by the government, which was allocated to them. As the community is impoverished, they have to set up *kacha* structures (one-room tenements). However, most of the people have been given a *patta*³ for the site that was allotted. But irrespective of whether they have the *patta* or not, all pay taxes for the houses annually depending on the type and size of the house plot.

² A unit of measurement commonly used in Bangladesh and India equivalent to 40.46 sq. m. or 0.004 ha (Farlex Financial Dictionary, 2012) Retrieved from <http://financial-dictionary.thefreedictionary.com/decimal>.

³ *Patta* is a legal document stating the actual owner of a land (Apna Complex, 2013. *Land patta and its importance as a legal document*. Retrieved from <http://blog.apnacomplex.com/2013/09/21/land-patta-and-its-importance-as-a-legal-document/>).



Respondents from both the districts surveyed in Telangana had various problems in accessing sites, houses, and grants for construction because they do not have proof of identification and the necessary personal documents.

All of the participants in the survey and focus group discussions were of the opinion that they should be given more than three cents of land for housing and preferred that the houses be constructed by the government itself. This is because accessing funds from the government for construction is a herculean task with red tape, massive documentation requirements, and rampant bribery. Tribal communities were of the opinion that government should construct houses as per the local culture. The *adivasis* are so used to living under the sky with open spaces, so the small cement block units that the government constructs is very restricting to these communities.

Another problem that surfaced in the research was that of people not being able to hold on to their land (and therewith their homestead) as they do not have the appropriate inputs, such as water, to cultivate the land.

There is also the situation where people live in homes (which they see as their own) yet they do not own the land—which

means that they can be displaced. This is the reason why people seek the *parcha*⁴ for claiming homestead right or, in some cases, use their tax slips to prove residency for a long period of time. Therefore having a title is an important defense against land acquisition by others or eviction. It is also important to be in the record of rights once the land deed is acquired.

In other instances, homeless people are offered the opportunity to acquire a piece of land. But the land that is offered is under the possession of someone else. The police and district officials do not take responsibility for settling the family with the land *patta*. In the focus group discussions in Telangana, it was evident that many people are not able to acquire land for this reason.

Conclusion

Since the Government of India has policies for redistributing land, the failure lies in insufficient transfer. The justification is that there is not enough available land. If the government can find so much land for infrastructural development and industrialization, then it is ironic that there is not enough to regularize homestead plots. It is for this reason that having the Homestead Rights Act is so important to regulate the states into providing homestead land for India's homeless.

⁴ "any settlement document" (Bihar Land Disputes Resolution Act, 2009)



PAKISTAN⁵

Country Land Reforms Monitoring Report, 2014

Society for Conservation and Protection of Environment (SCOPE)- <scope@scope.org.pk>

Land Governance Issues

The SCOPE paper indicates that there has not been much change in the situation in Pakistan since the last report on Land Reform Monitoring in 2013. After going through three incomplete, weak and failed land reform attempts—i.e., the West Pakistan Land Reforms Regulation 1959, the Land Reform Regulation 1972, and The Land Reforms Act 1977—Pakistan is still waiting for comprehensive and broad-based land and agrarian reform.

Under the land reform program in the current 2013-2018 term of the Pakistan Muslim League-Nawaz (PLMN), the ruling party of current Prime Minister Nawaz Sharif pledged in its election manifesto that it would reclaim and irrigate additional state land for allotment to landless *haris* (peasants, sharecroppers) and tenants. It will also undertake a land consolidation program to create viable units for modern agriculture. This manifesto, however, fails to take into consideration the broader context of agrarian reforms that enable efficient joint cultivation, extension

support, and most important, a fair contractual relationship to the tenants and share-croppers of large landlords.

More recently, the Supreme Court of Pakistan heard a petition filed in 2011 pleading the Court to set aside the 1990 judgment by the Sharia Court declaring land reforms ‘un-Islamic.’

Indicators Used

The Society for Conservation and Protection of Environment (SCOPE), the National Peasant Coalition of Pakistan (NPCP), and the Alliance Against Hunger and Malnutrition (AAHM) organized a number of consultations all over Pakistan, where the participants provided updates on the situation at the provincial and local levels. The process included consultation with stakeholders, analysis of their feedback, and desk studies.

In Pakistan, credible and consistent data for a comparative analysis to measure progress year by year is almost non-existent. Thus, SCOPE took this as a challenge to carry out an in-depth situation analysis in the near future to develop innovative ways and mechanisms that could ensure availability of reliable, consistent and timely data. For 2014, this CSO Land Reform Monitoring report for Pakistan is largely based on secondary sources and data collected anecdotally.

⁵ Based on the paper prepared by SCOPE.



Key Findings and Analysis

Budget

Agriculture Budget⁶

For the year 2013-14, the Punjab government allocated Rs92 billion to agriculture out of an estimated budget of Rs871 billion, Sindh earmarked Rs6.167 billion out of Rs617 billion, KP had Rs2.913 billion out of Rs344 billion budget, and Baluchistan had Rs7.87 billion out of Rs199 billion. In terms of budget percentage, Punjab appears to have done better by allocating approximately 10% of its budget for agriculture, while the other provinces allocated a negligible proportion.

R&D expenditure on agriculture

It is alarming to note that Pakistan spends only 0.21% of its agriculture GDP on agriculture R&D. More alarming is the trend that, in the past two decades, this proportion went down by 0.22% between 1991 and 2009. “Despite being an agrarian economy, Pakistan sets aside one of the lowest allocations to the research and development (R&D) of agriculture sector in the entire developing world” (Flaherty, Sharif & Spielman, 2012).

Recently, a Ministry of National Food Security and Research has been set up at the federal level to address food security concerns, and to coordinate food production and R&D of food- and agriculture-related issues in the country.

⁶ The ‘budget’ indicator is taken as budget allocated to the agriculture sector as a whole in Pakistan and not only towards land reform, as prescribed in the monitoring framework. A budget allocation specifically for land and agrarian reform is not available at present.

Policies

Land use planning


For centuries, land use in Pakistan has been delineated by family/tribal arrangements and access to land based on size of the household and kinship. Despite initiating a two-phase National Land Use Plan between 1998 and 2001, a comprehensive policy to regulate agricultural land use is long awaited. The project summary document reviewed for the National Land Use Plan outlined the procedure to establish GIS-based land administration systems (LAS). At present, all four provincial governments are implementing separate land administration systems (LAS) in terms of automation and computerization of land records.

Women’s access to land

Most of the political parties—including the ruling PMLN—are quite open to protecting the rights of women, as well as addressing the need to distribute state land among landless farmers including women.

Land rights in Pakistan are regulated by an intricate combination of civil, Islamic, and customary laws. Ownership and transfer of property are gender neutral. However, inheritance rights are subject to Muslim Personal Laws enforced under Sharia law. There is no direct provision in the Constitution on women’s right to inheritance but it does provide guarantees and principles of policy to ensure justice without discrimination.

In 2008, the PPP-led government envisioned redistributing state land to landless farmers, largely women.



Approximately 41,000 acres of land were distributed among 2,845 women and 1,184 men recipients.

In 2012, Pakistan's Khyber Pakhtunkhwa province passed a bill on Enforcement of Women Ownership Rights. This bill makes it a punishable offence to deprive women of owning property by any means including inheritance, gift, purchase, *mehr*⁷ or acquired by lawful means.

Foreign investment

In Pakistan, the first investment policy in 1997 paved the way for foreign and local investors to invest in several areas including agriculture. In addition, the promulgation of the Corporate Farming Ordinance (CFO) 2001 further allowed listed corporations to lease land in the country. In 2009, the Government of Pakistan in its agriculture policy announced its plans to offer one million acres of land to private investors under its corporate agriculture farming (CAF) initiative, potentially to Saudi or UAE private investment companies. There are different numbers quoted for land (i.e., up to 6 million acres) that the government is planning to make available to private investors. However, negotiations with Middle Eastern funds have been widely reported in the national and international press.

⁷ In Islam, a mandatory payment by the groom (or the groom's father) to his bride at the time of marriage in the form of cash or possessions, which then becomes her legal property.


Outcome Indicators

Land Tenure - Land in Pakistan is classified as state land, privately owned land, and land with communal rights under customary law. Land for which there is no rightful owner comes under the jurisdiction and ownership of either the provincial government or the federal government.

The major land tenure types in Pakistan are: 1) ownership, 2) term lease, and 3) sharecropping. Under ownership, private individuals and entities can obtain freehold rights to land, and communal ownership rights are recognized under customary law. Term leases, which are common for parcels of agricultural land over 30 ha, are for fixed rates, may run for single or multi-year terms, and may be written or oral agreements. While sharecropping arrangements are common for land less than 30 ha—with roughly 67% of Pakistan's tenant-operated land under sharecropping in 2000, and 48% of sharecropper households falling below the national poverty line.

Disputes - A highly ineffective, duplicative and inadequate land administration system in Pakistan gives way to rural communities to subscribe the customary system for land transfer and land dispute resolution, creating insecurity of land tenure and providing cover for practices against women's right to access land.

Land disputes are the most common form of dispute filed with the formal court system. Between 50% and 75% of cases brought before lower-level civil courts and the high courts are land-related disputes and around a million cases are pending in



various courts countrywide. The Human Rights Commission of Pakistan (HRCP) also documented several cases or murders as a result of land disputes.

A recent development in KPK province was the introduction of mobile courts, intended to provide relief to the complainants and provide justice at their door steps. Recently, a mobile court decided 31 cases, 8 were land disputes and some had been in courts for the past 10 years.

It is expected that the initiative from provincial governments in terms of automation and computerization of land record would help reducing the land disputes in rural Pakistan.

Access to Land

Ownership - An increase in the number of very small and small farms (i.e., up to 5 acres) is observed, while medium-size farms are decreasing. Surprisingly, the number of large and very large farms (i.e., 25 to 150 acres) is falling but at a very slow pace. One possible explanation could be the natural process of inheritance or distribution of land among family members, which consequently reduces the farm size. The sharpest increase among small farms is noticed in the categories 'under 1 acre' and '1 to 2.5 acres.'

The data from the Pakistan Bureau of Statistics (PBS) shows that approximately 5% of agriculture farms are spread over 36% of Pakistan's cultivable land. However this shows a highly unequal land ownership which ultimately dictates economic and political order in rural Pakistan.

Based on PBS data, the 'farm area by farm size' statistics have changed in the past five decades, but there is still a long way to go. Large and very large farms (50 acres and above) still account for 35% of the total cultivated land in Pakistan. It is interesting to note that, between 2000 and 2010, there was an increase of 3% in farms 150 acres and above—possibly due to accumulation of large plots of land by corporate investors.

Tenancy Rights - Despite working on the land for generations under various arrangements, tenants' rights are routinely violated and the legal framework provides very little protection in the event of dispute and eviction.

The Pakistani state does not have the capacity to intervene to regulate the terms of contracts between large landowners and tenants. Presuming that legislated measures would be automatically complied with, despite existing administrative mechanisms being biased towards large landowners, was thus a faulty assumption.

The landlord and tenants' rights and responsibilities of agricultural land in rural Pakistan are predominately regulated by four Provincial Tenancy Acts: Punjab Tenancy Act, 1887; Sindh Tenancy Act, 1950; NFWP Tenancy Act; and Baluchistan Tenancy Ordinance, 1979.

Landlessness - It is estimated that between 20% and 40% of rural households in Pakistan are landless or near-landless and access to agricultural land is decreasing, forcing them to either lease or sharecrop land when they can or to work as laborers on and off farms. Some authors and institutions even estimate that 60% of



rural households in Pakistan are landless, thus pointing towards highly skewed landownership.

The GINI coefficient measure is commonly used to estimate equality in income as well as other social indicators such as land ownership. A score of 0 indicates perfect equality, while a score of 1 indicates perfect inequality. In 2000, the GINI coefficient in Pakistan—including landless households—was 0.86 (World Bank 2007).

Conclusions

The CSO land monitoring initiative is a step in the right direction in the Pakistani context where land ownership is unequal and skewed. The failure to implement land reform effectively has caused severe concentration of land in the hands of a small proportion of big landlords. Women, religious minorities, and indigenous groups are in a further disadvantageous position.

The more worrying development is the Pakistan government's ill-planned Corporate Agriculture Farming (CAF) policy. This policy promotes and invites commercial entities to acquire agricultural land in Pakistan, thereby threatening the survival and food security of local inhabitants.

NEPAL

CSO Land Reform Monitoring Report, 2013/2014


By Jagat Basnet

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This report from the Community Self-Reliance Centre (CSRC) admits that, to date, there has been no independent study on the land reform process in Nepal and on the country's land and agrarian reform situation. Thus, this initial effort focuses on a review of the programs and policies of the Ministry of Land Reform and Management, as well as on two specific aspects: 1) land rights violations, evictions, and harassments in 13 (out of 75) districts, and 2) access to land and agrarian reform by marginalized people. The data was generated from field research and secondary sources.

Land Governance Issues/Updates

During the election of November 2013, Nepal's major political parties voiced their support for land and agrarian reform, in principle, through their election manifestos and in dialogues between land-poor and landless farmers and the leaders of the political parties. In the past, there had also been similar commitments made, but little was implemented due to lack of political will.



As a result, between July 2013 and June 2014, landless and tenant farmers organized over 40 major demonstrations across the country demanding comprehensive articulation of land reform/rights issues in political parties' manifestos, a commitment to have a land rights focus in the new Constitution, and a stop to forced evictions. The same period also witnessed large numbers of landless farmers evicted by forest authorities through the use of force.

With no amendments in the Land Reform Act 1964 since 2008, over 40,000 tenant farmers who have filed cases have been waiting to receive the 50% of the land they have been tilling, to which they are entitled.

For its part, the Ministry of Land Reform and Management has introduced a land use policy and is drafting an umbrella National Land Policy with the collaboration of civil society organizations (CSOs) and farmers' organizations. It has also developed a 13-point action plan to implement scientific land reform as recommended by high-level commissions. But this has yet to be implemented.

A Landless Problem Solving Commission was formed in January 2012 to identify landless people and provide land in 25 districts. However, after a year-long effort, the Commission was unable to provide identity cards for the landless people and was therefore dissolved.

A team of consultants has meanwhile submitted to the government of Nepal the Agriculture Development Strategy (ADS) 2015-2025, which has yet to be

approved. But already, farmers and CSOs have misgivings about its contents and strategies.

Land grabbing by the elite is growing and agricultural land is being converted for non-agricultural uses—a major concern for the land rights movement. CSRC has undertaken research on these developments and their implications in a few selected pockets.


Indicators Used

After consultations with NLRF, strategic partners, and concerned government officials, CSRC developed two sets of CSO monitoring indicators: one focused on land rights violations, evictions, and harassment; and the other focused on access to land and relevant policies/programs. A one-day orientation program was then organized for DLRF members, land rights activists, and land rights campaigners and coordinators regarding the collection of relevant data and information from the field.

Relevant data were likewise collected from various secondary sources, such as the District Land Revenue Office, the District Land Reform Office, the District Court and Police Offices, the Ministry of Land Reform and Management, the Ministry of Agriculture, and the Ministry of Finance.

Findings and Analysis

Budget - In terms of the national budget share for land reform activities, only 0.55% of the national budget was allocated to the Ministry of Land Reform and Management



for the period 2013/2014. Although this was a 37% increase from the previous fiscal year 2012/2013, no new policies and programs have been initiated by the Ministry as most of its allotment goes to administration costs.

Agriculture - As per the Agriculture Census report, agriculture is contributing to Nepal's GDP by 35%, the highest in South Asia. However, importation of agriculture products increased from Rs. 99.35 billion to Rs. 127 billion (17.6%) in 2013/2014. The number of landowners increased from 9,276,012 to 9,749,148 (5.04%) and the plots of land increased from 27,389,012 to 28,549,358 (4.23%). Total land revenue increased from Rs 7,150,894,630 to Rs 8,379,195,630 (17.18%) in fiscal year 2013/2014.

It was also reported that, in terms of private investment in agriculture, commercial banks invested a total amount of NRS 14,290,900,000 in agriculture in 2009/10, which increased to NRS 50,909,800,000 in the year 2013/14. But as per media reports, such investments are concentrated in Kathmandu and other urban centers, and benefit only the rich class and not the marginalized and rural people.

Women and land - As per statistics from the Ministry of Agriculture (2012), 1,030,000 ha of agricultural land remain unused, while 3,091,000 ha are being utilized. Only 19.71% of women own a meagre piece of land. Although they are the main producers or workers of agriculture land, still 80% of women deprived from the land rights.


Land conflicts, harassment, and evictions

- In the course of their land rights struggle, landless peasants, women, and smallholders have been detained, harassed, and evicted. They have also filed—and are themselves facing as well—cases involving land disputes. As per the field report from 13 out of 75 districts, 31 persons (21 male and 10 female) were detained due to land conflicts in 2013/2014. Similarly, 5,968 people (3,099 male and 2,870 female) were harassed during this same period; while 472 cases from landowners and 1,152 cases from tillers (a total of 1,624 cases) were filed at government offices. Out of those cases, 646 were investigated and 533 were adjudicated. Also in this period, 760 families were evicted and 40 households became totally homeless due to this eviction. As per the report of the Department of Land Reform and Management for 2014, a total of 49,202 cases at the land revenue office have yet to be decided.

Positive steps taken - The Government of Nepal has continued the waiving of taxes for women by 25% in urban areas, by 30% in hill areas, and by 40% in remote areas. The Government has also drafted an Agriculture Development Strategy and shared it to the general public for discussion. For its part, the Ministry of Land Reform and Management plans to develop a digital data base of land plots and land owners in the current fiscal year.

Conclusions

The Government of Nepal has no mechanism for independent monitoring and evaluation of land reform in the



country. While they have been conducting some reviews within their Ministry mechanism, these are not transparent nor do they involve the participation of CSOs and marginalized people. Reports which they have published are missing some of the district records and information. The Ministry of Land Reform and Management itself admits that it does not have a realistic data base system.

Recommendations

For government/Ministry of Land Reform and Management

- To ensure the land rights of marginalized farmers, form an independent land monitoring committee to review the Ministry's plans and progress, and make recommendations for the rights of marginalized people.
- Ensure the implementation of its recommendations by the independent committee.
- Option: CSOs may also extend financial and human resource help, but government should recognize the work of CSOs and provide support to them as well.
- Undertake wider consultation and partnership with concerned stakeholders for greater transparency and accountability of its land reform efforts.
- Earmark a budget for independent land reform monitoring and review of policy gaps on land issues.
- Invest the total revenue which they generated from the land revenue or land reform offices.

- Support the land reform from the VDC or DDC and develop the policy and mechanism for this.

For CSOs

- Form a common platform among all the CSOs working on land reform issues, particularly the development of a CSO monitoring mechanism.
- Generate evidence-based cases and support for the policy formulation process.
- Generate, disseminate, and use relevant information and data to inform the land reform advocacy campaign.
- Coordinate with other stakeholders for policy development and implementation, and for greater support for land reform from below.

For donors

- Continue and increase funding support to develop land reform monitoring systems, CSO capacity building, and further research activities.
- Support collective efforts on land reform, such as participation and ownership by marginalized people, CSOs, and government institutions.

For the Land Rights Movement

- Mobilize its members for land reform from below and pressure political parties and stakeholders to support land reform.



INDONESIA

Land Reform Monitoring Report 2014

By Iwan Nurdin

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Since the passage of the Basic Agrarian Law No. 5 of 1960, the Indonesian government has had an obligation to its people to implement the agrarian reform (land reform) agenda. However, the agenda was never implemented—whether within the New Order government of Soeharto or after it. This is despite the Basic Agrarian Law No. 5 having been strengthened by the MPR decree No. IX/2001 on Agrarian Reform and Natural Resources Management in November 2001.

This report by Konsorsium Pembaruan Agraria (KPA) presents the main agrarian problems in Indonesia in the light of the political context in 2014—an election year for the country. It focused its monitoring on two main areas: (1) land policies and (2) agrarian conflicts.

Land Governance Issues/Updates

Law No. 6 of 2014 on Village Affairs - On 15 January 2014, Law No. 6/2014 on Village Affairs was passed after seven years of debate. This law is intended to address rural development problems, such as budget imbalances, inequality of natural resources management in rural areas, and inequality of infrastructure development. It also hopes to encourage rural transformation and rural people and


indigenous people (IP) empowerment in agrarian reform implementation, as every village government will receive a generous development fund annually from the central government. (This law defines ‘rural area’ as one in which the main activity is agriculture—including natural resources management—with area functions such as village housing, infrastructure facilities, social services, and economic activities.)

This law provides a chance for agricultural and rural development in which the village government and people are the main actors. The challenge, however, is ensuring transparent village financial management for the benefit of the people.

The Land Bill - With the 1960 Basic Agrarian Law (BAL) marking its 54th year, there was a push by the Indonesian Parliament and Government to pass the Land Bill to be a substitute for the 1960 BAL. It was intended as an ‘operationalization bill’ for the BAL, the provisions and details of which needed to be aligned with the present agrarian conditions—while upholding the broad agrarian dimensions (not the narrow sense of land) and the populist principles held highly in the BAL.

Basically, the Land Bill is envisioned to translate certain provisions of the BAL, specifically the ones governing land. In addition, civil society has further expectations of the bill:

1. Integrated and wholistic approach on addressing land issues among various government agencies.
2. Address agrarian conflicts.
3. Implement agrarian reform.

- 
4. Strengthen the rights of indigenous peoples (IPs), women landless tillers, and small peasants.
 5. Strengthen land use through just spatial plans which protect the environment.

Constitutional Court Decision on the Judicial Review of Peasant Protection and Empowerment Legislation - 2014 was marked by a victory of the civil society movement in the fight for peasant constitutional rights. The Indonesian Constitutional Court had earlier granted a judicial review of Law No. 19/2013 on Peasant Protection and Empowerment (Perlitan), in response to a case filed by the Advocacy Team of Peasants' Rights. In the resulting ruling on 5 November 2014, the Constitutional Court granted the rewording of certain key terms and phrases in the law to more strongly safeguard peasants' rights.

The success of civil society's lawsuit against the Perlitan legislation is seen as 'a breath of fresh air' for peasants' position and status in the eyes of the law. Further, the law also provides security to peasants through the granting of free state land (up to a maximum of 2 ha in an agricultural area), including the government's obligation to provide capital loans for peasants.


Civil Society Lawsuit on Law No. 18/2013 on Prevention and Eradication of Deforestation - Civil society once again—through an Advocacy Team of Anti Forest Mafia—filed a lawsuit against Law No. 18 of 2013 on the Prevention and Eradication of Deforestation (P3H). A number of this law's articles were assessed as law enforcers and corporations as violations guided as

forest protection acts. Therefore, in order to fulfill and protect the constitutional rights of indigenous peoples, local people, and peasants within, surrounding, and in direct contact with forest claimed-areas, such a judicial review of the Law on P3H by the Constitutional Court has become a necessary and relevant cause to fight for.

Joint Regulation on Procedures for Settlement of Land Tenure Inside Forest Areas – On 17 October 2014, a Joint Regulation was issued by the Ministry of Domestic Affairs, the Ministry of Public Works, and the Head of the National Land Agency on Procedures of Land Tenure Settlement Inside Forest Areas. It was expected to address problems of peasants and IPs whose land claims or other evidence of ownership have become sources of conflict regarding tenure and management inside forest areas. Now they would have the chance to register their rights/claims to be acknowledged and legalized by government. However, the joint regulation also contained a number of challenges, such as those concerning status acknowledgment of IPs and generalizing peasants/IPs with other applicant groups (individual or government) in applying their claims/rights.

Institutional Changes on Land, Forest and Rural Development - Under the previous administration, President Soesilo Bambang "SBY" Yudhoyono was unable to direct his ministers/heads of agencies to sit together and put an end to sectoral-ego⁸ in the agrarian sector and ensure the fulfillment

⁸ An approach when institutions work in a sectoral manner.



of agrarian reform promises. Therefore, in order to realize Nawa Cita, which targets to distribute 9 Million ha of land to peasants, it is necessary for the current President, Joko “Jokowi” Widodo, and his working cabinet to achieve coordination and cooperation among the ministries/institutions implementing agrarian reform. And this effort must be led directly by the President himself. The primary ministries concerned with bringing the Presidential agrarian reform vision and mission to reality are:

- **Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN)**- The establishment of this Ministry by Jokowi was in response to the demands of agrarian reform groups. It is envisioned to protect the millions of peasant, IP, and villager households, which have been living within forest areas without any legal protection, simply because there was no administration system for land rights that applied to them. This would entail making adjustments in the many land and agrarian resources legislations and regulations which have been overlapping for years—as many as 632, from legislations at the national level to regulations at the minister level (National Land Agency, 2013).


As mandated by MPR Decree No. IX/2001 on Agrarian Reform and Natural Resources Management, the Ministry should be the primary mechanism for national legislation concerning agrarian affairs and natural resources—thereby answering the ‘sectoral-ego’

problem among ministries/institutions in the land, plantation, forestry, energy/mineral resources, agriculture, and coastal-marine sectors.

Further, a primary task of the Ministry is the redistribution of 9 million ha of land as promised in the vision and mission of Jokowi-JK, as well as the resolution of agrarian conflicts which have been categorized into structured, systemic, and massive conflicts. It should immediately identify which lands would become the object of agrarian reform, i.e., all types of state land not subjected for redistribution (maximum excess land, absentee land, autonomous ground); productive forest land that can be converted; abandoned land; and concession land that has been the source of agrarian conflicts.

In addition, the Ministry should ensure that the beneficiaries of agrarian reform are landless tillers (farm workers), peasants, IPs, and other poor people groups whose livelihood depends on land as their primary production tool. It should also ensure active participation and involvement of local people and existing people’s organizations (peasant unions, IP organizations, fishermen’s unions, etc.) in determining agrarian reform objects and beneficiaries.

In all these undertakings, the Ministry of ATR/BPN must work in coordination with the Ministry of Environment and Forestry, the Ministry of Agriculture, and the Ministry of Village Affairs, Disadvantaged Area Development, and Transmigration.

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- **Ministry of Environment and Forestry** - Despite the sectors of environment and forests being joined under one Ministry, these have frequently clashed with each other on matters involving the agrarian sector. In the context of agrarian reform implementation, the forestry dimension should merge into the environment dimension, and not the other way around.

The Ministry of Environment and Forestry has an important role, considering that most agrarian reform objects are located within forest areas, as a result of the Law No. 41/1999 on Forestry claims. This law had led to overlapping of mandates between the Ministry of Forestry and the National Land Agency regarding agrarian resources tenure, use, and management. Therefore, in the Jokowi-JK government era, there must be strong cooperation and coordination between the Ministry of ATR/BPN and the Ministry of Environment and Forestry in contributing to agrarian justice through providing agrarian reform objects from within forest areas.


- **Ministry of Agriculture** - In addition to achieving agrarian justice, another objective of agrarian reform is to bring about food security and independence for the nation and its people. Thus, the Ministry of Agriculture should ensure that peasants, IPs, and other marginalized groups are able to make productive the land distributed through agrarian reform. The Ministry should also encourage ecological restoration and natural resources sustainability in the agriculture sector.

The agrarian reform program implemented by the Ministry of ATR/BPN should, therefore, be in synergy with the Ministry of Agriculture, considering that the latter is directly related to the process of food production and food security, key factors to peasants' and villagers' prosperity.

Furthermore, the Ministry of Agriculture has a responsibility to decrease food importation, end agricultural (food) land conversion, and prioritize capacity building and empowerment of peasants and fishermen to have control over their use of seeds, fertilizer, and pesticides. As such, this Ministry is one of the foundations of agrarian reform success.

- **Ministry of Village Affairs, Disadvantaged Areas Development, and Transmigration** - Those belonging to the poor sector in urban areas are often informal workers, workers in the manufacturing sector, and migrant laborers—most of whom are former rural inhabitants who had left their villages because of their lack of assets and access to land and natural resources. Thus, the passage of the Law on Village Affairs and the move of government to accelerate village development through the Ministry of Village Affairs, Disadvantaged Areas Development and Transmigration must likewise be in line with the agrarian reform agenda.

Some priority matters for the Ministry to address: (1) villages as legal subjects and beneficiaries of agrarian reform can be created through a Village



Property Business which controls and manages land and other village natural resources, such as village forests, ancestral forests, and land of the village treasury; (2) villages as living spaces for agrarian reform beneficiaries who are peasants, agricultural workers, and IPs who, together with the village government, are primary actors in village development; and (3) village government, villagers, and people's organizations (peasant unions) taking the lead in determining agrarian reform subjects and objects.

Key Findings and Analysis

For this 2014 report, KPA focused its monitoring on agrarian conflicts which they characterize as 'structural agrarian conflicts.' These are caused by various policies or public officials' decisions which have led to the grabbing of people's land and resulted in social, economic, and political impacts. Therefore, land disputes involving individuals, inheritance rights, or private-corporate disputes are not included in the agrarian conflict categorization presented in this report.

Data Collection Method - The quantitative data on agrarian conflicts throughout 2014 recorded by KPA were from victims who reported the incidents through its network partners at both the national and local levels. Other data were also gathered by monitoring mass media news reports (print, electronic, and on-line). It may be concluded, then, that the number of conflicts presented is actually a minimum of those that, in fact, happened or are happening. Not all areas of the country

could be covered, especially with regard to their agrarian conflict situation; and media coverage of agrarian conflict issues tends to be limited.

Agrarian Conflict Number - For 2014, KPA recorded at least 472 agrarian conflicts throughout Indonesia. These involved 2,860,977.07 ha of land, and affected at least 105,887 households. Along with the Masterplan project on Indonesian Economic Development Expansion (MP3EI), which stressed on infrastructure development, the highest number of agrarian conflicts in 2014 can be seen in infrastructure projects—with at least 215 agrarian conflicts (45.55%) in this sector alone. Plantations ranked second, with 185 agrarian conflicts (39.19%). The rest were from the various sectors: forestry with 27 conflicts (5.72%), agriculture with 20 conflicts (4.24%), mining with 14 conflicts (2.97%), water and marine with 4 conflicts (0.85%), and 'others' with 7 conflicts (1.48%). Compared to 2013, the number of conflicts had escalated by 103 incidents, or 27.9%.

Observing the large number of agrarian conflicts caused by infrastructure development throughout 2014, it can be surmised that the implementation of the Law No. 2/2012 on Land Acquisition for Development in Public Interest and its other derivative regulations is a major cause of the ease of land grabbing in the name of development. Another critical factor was the implementation of the MP3EI program which divided Indonesia's mainland-water area into six economic corridors based on primary commodities. The intensified production necessitated increased infra-

structure which has led to destruction of natural resources and harm to the environment.

KPA records for the last 10 years show that, from 2004 to 2014, there have been 1,520 agrarian conflicts on 6,541,951,000 ha of land, involving 977,103 households. That translates to an average of two agrarian conflicts per day, 1,792 ha of people's land grabbed per day, and 267 households per day whose control and management of their rights have been taken away.

Agrarian Conflicts Coverage – In terms of the size of area covered or affected by the recorded conflicts in 2014, the water and marine sector was in the highest position with 1,548,150 ha (54.11%). Next was the plantation sector with 924,740.09 ha (32.32%), followed by the forestry sector with 271,544 ha (9.49%), the infrastructure sector with 74,405.16 ha (2.6%), the agriculture sector with 23,942.7 ha (0.84%), 'others' with 11,242 ha (0.39%), and the mining sector with 6,953 ha (0.24%). The water and marine sector had the broadest agrarian conflicts coverage due to the annexation of mineral and gas concessions on the Malaysia-Indonesia border. This was an escalation in coverage area for this sector of 1,579,316.91 ha (123%) compared

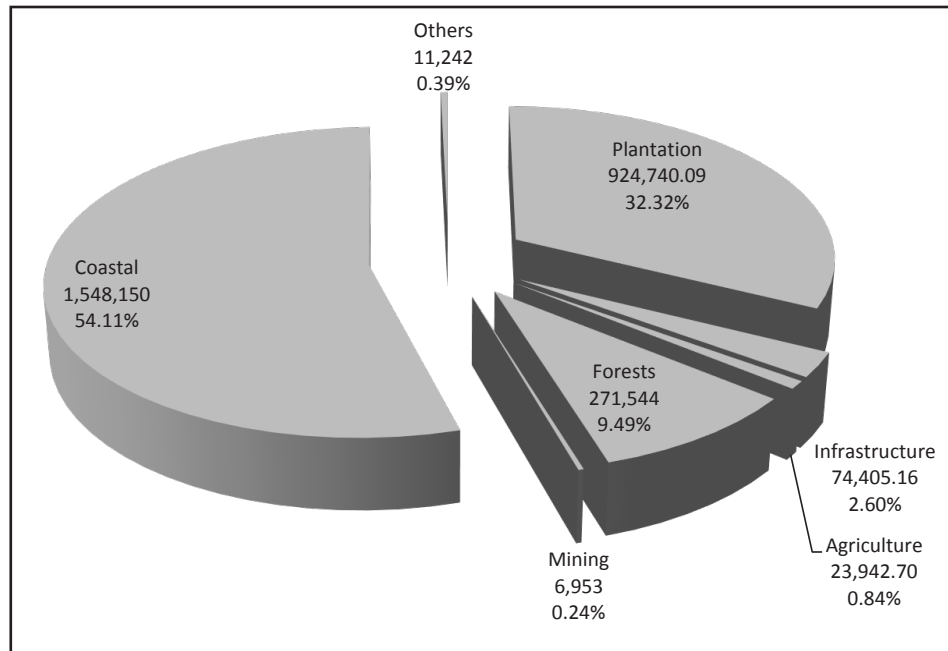


Figure 2: Coverage of agrarian conflicts per sector in ha and % (KPA, 2014)

Source: Nurdin, I. (2015). *Indonesia land monitoring*. Consortium for Agrarian Reform (CRA) [Powerpoint slides]

to 2013. Every year, the agrarian conflicts coverage area continues to rise. Over the last 10 years, agrarian conflicts have involved a total of 6,541,951,000 ha.

Victims and Actors of Violence in Agrarian Conflicts – The number of victims of violence related to agrarian conflicts is likewise increasing every year. For 2014, there were 19 killed, 17 shot, 110 injured through physical violence, and 256 arrested in the course of such conflicts. This level of violence in agrarian conflicts shows that the Indonesian National Army and the Indonesian National Police have failed to provide and enforce security for the victims, as well as ensure the people's livelihood rights over their land and water resources. In fact, the police and army involvement has worsened the acts of intimidation and terror against villagers.



In terms of actors of violence in agrarian conflicts within 2014, the number of cases dominated by police forces was 34, by villagers was 19, by corporation security was 12, by thugs was 6, and by the Indonesian National Army was 5. Repressive measures taken by security forces, corporation security, and thugs worsened the conflict situations in the field. The Indonesian National Army/ Indonesian National Police always served as the 'right hand' of corporations and of the political/government elite.

Within the last 10 years, a total of 85 people have been killed, 110 shot, 633 wounded from physical violence, and 1,395 arrested. This shows that the use of arrests in dealing with agrarian conflicts is on the rise. In the course of KPA's advocacy work on agrarian conflicts, especially the ones which involved its members (peasant unions, IP organizations, and urban poor groups), KPA also had data that there were 260 victims of agrarian conflicts perpetuated by state apparatus (131 in West Java, 44 in Central Kalimantan, 17 in North Sumatera, 15 in Central Sulawesi, 14 in Sumatera, 13 in Central Java, 11 in NTT, 8 in East Java, 4 in Bengkulu, 2 in West Kalimantan, and 1 in East Kalimantan).

Agrarian Conflicts' Incidence by Province

- In 2014, KPA's records showed the 10 provinces with the highest incidence of agrarian conflicts: Riau 52 conflicts (11.02%); East Java 44 conflicts (9.32%); West Java 39 conflicts (8.26%); North Sumatera 33 conflicts (6.99%); South Sumatera 33 conflicts (6.99%); Central Java 26 conflicts (5.51%); DKI Jakarta 25 conflicts (5.3%); Banten 20 conflicts (4.24%); South Sulawesi


19 conflicts (4.03%); and Jambi 17 conflicts (3.60%). It is possible, however, that there could be latent agrarian conflicts in certain provinces which did not go off in 2014.

The high number of conflicts in Riau points to the vast expansion of industrial forests and oil palm plantations there. The granting of concessions on people's governance areas to corporations by public officials has resulted in what amounts to land grabbing from those who had been controlling and managing the land. Next to Riau, all the provinces in Java (East Java, West Java, Central Java, DKI Jakarta and Banten) had the highest incidence of agrarian conflicts. This points to the Javanese forest monopoly by Perhutani, PT Perkebunan Nusantara (PTPN)⁹ operation, and other expansion projects and infrastructure developments as causing the rise in agrarian conflicts in Java. In the infrastructure sector, the incidence of conflicts increased from 105 in 2013 to 215 in 2014, a significant rise of 104%.

Agrarian Conflicts Stakeholders -

Disputes over land and natural resources in various areas of the country showed the following groups of stakeholders involved: 221 agrarian conflicts involving people against private corporations; 115 conflicts involving people against government (central/region); 75 conflicts involving people against people; 46 conflicts involving people against state corporations; and 18 conflicts involving people against Indonesian National Army/ Indonesian National Police.

⁹ A state-owned plantation company and the largest sugar producer in Indonesia.



State and private corporation control and tenure over agrarian resources is seen to be the primary cause of agrarian conflicts. In the plantation sector, for instance, 26 agrarian conflicts were recorded of people vs. a state-owned enterprise plantation, and 85 conflicts of people against a private plantation corporation (majority in oil palm production). While in the infrastructure sector, it was recorded that 76 state corporations and 41 private corporations had caused agrarian conflicts.

Perhutani Forest Area Monopoly - One case in particular is that of the state-owned enterprise in the forestry sector (Perhutani) which dominates agrarian conflicts with people, as a consequence of the Perhutani monopoly over Javan forest governance. This has become a source of agrarian structure injustice¹⁰ in the Javan forest area, as the Perhutani area is bordering at least 6,172 villages, and there are 366 villages within the forest area. This situation means that at least 21 million citizens live within or bordering the Perhutani area.

In 2014, nine locations of Perhutani claims were recorded as causing agrarian conflicts with local villagers. Furthermore, claim disputes and conflicts between local villagers' living area and the Perhutani area almost always ended in the arrest of villagers.

¹⁰ Conflicts caused by injustices in ownership, control, and management of agrarian resources (Komnas HAM, KPA, and WALHI, (2014). *Agrarian Conflicts Resolution Jokowi-JK Must Be Priority*. Retrieved from <http://www.kpa.or.id/news/blog/english-agrarian-conflicts-resolution-must-be-jokowi-jk-priority/>).


Perhutani claims that the boundaries of its management area had already been set since the Dutch colonial era (1865-1930s). However, its Minutes of the Boundaries (BATB) have never been transparent. That is why the 1960 Basic Agrarian Law clearly mandated that Western rights over land should be converted as of 1980 at the latest.

If Perhutani BATB asserts the establishment of state rights (*staatsdomein*) over the Java and Madura teak forest, the 1960 Basic Agrarian Law had already erased the effectivity of colonial agrarian legislations. Therefore, Perhutani's control over Java forest areas based on colonial BATB no longer applies in independent Indonesia and its monopoly should be dissolved.

Conclusion

KPA carried out the following activities in line with this Monitoring Report:

1. ***Documentation of land conflicts*** - KPA documented the data of agrarian conflicts nationwide from January-December 2014, by recording the conflicts reported through mass media and through members of the KPA regional network to the KPA national secretariat. The monitoring focused primarily on 'structural agrarian conflicts,' which are those caused by various policies or public officials' decisions which resulted in land grabbing and social, economy and political impacts. Individual land disputes and those involving inheritance rights or private-vs.-corporate disputes were not included in the monitoring.



2. *Discussion on Agrarian Conflict* - In line with recording the data, the KPA legal aid team discussed several cases to increase public awareness on the impact of land conflicts. They organized media briefings and made a formal report to the National Parliament and the National Commission on Human Rights. A major case in 2014 took place in Karawang Wes Java Province where hundreds of households were evicted by land grabbing for purposes of building an industrial area.

3. *Monitoring land policies and advocacy on the Land Bill* - KPA continues to monitor the regulations that are still in the deliberation process, or that have already been endorsed to Parliament. KPA also produced the position paper for the regulations as a basis for policy advocacy.

For laws that, in KPA's view, were counter to the agrarian reform principle, KPA developed alliances to challenge these laws before the Constitutional Court. Thus, in 2014, their alliance won the appeal to eliminate certain articles in Law No 19/2013 on Protection and Empowerment of Farmers that discriminated against farmers' organizations that had been developed by CSOs. KPA also conducted several discussions and public hearings in Parliament regarding the draft Land Bill.

CAMBODIA

Land Governance in Cambodia

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Land Governance Issues/Updates

The various governments of Cambodia have introduced a number of land administration programs, especially that of land registration, since the collapse of the Khmer Rouge regime in 1979. From 1979 to 1989, land throughout the country belonged to the state, and farmlands were operated as *kromsamakior* solidarity groups—10 to 15 families working on the same plot and sharing its yield collectively. Eventually, however, most of the collectivized lands were transformed into private lands as it was admitted that collectivization produced low yields because of the lack of ownership by the cultivators.

The rise of land conflicts - Prior to the 2000s, around six million has of Cambodian forestland had been granted to companies and individuals in the form of forest concessions. The government, however, eventually cancelled the majority of these concessions due to their negative impacts on the forest—only to award, in their place, large areas of land to companies and individuals in the form of Economic Land Concession (ELCs). By 2013, it had granted more than two million of these concessions to private companies and wealthy persons.



And based on a report of LICADHO issued in March 2015, three-fourths of Cambodian agricultural land is now under the control of private companies, the majority of which are foreign corporations.

The granting of ELCs created many problems such as land grabbing, land conflicts and forced eviction—all with negative impacts on the land security of the local people. Reports say that almost one million people have been affected by the granting of these concessions, with a number seeking suitable compensation with the support of NGOs. Those affected have also resorted to other means to air their demands, such as the blocking of national roads, marching to the city, or gathering in front of the National Assembly building or the Prime Minister's house. In some cases, villagers have used violent measures to protect their homes and land, but were suppressed by the military forces and through judicial means.

Land distribution/transfer mechanisms

- To improve land management policy, the Royal Government of Cambodia (RGC) ratified the Land Law in 2001. Over the years since then, it introduced the following land registration mechanisms: Sporadic Land Registration, Systematic Land Registration (SLR), Social Land Concession (SLC), Communal Land Titling (CLT), and Directive 01. All of these ended up beset with problems ranging from inefficiency, lack of resources (staff, facilities and funding), limited scope, to corruption.

Indicators Used

Given the problems of the land registration mechanisms mentioned above and the massive granting of ELCs in recent years, an increase in land conflicts and disputes was inevitable. However, it was noted that the available data does not focus much on the mechanisms to address such conflicts, especially at the district, commune and local levels. Thus this research sought to trace the views of the local officers involved in land conflict resolution, by posing the following questions:

- How has land been distributed and who benefits and who loses (tenant/landless/women)?
- What are the status and role of women in the land redistribution process and ownership?
- How does land redistribution, mainly ELCs, link to land tenure and land security and landlessness in Cambodia?
- What is the scope of conflicts that have emerged out of the land distribution process, both with the government's Systematic Land Registration and the D01 land registration campaign?
- What would best support key stakeholders in dealing more effectively with the current land conflicts, in compliance with contemporary land laws?



Research Methodology and Sampling

The areas covered by this research had experienced the different types of land registration mechanisms, such as Sporadic Land Registration, Systematic Land Registration, Communal Land Titling, and the Directive 01; as well as different kinds of challenges, natures of conflict, and response mechanisms.

The study employed the qualitative approach to draw out answers to the research questions, as the nature of the research problem and its dynamism are not easily quantifiable. It covered two communities in each of the five selected provinces – BanteayMeanchey, Pursat, SvayRieng, Ratanakiri and Mondulakiri—representing both lowland and upland geographic areas, a range of land registration mechanisms, and areas where land conflicts are occurring.

In each of the studied communities, interviews were conducted with focus groups of affected community members, using the interview guide; key informant interviews were done with police, commune councilors, district officials, provincial officials, and department officials; and case studies were documented. At the national level, the team interviewed officials of the Ministry of Rural Development (MRD) on their involvement in communal land registration within the indigenous areas. NGOs working in land management and registration, such as NGO Forum and Development and Partnership in Action (DPA), were also interviewed. The research team also conducted site visits to the areas where conflicts are taking place.

Key Findings and Analysis

The results of the research study indicated the following impacts, challenges and gaps in the land distribution efforts of the Cambodian government:

- There are internal struggles within the CLT community themselves to manage their land effectively which has resulted in the current land fragmentation and tension.
- Potentials for overlaps are brought up between ELC or company and communities in their registration process, especially under Directive 01. In this case, it is important to look at the history of which party came in before or after as they may be invited to negotiate.
- Communal land-titled areas are still under threat from in-migrants and ELCs.
- The threat is even more severe for an IP area where registration is ongoing and has not obtained the titles yet.
- The process of Communal Land Titling has been complicated, protracted and difficult to understand for community people.
- While Communal Land Titling has been protracted for long, and the fears of land loss mounted, the new opportunity for private land ownership through Directive 01 has also been forthcoming. This has halted the CLT process up to the present.
- Participation in the CLT process was seen as not its entirety to some actors.



- It is important that some aspects of relevant laws need to be well disseminated to a larger population. This calls for the broad-based participation of stakeholders in the process in order to open up options that are suitable to the specific context.

Recommendations

Proposed policy options/solutions for future consideration:

- Devolve power to the district and commune levels with proper support and resources to be more convenient for local people.
- Provide technical support and recruit more cadastral staff to help implement land registration.
- Speed up the land registration in the conflict-prone areas or among IPs to provide land tenure security and increase land productivity.
- Reconsider the roles and the efficiency of land conflict resolution authorities to guarantee land conflict resolution.
- Provide support for proper boundary poles to avoid future conflicts.
- Engage broader participation of stakeholders in land registration, as in the practices prior to 1989.
- Reorganize the system to ensure that it can function properly to resolve the emerging conflict in the community.

- Create better awareness among the communities, so they may approach NGOs for help, as a basis for the community to start the process.
- Have the Ministry of Rural Development and Interior conduct training sessions to create better awareness and understanding among community members even if someone tries to lure them into changing their minds.



PHILIPPINES

2014 Philippine Land Reform Monitoring Report

By The Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC)
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In partnership with the College of Social Work and Community Development, University of the Philippines (UP-CSWCD) and Xavier Science Foundation, Xavier University (XU-XSF)

Since its conception in 2010, the CSO Land Reform Monitoring Initiative in the Philippines has been describing and analyzing people's access to land and resources by keeping track of the government's accomplishments in these areas. In the agrarian sector, the determinant of such accomplishments was the number of hectares (ha) of agricultural land distributed under the Comprehensive Agrarian Reform Program (CARP); in the aquatic reform sector, it was the number of Fishpond Lease Agreements (FLAs) issued; while for the indigenous community sector, it was the number of Certificates of Ancestral Domain Title (CADTs) awarded. Beyond these accomplished targets, however, it is equally vital for CSOs to monitor the areas that government usually overlooks. These involve understanding the magnitude of tenurial insecurity by meticulously monitoring tenure rights violations. After all, the protection of rights and lives of beneficiaries is as important as giving them the right to access and control resources.

Objectives of the Study

This 2014 land monitoring report aims to contribute to this understanding through the following objectives:

1. Identify the nature of resource conflicts occurring in the Philippines involving agrarian lands, municipal waters and ancestral domains through case reports, specifically focusing on: a) conflict actors, b) causes of resource conflicts, c) intensity of resource conflicts, d) impacts of resource conflicts and e) conflict resolution strategies.
2. Describe what human rights violations were committed that have resulted to resource conflicts.
3. Formulate recommendations to contribute in the process of managing and resolving resource conflicts.

Methodology

To fulfill its objectives, this study collected studies and other secondary materials generated by CSOs and government agencies on cases of land conflicts in the Philippines—both resolved and ongoing—over resource use, access and control involving farmers, coastal municipalities and indigenous communities.

The study underwent four phases: i) face-to-face and electronic consultations with the Research and Extension Development Office of the University of the Philippines - College of Social Work and Community Development, (UP-CSWCD) and the Xavier Science Foundation of Xavier University (XU-XSF); ii) data gathering through key informant interviews and

a review of literature of reports and case studies prepared by government agencies and CSOs; iii) a joint consultation workshop allowing other CSOs to share their feedback on the preliminary methodology, recommendations and conclusions of the monitoring report for improvement; and iv) discussion and presentation of the final draft in a workshop jointly organized by ANGOC, UP-CSWCD and XU-XSF, and participated in by government agencies and CSOs.

Findings

A. Conflicts on Access to and Control of Agricultural Lands

In a desk research conducted by Global Witness in 2012, it was found that 711 individuals were killed worldwide from 2002-2011, defending human rights related to environment, specifically land and forests (Global Witness, 2012). While the study found that, in many countries, systematic information on killings is deficient, it did identify the Philippines as one of the countries with the highest reports of killings. From 2002-2011, the Philippines accounted for 50 cases (7.03%) of the total number of killings recorded in 26 countries worldwide (Global Witness, 2012). An additional 197 cases of deaths worldwide were reported from 2012-2013, placing the Philippines third among countries with the highest cases of deaths among land and environment defenders (Global Witness, 2014).

The prevalence and intensity of land conflicts in the Philippines is likewise supported by data from the Commission on Human Rights (CHR) and the Department of Agrarian Reform (DAR). As seen in

Table 1, in 2014 alone, a total of 77 cases of agrarian/ land-related conflicts were recorded by the CHR, as well as eight cases of eviction/forced eviction (CHR, 2015) and one case of harassment (CHR, 2015).

On the other hand, as seen in Table 2, the agrarian legal service of DAR has processed and resolved an average of 51,127 agrarian law implementation cases every year in the last five years; represented 1,642 and

Table 1. Breakdown of Number of Agrarian/ Land Related Cases of Conflicts Filed with the Commission on Human Rights in 2014 (CHR, 2015).

Region	Total number of complaints filed
Ilocos	8
Central Luzon	4
CALABARZON	7
Western Visayas	4
Zamboanga Peninsula	10
Northern Mindanao	14
Davao	9
SOCCKSARGEN	8
CARAGA	13
TOTAL	77

Source: Commission on Human Rights. (2015). Breakdown of Number of Victims of Killed on Agrarian/Land Conflict Related Complaints/Cases Filed with the CHR. Quezon City.

16,568 ARBs in judicial courts and quasi-judicial courts, respectively, since 2011; mediated and reconciled 47,870 agrarian disputes via alternative strategies since 2012; and settled 21,060 cases through the DAR Adjudication Board. While these accomplishments are commendable, a more detailed report of these alarming numbers must be sought to know the magnitude of the disputes.

Table 2. Agrarian Legal Services Accomplishment of DAR from 2010 to 2014.

Agrarian Legal Services	2010	2011	2012	2013	2014
Agrarian Legal Assistance	67,894				
Resolution of Agrarian Law Implementation	52,075	56,338	37,790	56,428	53,005
ARB Representation in the Judicial Courts		4,203	1,078	648	639
ARB Representation in Quasi-Judicial Courts		14,787	16,930	18,674	15,884
Mediation of Agrarian Disputes			44,704	45,258	54,646
Adjudication of Cases	19,409	19,006	23,432	21,640	21,816

Source: Accomplishment Reports of the Department of Agrarian Reform from 2010 to 2014.

With this end in view, this monitoring report includes five actual narratives of the experiences of farmers and agrarian reform beneficiaries struggling to acquire their land or secure their right to tenure.¹¹

- Farmers reclaiming their land in San Francisco, Agusan Del Sur from the Filipinas Palm Oil Plantation Inc. (FPPI), the biggest palm oil operator in Mindanao
- Human Rights Violations against Farmers in Hacienda Dolores, Porac, Pampanga by Leonardo-Lachenal-Leoncio Holdings (LLL) and FL Property Management Corp. (FL), partner corporations of Ayala Land, Inc.
- Conversion of Farmlands into Real Estate Properties in Gimalas, Balayan, Batangas by Empire East Land Holdings, Inc. (EELHI), a company of Megaworld (CARRD, 2014)
- Land grabbing through Agribusiness Venture Agreements with Agrarian Reform Beneficiaries in Tagum, Davao del Norte by HARBCO and LAPANDAY (AR Now!, 2014)
- Victory of CARPER in the Bondoc Peninsula, Quezon Province

Conflicts on Access to and Control of Ancestral Domains

From 2009-2012, the National Commission on Indigenous Peoples (NCIP) recorded seven clusters of IP rights violations (IPRVs) (as shown in figure 1 below). The four most prevalent violations are those against: i) civil and political rights (extra-judicial killings, enforced disappearances, tortures, murders and homicides), ii) ancestral domain rights (encroachments, displacement due to conflicts with settlers, development activities, and demolitions), iii) militarization and private armed groups, and iv) benefit sharing (unfair distribution and misappropriation of royalties, misunderstanding or misimplementation of agreements). Notice that the second most prevalent complaints recorded by NCIP IPRVs are those related to ancestral domain rights.

¹¹ For the complete accounts, please refer to the full Report at <http://www.angoc.org/portal/>.

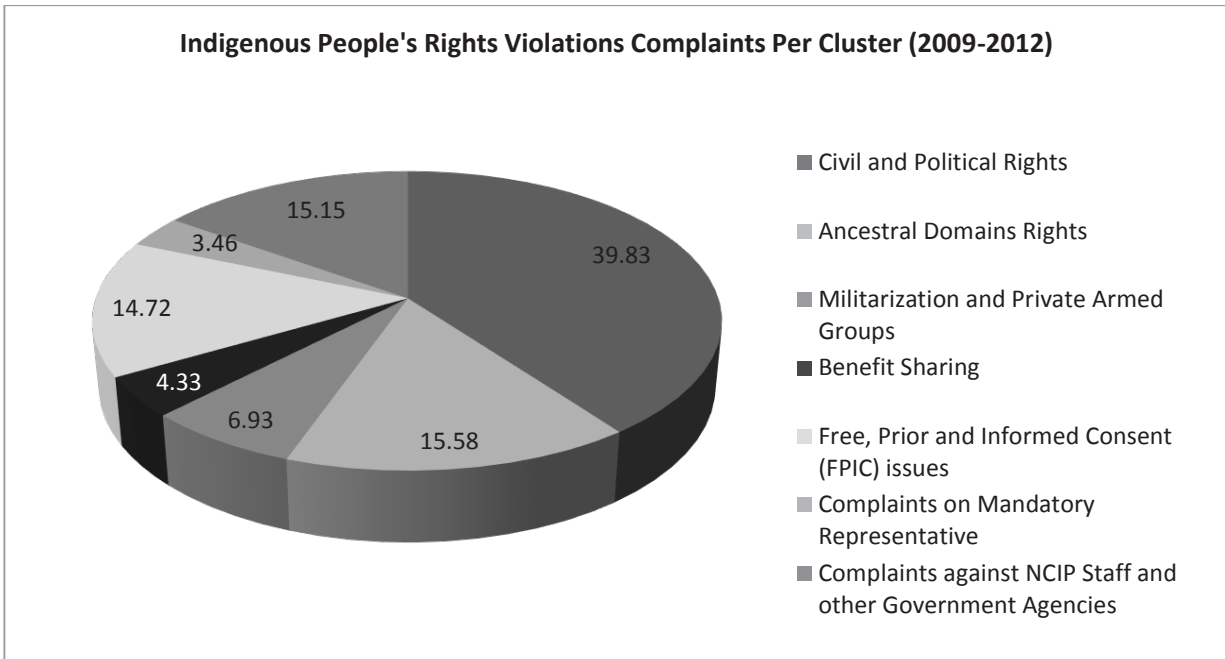


Figure 3. Indigenous People’s Rights Violations Complaints per Cluster (2009-2012).

Source: “Indigenous Peoples Rights in Practice and Quick Response for IP Rights Violations: A Human Rights Report of the 5th NCIP-CEB” (2012)

Table 3 shows a detailed version of NCIP’s data on IPRVs, indicating the number of complaints recorded per region. It can be gleaned that Region X has the greatest number of complaints, while Regions V and VIII have no record at all. More significantly, from 2009-2012, NCIP has recorded 68 cases of ancestral domain rights violations. This cluster accounts for 15.58% of the total number of complaints related to IPRVs recorded. It also indicates that Region XIII accounts for majority of the complaints related to ancestral domain rights violations recorded.

Table 3. Number of Indigenous People’s Rights Violations Complaints per Region from 2009-2012.

Type of Complaint	Number of Complaints Per Region													
	CAR	I	II	III	IV	V	VI & VII	VIII	IX	X	XI	XII	XIII	Total
Civil and political Rights	1		4	6	1				9	23	10	19	19	92
Ancestral Domains Rights	1		3	6	6		2		2	6	1	5	36	68
Militarization and Private Armed Groups	1		1						2		5		8	17
Benefit Sharing	1		2		2				1			2	3	11
FPIC Issues	3				3				7	10	5		4	32
Complaints on Mandatory Representative									1	2			5	8
Complaints against NCIP staff and other Government Agencies				1	1				9	10		6	14	41
Total	7		10	13	13		2		31	51	21	32	89	269

Source: “Indigenous Peoples Rights in Practice and Quick Response for IP Rights Violations: A Human Rights Report of the 5th NCIP-CEB” (2012)

In addition to the above data, this monitoring report presents the following documented case studies of conflicts involving ancestral domain lands.¹²

- Special Economic Zone APECO and the Agta/Dumagat Ancestral Domain Chain (De Vera and Libre, 2015)
- Mamanwa in Barangay San Pablo, Jabonga, Agusan del Norte and Mindoro Resources Ltd. (MRL), a Canadian mining company exploring nickel, copper and gold in the Philippines (De Vera in ANGOC, 2014)
- Copper and Gold Mining in Tampakan, South Cotabato by Filipino-owned Alsons Prime Investment Corporation, operated by a local subsidiary,


Sagittarius Mines Inc. (SMI) (UNHRC General Assembly, 2014)

- Corporate Social Responsibility Accomplished in Ambuklao and Binga Dams by SN Aboitiz Power Benguet, Inc. in a mediated dialogue overseen by the Compliance Advisor/Ombudsman (CAO) of the World Bank Group and the Conflict Resolution Group Foundation, Inc. (CoRe Group)

Resource Conflict Involving Municipal Waters

In 2014, the Bureau of Fisheries and Aquatic Resources (BFAR) rendered 120 legal and advisory services under the fisheries and aquatic resources regulation services (DA, 2014). This number gives us an idea of the frequency of conflicts involving the use of and access to municipal waters. In addition, the Law Enforcement Quick Response

¹² For the complete case study summaries, please refer to the full Report at <http://www.angoc.org/portal/>.



Team (LE-QRT) enumerated the number of maritime incidents and issues involving commercial fishing vessels per region in 2014, showing that such conflicts include poaching, illegal fishing, and commercial fishing vessels violating RA 8550 or the Philippine Fisheries Code.¹³

Municipal fishers value water resources not only for the income they produce but also for their long-term productivity to sustain future generations and as a basis of identity. Commercial fishers, on the other hand, seek to increase production to meet international and domestic demands for fish products as well as to have better wages—often resorting to destructive and highly efficient fishing methods which result to overfishing. The conversion of mangrove areas for purposes of aquaculture further reduces municipal and commercial fishers’ access to their fishing grounds, and contributes to the depletion of various marine species that breed there, consequently decreasing the fish caught by municipal and commercial fishers.

- **Illegal, Unregulated and Unreported (IUU) Fishing in the Philippines**

In June 2014, the European Union (EU) issued a “yellow card” warning to the Philippines due to its failure to regulate illegal fishing activities, based on the EU’s Illegal, Unregulated and Unreported (IUU) Regulation of 2010. In this regard, the country was given six months to take action and improve its legal and monitoring system concerning aquatic resources.

In April 2015, this warning was revoked as EU acknowledged the Philippines’ efforts to improve its fisheries governance,

addressing IUU fishing practices. Republic Act 10654, which amends the Philippine Fisheries Code, was passed into law on February 27, 2015 and a 41-member technical working group (TWG) was formed to draft the implementing rules and regulations to be finished by September 2015.

- **Impacts of Aquaculture and Tourism in Calatagan, Batangas by the Juan Lorenzo Vergara (JLV) Shrimp Farm and Various Reports¹⁴**

Analysis

Nature of conflicts involving agrarian lands

In the five cases of agrarian conflict included in this report: (1) *local community* actors are comprised of (a) farmers or farmers’ in an organized group and their families struggling to acquire rights to access and control agricultural lands, (b) agrarian reform beneficiaries trying to secure or gain back control of their lands, (c) landowners resisting the installation of ARBs in their acquired land, and (d) farmers in disagreement with other local farmers concerning land management; (2) *government* actors include the Department of Agrarian Reform being responsible for the overall implementation of laws on the Agrarian Reform Program as well as the local government unit in each community; and (3) *outside actors* are comprised of (a) agribusinesses and (b) real estate developers.

¹³ For the breakdown of conflicts, please refer to the full Report at <http://www.angoc.org>.

¹⁴ For further details of these cases, please refer to the full Report at <http://www.angoc.org/portal/>

In most cases, local communities are the victims of conflict. Being the group with less influence and power, they are usually the ones displaced, manipulated or barred from their rights. But local community actors can also be an origin of conflict. As seen in the case of Tagum, Davao del Norte, because of a disagreement over entering into an agribusiness venture, the organized farmers group was divided into two factions, resulting to destruction of fields, harassments and killings.

Most frequently, however, outside actors are the perpetrators of conflict. Between the local community actors and outside actors, the latter have more power and influence to pursue their interests involving the control and management of resources. They enter local communities, assess the area's potential in producing profits, and entice residents with riches in exchange for allowing the industries and businesses to own, control or manage the resources. For example, in the case of Gimalas, Balayan, Batangas, the Empire East Land Holdings Inc. (EELHI) saw Gimalas' potential as a park and port. They successfully persuaded farmers to waive their rights and access to land in exchange for monetary compensation.

Varying interests in using and managing agrarian lands is a cause of conflict in most cases. For the farmers of San Francisco, Agusan del Sur and Tagum, Davao del Norte, conflict occurred because they no longer saw that their agreement with FPPI and HPI-

LAPANDAY, respectively, in managing the land as just. Instead, they sought to gain back their right to control and manage the land as they deemed fit.

Institutional failure was seen as a cause of conflict in the agribusiness ventures as well. ARBs who entered into agreements with agribusiness industries failed to foresee the implications of these agreements. They were made to believe that such agreements would yield greater benefits than managing the land on their own, but instead these resulted in unjust treatment from their partners and loss of control over their land.

These conflicts over agrarian lands resulted to (1) land use conversion, (2) land grabbing, (3) displacement of farmers and communities, and (4) human rights violations.

Studying the intensity of conflicts involving agrarian lands, most of the cases reached the violent stage (see figure 4), meaning resource actors resorted to physically aggressive actions, such as intimidation,

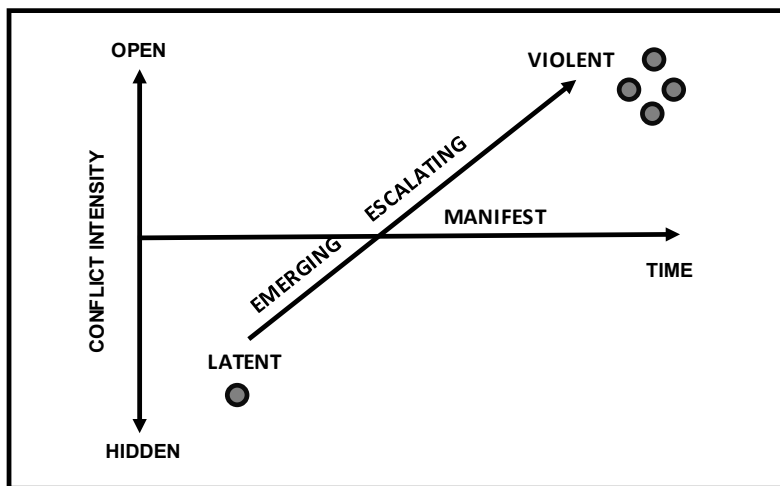


Figure 4. Intensity of conflicts involving agrarian lands.

Source: Engel and Korf (2005)

harassment, destruction of property and killings, to pursue their interests.

B. Nature of resource conflict involving ancestral domains

The actors involved in ancestral domain conflicts in these cases were comprised of: (1) *local community actors* such as the indigenous communities of Agta/Dumagat in Casiguran, Aurora, the Mamanwa of Jabonga, Agusan del Norte, the Bla’an of Tampakan, South Cotabato and the Ibaloi of Bokod, Benguet; (2) *government institutions* such as the National Commission on Indigenous Peoples, being the overall authority on the management of ancestral domains and protection of the rights of indigenous communities; and (3) *outside actors* from the extractive industries, state security personnel and non-government organizations.

Here again, local communities are usually the victims in ancestral domain conflicts, while government institutions and outside actors are the

conflict perpetrators. The latter engage in extractive activities, exploration or legislation done without considering the welfare of the indigenous communities that may be affected. For example, MRL’s exploration in the area of the Mamanwa of Jabonga, Agusan del Norte without FPIC threatens the conservation and protection of their 8,000 ha of ancestral land, including sacred, terrestrial and lakeshore areas.

In terms of the causes of conflicts involving ancestral domains, just as in agrarian conflicts, these are brought on by: (1) varying interests in using and managing ancestral domains, (2) relative power of the conflict actors, (3) institutional failure, and (4) non-inclusive natural resource management. The indigenous communities want their ancestral domain respected, conserved and protected because it embodies their history and identity, while the conflict perpetrators see the area’s potential for extractive industries and commercial use. Thus, ancestral domain conflicts have resulted to land conversion of settlements,

farms, and conservation areas of indigenous communities. In the case of Bokod, Benguet, the conversion was for purposes of hydroelectric power plants.

With regard to the intensity of the conflicts involving ancestral domains in the cases included in this report, most only reached the manifest stage and did not escalate to the violent stage—except for the case of Tampakan, South Cotabato (see figure 5).

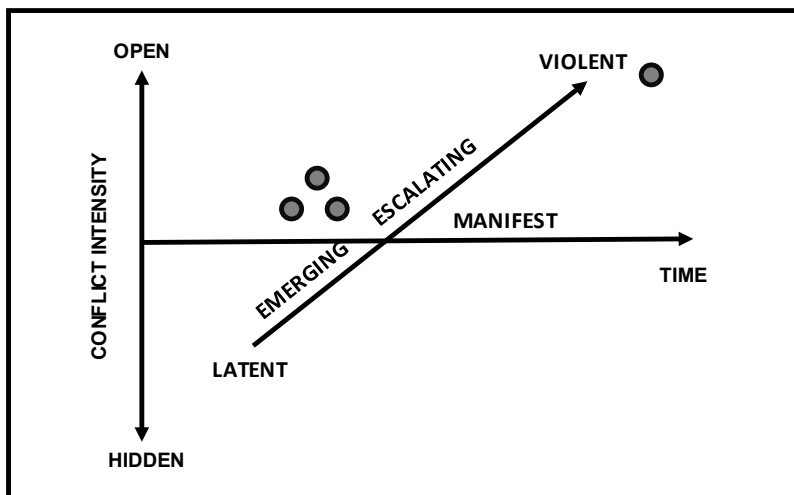


Figure 5. Intensity of conflicts involving ancestral domains

Source: Engel and Korf (2005)



C. Nature of resource conflict involving municipal waters

The nature of conflicts involving municipal waters differs from that of conflicts involving agrarian lands and ancestral domains because marine resources are communal, no one owns or controls them exclusively. Therefore, everyone can access marine resources. However, through the Philippine Fisheries Code of 1998 or RA 8550, local community fishers were given priority to access municipal waters and fish production became regulated.

Local community actors, especially the municipal fishers, are usually the conflict victims. Because of unregulated and destructive fishing methods employed by commercial fishers to meet the global demand for marine products, municipal fishers have reduced fish catch for the sustenance and income of their families. The expansion of resorts and the establishment of aquaculture farms have further restricted their access to and use of foreshores as boat docks and seaweed farms. The destruction of mangrove areas has also meant loss of marine products for household consumption. Meanwhile, government actors such as BFAR and DENR decide whether the livelihood of municipal farmers will be promoted and protected, or if aquaculture ventures and beach resorts will be allowed to deforest mangrove areas and operate within foreshores used by municipal fishers.


The causes of conflicts concerning marine resources are: (1) varying interests in using and managing such resources; (2) relative power of the conflict actors; and (3) institutional failure. While municipal

fishers seek to ensure marine resources for food and livelihood of future generations, commercial fishers and aquaculture owners pursue higher fish catch, even at the risk of depleting the fish population. Beach resort owners, meanwhile, have the power to influence the management of foreshores, and are thus able to intimidate and marginalize the seaweed farmers in these areas. In addition, failure to implement regulatory instruments allows the commercialization of foreshores and mangrove areas without following proper procedures.

In terms of the intensity of conflicts involving municipal waters, the cases included in this report were only in the manifest stage where the dispute had become a public issue. They did not escalate to the violent stage.

Conclusion

Although international human rights instruments do not necessarily include a human right to land, except for indigenous people's right to land and territory, **“land rights stand as a key human right issue, as the fulfillment of many human rights depend directly on land, including the rights to adequate housing, food, health, or to self-determination”** (FIDH and OMCT, 2014 p.7 par 2). Security of access to and control over land and its resources is a key to people's survival. Thus, conflicts over access to and control over land are also a human rights issue. While development is a constant objective of the state, it can serve as a double-edged sword (FIDH and OMCT, 2014). Development projects can improve the lives and fulfill the human



rights of people and communities, but they can also take away opportunities and hinder the fulfillment of human rights.

Human rights mainly protect individuals from actions that would threaten their civil, political, economic, social and cultural freedom. As mentioned earlier, for the indigenous communities, land and resources do not only mean income and shelter, but also history, culture and identity. As industries enter the territories of indigenous communities without going through appropriate procedures to obtain the consent of IPs, the lives and tenurial security of these communities are threatened. In the cases presented, aggressive and unlawful acts such as extra-judicial killings, harassments, intimidation and displacement are manifestations of the violation of indigenous communities' basic human right to enjoy their cultural heritage and identity which are embodied in their environment.

Recommendations¹⁵

This section builds on the proposals forwarded and agreed upon in the two consultation workshops where the draft monitoring report was presented and discussed. The recommendations called on CSOs: (i) to document and effectively use land-conflict data to muster public support, (ii) to reframe the land monitoring process in the light of a rights-based approach, and (iii) to enhance the capacities of farmers and IPs to evaluate business contracts presented to them.

At the same time, the recommendations urged the government: (i) to officially recognize land rights as basic human rights, (ii) to practice responsible land governance through proper enforcement of Free Prior and Informed Consent (FPIC) and Social and Environmental Impact Assessment (SEIA) not only for Economic Land Concessions (ELCs) but for all forms of land takeover, (iii) to establish monitoring systems and dispute resolution mechanisms in collaboration with the Commission on Human Rights (CHR) and all government agencies with a land-governance mandate and support one another in institutional building in line with a rights-based approach, and (iv) to institute accessible and affordable mechanisms at the local level for lodging of complaints and for dispute and conflict resolution—including traditional dispute management mechanisms in the communities.

¹⁵ For the detailed Recommendations, please refer to the full Report at <http://www.angoc.org/portal/>