



## THEME 1:

# LAND AND RESOURCE CONFLICTS IN SIX COUNTRIES IN ASIA<sup>1</sup>

**C**ountry Monitoring Reports on Land Conflicts were prepared by CSOs in six countries -- to understand the nature, causes and impacts of land and resource conflicts, and to highlight human rights issues in the context of these conflicts. The reports likewise provided an overview of some of the available conflict response and resolution mechanisms in each country.

Different forms of violence were the overriding themes of the cases studied, the most visible of which is physical – killing, injury, incarceration, eviction, and forced displacement. Psychological violence was also manifested in several ways -- grave threat, verbal abuse, harassment, defamation, and discrimination. Economic and political violence were also noted in many of the cases.

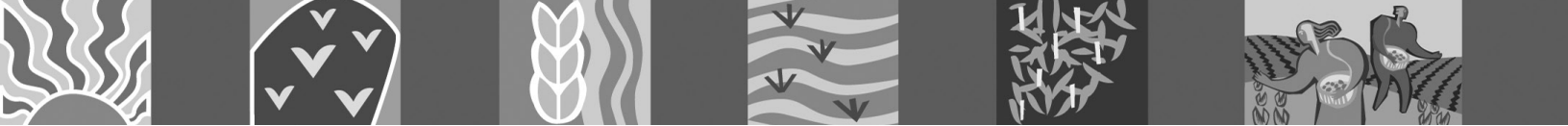
Land conflicts affect entire neighborhoods and communities in significant numbers, causing physical and psychological harm, with extensive impacts on their social, economic and political lives.

### BANGLADESH

Bangladesh consists mostly of fertile alluvial lowland or delta plains with one of the world's most dense populations (1,265 people per square kilometer). Thus, land scarcity is pronounced. Water resource access is a major issue. About 10 percent of the country consist of inland waters and 17 million people are involved in often seasonal fishing.

---

<sup>1</sup> This summary is based on presentations of CDA (Bangladesh), SK (Cambodia), EP (India), KPA (Indonesia), CSRC (Nepal), ANGOC (Philippines), Antonio Quizon and discussions from the Panel on "The state of land conflicts in selected countries in Asia". For more details, refer to the 2018 ANGOC regional publication "*In Defense of Land Rights – A monitoring report on land conflicts in six Asian countries*".



The country's elaborate tenancy systems were made worse by the *zamindari* system under British colonial rule. Today, Bangladesh has a highly skewed land ownership structure, with 60 percent of all households functionally landless, as they own only 4.2 percent of all lands.

Bangladesh has a rich history of land rights movements. The country also had brief periods of land reforms (1972, 1991) but they had limited impact due to corruption, landowner circumvention, etc. Among the major land conflict issues is the encroachment into indigenous peoples' lands in the Chittagong Hill Tracts, conversion of land for military camps, and State plantations.

As of 2014, the government still holds two (2) million hectares of *khas* land and water bodies (of which only 24 percent are agricultural) that should be distributed to the landless. However, distribution of agricultural *khas* lands often involve bribes and corruption. Also, most *khas* land are illegally occupied by rich peasants, and 95 percent of *khas* water bodies have been grabbed by local elites.

---

**“Cambodia has experienced four major shifts in property regime within a single generation, due to decades of internal war and foreign occupation.”**

Antonio Quizon  
ANGOC

---

The government is custodian of 850,000 hectares of land under the Vested Property Act, plus another 405,000 hectares under the Abandoned Property Act (Barkat, 2007). These lands have not been returned to their owners despite a 2001 Supreme Court ruling.

Land cases continue to clog judicial dockets as some two million hectares are under litigation. Land related cases take an average of 9.5 years for settlement. Land, in general, is the cited source of almost 60 percent of all legal disputes in Bangladesh (TI, 2017).

## CAMBODIA

Cambodia has experienced four major shifts in property regime within a single generation, due to decades of internal war and foreign occupation. From 1975 to 1979, the Khmer Rouge regime abolished private property, destroyed cadastral maps and the entire institutional infrastructure of the land system. War and forced relocation resulted in the dislocation of millions of people and the loss of property rights.

After 1889, all lands were considered as State property. Reclaiming land rights and land sales in the 1990s were marked by corruption and land grabs due to weak institutions. In 2001, a Land Law was passed and cadastral and registry systems were re-established.



Today, the State controls 80 percent of the country's 18.1 million hectares. State land management has favored granting large-scale economic land concessions (ELCs) to private companies, creating conflicts.

As of 2016, over 20 percent of all State lands (2.6 million hectares) has been awarded to large-scale concessionaires, including foreign corporations. Moratoriums on new ELCs were declared in 2012, but the implementation has been questionable.

---

**“Traditional and customary land tenure systems existed long before India became a nation-State. Feudal systems deepened under British colonial rule as land became a central source of State revenue.”**

---

For most people, the continuing challenge is how to formalize their property rights under the 2001 Land Law in the face of competing claims. Given limited information and resources for formal titling, many people rely on mere “recognition” of their land claims.

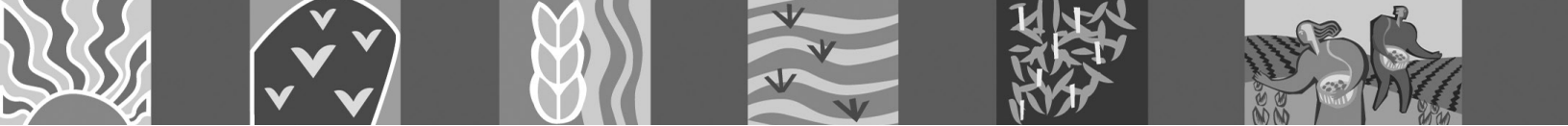
## INDIA

Traditional and customary land tenure systems existed long before India became a nation-State. Feudal systems deepened under British colonial rule as land became a central source of State revenue.

After independence, land reforms were instituted to address landlessness and social exclusion, which was done in three phases: (1) abolition of *zamindars*; (2) tenant protection acts; and, (3) land ceilings and redistribution. State-level reforms were most successful in West Bengal and Kerala States. Land ceilings were not implemented at all in other States.

Many anti-discrimination and social protection acts were passed, but with earlier structural adjustment programs and later economic growth and investments under market liberalization, the gap between the rich and poor has been growing. This exacerbates existing land inequalities and divides (i.e. discrimination against women, and *dalits*).

The key drivers of land conflict are development projects (Special Economic Zones), conversion of forests to other uses, and privatization of community lands under common property use and tenure.



## INDONESIA

Dutch colonial land and agrarian systems continued after Indonesia's independence in 1949. Subsequently, State-supported migrations and private investments were implemented to consolidate State control over islands outside Java, which resulted to conflicts with indigenous peoples over *adat* lands.

The government introduced land redistribution through the 1960 Basic Agrarian Law and the 1962 Land Reform Program. However, the Land Reform Program was implemented for only five years then reversed when the military took over in 1966. Since then, no land reform program has been implemented. There has also been no restitution of indigenous lands since independence.

As of 2016, the Ministry of Environment and Forestry had issued land concessions to 499 enterprises covering 68.7 million hectares, or 38 percent of the country's land area. Meanwhile, 25 percent of the population now living in forest areas remain without security of tenure.

In 2017, President Jokowi promised to redistribute 9.1 million hectares of land.

## NEPAL

Land in Nepal is historically governed by customary and non-formal practices, as indigenous groups comprise 36 percent of the population. Historically, State ownership of land fell under the monarchy, with complex feudal systems and bonded labor.

The government implemented the Land Reform Act of 1964, yet as of 2016 only 28,124 hectares have been redistributed (1.5 percent of all agricultural lands).

Nepal is experiencing a new dimension of land conflicts:

- ❑ Common issues: inheritance among family members, boundary conflicts between neighbors, conflict between landless people and State authorities and between landowners and tenants;
- ❑ Growing migration to *terai*, growth of informal settlers, land grabs;
- ❑ Discrimination against women, indigenous peoples, *dalits*;
- ❑ Conflict between statutory law and customary systems; and,
- ❑ Escalating land prices, population growth, and increasing fragmentation of landholdings due to the inheritance law.

From 2012-2016, around one-fourth of all court cases is land related.



## PHILIPPINES

The Philippines has had a long history of colonialism, which determined its land governance. The Spanish regime introduced the Regalian Doctrine and *hacienda* or plantation systems, sharecropping tenancies, and forced labor.

The American occupation facilitated the entry of foreign companies into mining and logging and into modern capitalist plantations, especially in the southern island of Mindanao. The Americans also introduced the Torrens title and registration system, resulting in massive land grabs.

After independence in 1945, several land reform programs were legislated in response to escalating agrarian and social unrest; but implementation was stifled by landowning interests entrenched in power, and the lack of government funding and support.

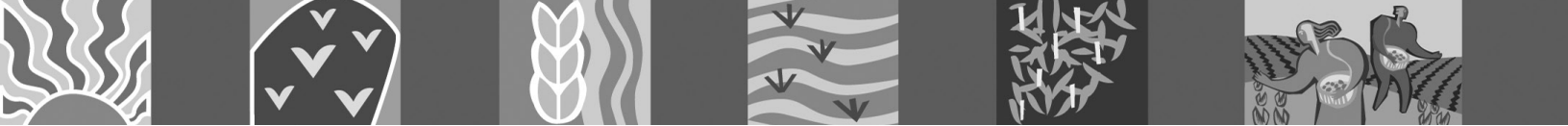
The 1986 People Power revolution that ousted a 20-year dictatorship brought about the 1987 Constitution that introduced social reforms—leading to landmark legislation like the Comprehensive Agrarian Reform Program (CARP), the Indigenous Peoples Rights Act (IPRA), and the Fisheries Code.

While CARP implementation is 90 percent completed, nearly 800,000 hectares of land still have to be redistributed. These lands are the most difficult to redistribute, as they consist of large, private landholdings. Landowners are now pushing back, resulting in an increase in violence since 2009. Growing private agribusiness investments unfavorable to small landholders have also of late been a source of conflicts.

Through the IPRA, 221 ancestral domain titles covering 5.4 million hectares have been recognized, but ancestral land titles are still not respected. There is continuing encroachment into IP lands by mining investments and migrants.

Meanwhile, weak implementation of the Fisheries Code has continued to negatively impact the small fishers.

Also, multiple government agencies continue to issue land titles, licenses, and permits, which lead to overlapping claims and conflicts over land rights.



## RECOMMENDATIONS

In light of these issues and challenges faced by communities with regard to their land rights, the participants of this regional workshop put forward the following agenda for action:

### To Governments:

- ❑ Implement Constitutional provisions that guarantee equal rights to land for women, peasants, landless and *scheduled castes*;
- ❑ Recognize and respect diverse tenure systems upon which people's livelihoods depend, including communal and customary tenure systems;
- ❑ Fully implement agrarian reforms. Revive land reforms through responsive legislations;
- ❑ Protect especially poor communities from arbitrary eviction and displacement;
- ❑ Investigate and address cases of incursion and displacement of indigenous peoples;
- ❑ Protect land rights defenders;
- ❑ Legislate and implement land use policies in order to protect agricultural areas against fragmentation and land use conversion, and to strengthen local food security;
- ❑ Adopt and implement the UN Guiding Principles on Business and Human Rights (UNGP BHR) in land and resource governance;
- ❑ Address violations of land/human rights where they occur;
- ❑ Reach out and inform local communities, especially vulnerable groups, of their land rights and entitlements;
- ❑ Train government staff (including police and military) on dealing with conflict – especially on gender and cultural sensitivity, and respect for human rights;
- ❑ Fast-track the resolution of land-related cases;
- ❑ Strengthen local mediation mechanisms for addressing land conflicts; and,
- ❑ Ensure integrity, transparency and public access in the management of land records.

### To National Human Rights Institutions (NHRIs):

- ❑ Include and cite land conflict monitoring reports in the annual reports of the National Human Rights Institutions and Commissions



**To Businesses and Private Sector:**

- ❑ Strictly implement government regulations; adhere to the highest standards of environmental and social safeguards

**To Civil Society Organizations:**

- ❑ Organize and empower affected communities;
- ❑ Improve reporting and response mechanisms;
- ❑ Promote non-violent action; and,
- ❑ Establish independent people's commissions to investigate land conflicts, including the conduct of businesses and the role of the State, towards the protection of local community rights. ■