
India

Land Conflict Monitoring Report¹

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INTRODUCTION

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

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

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

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

Citation:

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

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

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

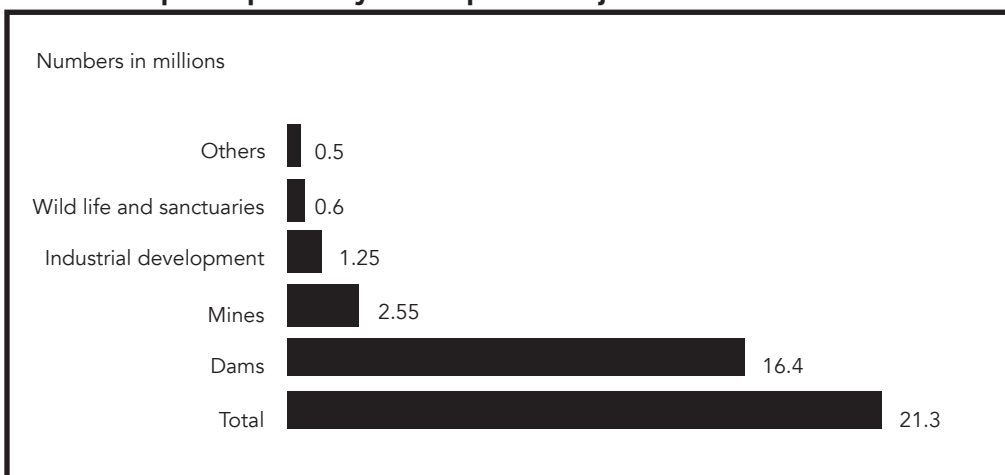
RESEARCH METHODOLOGY

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

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

HISTORICAL BACKGROUND

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

Table 1. People Displaced by Development Projects

Source: Lok Sabha

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

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

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

CONCEPT OF “PUBLIC PURPOSE”

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

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

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

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

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

RIGHTS OF THE TRIBALS AND FOREST DWELLERS

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

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

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

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

One of the recent trends in the exploitation of forest lands is the Compensatory Afforestation² drive. With the increased global concerns over climate change, the new initiative of using forests as carbon sinks has emerged. However, it needs to be determined whether afforestation is also used as a shield for the authorities to exploit the forest. This process is governed by the Compensatory Afforestation Fund (CAF) Act of 2016, which requires that clearance of any forest has to be accompanied by the acquisition of equivalent non-forest land or twice the amount of forest land for afforestation. According to this Act, only *consultation* and not *consent* of the affected people is required for land acquisition, hence allowing arbitrary acquisitions. According to a report, this process has been used as an excuse to get around the proper process of land resettlement under FRA and there is no proper mechanism of monitoring whether the acquired land is actually used for afforestation purposes (Karthik and Kodiveri, 2018). According to a survey conducted by Community Forest Rights-Learning and Advocacy (CFR-LA), an advocacy group, many “ghost plantations” were seen in the areas acquired for the compensatory afforestation program (CFR-LA, n.d.). According to the study, some projects in Chhattisgarh and Madhya Pradesh were discovered wherein funds were invested for afforestation, but no plantation activities were commenced even after several years.

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

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

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

CONFLICT ANALYSIS BY REGION

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

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

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

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

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

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

Source: Data collected from Land Conflict Watch

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

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

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

³ No data on the number of cases was provided for Central Region.

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

THE ECONOMICS OF LAND CONFLICT AND CONCLUSION

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

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

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

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

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

ACKNOWLEDGMENTS

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

LIST OF ACRONYMS

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

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