



Economic Growth at the Expense of Land Rights?

CSO Land Reform Monitoring Report in India 2018¹

An initiative of the Land Watch Asia Campaign

India was the world's 58th most competitive economy in 2018, according to the World Economic Forum's global competitiveness index. This represented a leap of five places from 2017 – one of the biggest year-on-year improvements – thanks in large part to its large domestic market and investments in infrastructure and innovation, particularly in research and development. Despite the consistent robust economic growth of about six to seven percent a year over the past several years, crippling poverty remains widespread in India. According to the latest data from the World Bank, 13.4 percent of the India's population of 1.3 billion is poor or lives on just US\$ 1.90 a day as of 2015. Plus, some 176 million Indians are living in extreme poverty.

Indeed, India is home to both the largest number of rural poor people and the largest number of landless households. Landlessness – more than either caste or illiteracy – is the best indicator of rural poverty in India, says the World Bank report on Agricultural Land Distribution (Binswanger-Mkhize, Bourguignon, and van den Brink, 2009). This then leads to the logical conclusion that improving the poor's access to land and land tenure will certainly help them break the chains of poverty and live a life of greater comfort and dignity.

¹ Edited and consolidated by the Asian NGO Coalition (ANGOC) as part of the Land Watch Asia (LWA) campaign, this article is based on the papers and presentations prepared by Barna Baibhab Panda of the Foundation of Ecological Security (FES) and the South Asia Rural Reconstruction Association (SARRA).

Citation:

ANGOC (2019). *Economic growth at the expense of land rights?: CSO Land Watch Monitoring Report in India: 2018*. In ANGOC (Ed.), *State of Land Rights and Land Governance in Eight Asian Countries: Forty Years after the World Conference on Agrarian Reform and Rural Development* (pp. 123 to 133). Quezon City: ANGOC.



In India, the agriculture sector, which includes the land, the seas and forests, is especially vital. It employs as much as 60 percent of the India's labor force, even more so in the rural areas where 65 percent of India's population resides. Also, about 60.5 percent of the total land area is used for agriculture. Of those who work on the land, an estimated 80 percent are either landless or have small and marginal plots, certainly not enough to get themselves out of poverty. In contrast, just 4.9 percent of India's farmers control as much as 32 percent of total farmland, while 56.4 percent of the rural households are landless.

Rural households in India are estimated to own some 92.369 million hectares, with the average landholding pegged at 0.592 hectare. A little over 75 percent of rural households fall in the marginal ownership category, owning just 29.75 percent of the total land area; 7.41 percent are categorized as landless households, either owning no land at all or less than 0.002 hectare.

Unfortunately, there are hardly any encouraging signs that the situation will dramatically improve soon, as public investment in agriculture in such forms as subsidies, inputs, equipment, training, irrigation facilities, farm-to-market roads, has been steadily declining over the past few years, such that the share of the agriculture sector in the country's Gross Domestic Product is down to 22 percent.

Climate change has likewise contributed to the declining productivity of India's land resources, 30 percent of which are considered degraded. Land degradation is expected to only increase due to high intensity storms, extensive dry spells and the denudation of the forest cover.

The Indian government, fortunately, is not entirely blind to the farmers and other agricultural workers as well as indigenous peoples living in dire straits and has recognized the urgent need for massive reforms to bring about social justice, for the poor to have greater and equitable access to the land.

The recognition of their land rights is also expected to help put a stop to further land degradation as the poor, which includes the indigenous peoples, are put in a position to participate more fully in soil conservation and forest protection, thus enhancing food security for the still growing Indian population. The need has become even more urgent as private forces are also exerting their profound influence, as they increase their investments in land as part of their rapid expansion plans, thus leading to increasing cases of land conflict across India.

In this paper, we examine some of the key developments shaping the struggle for land tenure and security in the vast subcontinent marked by diversity and promise.



LAND REFORM PROGRAMS IN INDIA

Since its independence in 1947, there have been several voluntary and State-initiated land reform programs implemented in several States in India with varying degrees of success.

Reform programs under the promise of “land to the tiller” were implemented in five phases.

The **first phase** from 1950 to 1955 dealt with tenancy reforms and attempts to abolish intermediaries that exploited tenants. It was also during this time when the *Bhoodan* or “land gift” movement began. Under this system, landlords were convinced to donate a portion of their land for redistribution to the landless. However, the latest data as of 2006 showed that only 1.13 million hectares of *Bhoodan* land, out of the estimated 1.94 million hectares pooled together, were actually redistributed. Failure to redistribute the balance can be attributed to such reasons as opposition by the donors’ heirs and inefficiency of distributing agencies.

The **second phase** from 1955 to 1971 saw the imposition of land ceilings. West Bengal was the first to impose a cap on the amount of land that a family can own at most 10 hectares through the West Bengal Land Reforms Act of 1955. West Bengal, for example, accounts for more than half (54.2 percent) of India’s land reform beneficiaries. As many as 3.14 million landless farmers got free land over some 60 years, or since India began a series of land reforms.

Other States were directed to enact their own land ceiling laws during the second phase. By December 1970, about a million hectares of surplus land reverted to the national government for redistribution to the landless.

The land ceiling policy came under attack from 1965 to 1969, however, as a result of various factors including a severe food crisis and widespread agrarian unrest, which eventually paved the way for comprehensive land reform program under the **third phase**. This phase was marked by the lowering of land ceilings: four to seven hectares for government-owned irrigated land and five to seven hectares for privately-owned irrigated land.

A new land ceiling law was also passed, providing that landless agricultural laborers from scheduled castes and scheduled tribes be given priority in the redistribution of surplus land. Unfortunately, despite the passage of the new land ceiling law and the directives for the States to abide by the provisions of the new law favoring the scheduled tribes and castes, little headway was recorded in the years immediately following the landmark reform. The Eleventh Plan (2007 to 2012) document however revealed that 2.1 million hectares of 2.98 million hectares of surplus land had been redistributed.



The **fourth phase** from 1985 to 1995, meanwhile, saw the implementation of several land development programs that focused on soil and water conservation, wasteland development and watershed development to increase the productivity of arable land.

The **fifth or current phase** kicked off at the time when India saw an increase in caste and class violence. To quell further violence and to check extremism, the government introduced further land reforms. These include taking over surplus land that landowners had been illegally holding on to; legal protection for sharecroppers; improvement of the land revenue administration; and, the abolition of the distinction between agricultural and non-agricultural land. The national government, likewise, started computerizing land records for increased transparency and improved governance of land to promote social justice. It is also under this ongoing phase that non-governmental organizations, political parties, and citizen groups exerted extra pressure on government institutions to actually carry out pledged reforms.

One of the most significant developments in recent years is the passage of the Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006, which granted scheduled tribes and other traditional forest dwellers the right to occupy forestland. The Forest Rights Act led to the single biggest recognition of tribal land rights. Some 1.9 million claims of indigenous peoples were settled. Over 70,000 community forest rights claims have been recognized, granting tenure security to over 6.27 million hectares of land.

Encouraging is the draft National Land Reforms Policy prepared in 2013 that aims to introduce bold reforms including the removal of exemptions to religious, educational, charitable, research, and industrial organizations beyond six hectares; having a “single window” to redistribute surplus land within a specific time; a crackdown on land being registered in someone else’s name; and, having a database of land inventory for public scrutiny.

All these programs pursued since India’s independence are geared toward promoting land tenure and property rights, which refer to the rights of individuals, communities, families, firms, and even corporate and community structures to own or use land, water, forestry, wildlife, and mineral resources.

Property rights and tenure arrangements may range from private ownership to leaseholds. Land tenure also includes the concept of tenure security, which refers to the people’s recognized ability to control and manage land, to use it and earn from its products, and even transfer, sell or lease it.

It should be noted that State legislatures have the power to enact laws that deal with how land is managed and distributed. And because some may be more progressive than others, land laws thus vary greatly across the States. This inevitably leads to land conflicts or disputes as the tenure system that is recognized in one State may not be recognized in the other.

Table 1. State-wise Statistics of Land Reforms

| State | Area Declared Surplus in Acres (in Hectares) | Area Possessed in Acres (in Hectares) | Area Distributed in Acres (in Hectares) | Number of Beneficiaries |
|------------------------|--|--|---|-------------------------|
| Andhra Pradesh | 791,638 (320,364) | 643,948 (270,597) | 561,717 (227,319) | 466,803 |
| Assam | 613,405 (248,236) | 575,337 (232,820) | 545,875 (220,908) | 445,862 |
| Bihar | 523,504 (211,855) | 431,310 (174,545) | 353,358 (142,999) | 461,136 |
| Chhattisgarh | 75,081 (30,384) | 72,183 (29,211) | 60,681 (24,557) | 27,452 |
| Gujarat | 237,976 (96,305) | 182,447 (73,834) | 165,350 (66,915) | 38,360 |
| Haryana | 105,783 (42,809) | 101,932 (41,250) | 101,166 (40,940) | 29,351 |
| Himachal Pradesh | 316,556 (128,106) | 304,895 (123,387) | 6,167 (2,496) | 6,259 |
| Jammu and Kashmir | 8,836 (3,576) | 0 | 0 | 0 |
| Jharkhand | 0 | 0 | 860 (348) | 1,316 |
| Karnataka | 174,087 (70,451) | 166,793 (67,499) | 235,458 (95,286) | 57,667 |
| Kerala | 133,700 (54,106) | 100,186 (40,544) | 70,834 (28,666) | 168,912 |
| Madhya Pradesh | 223,264 (90,352) | 190,449 (77,072) | 134,202 (54,310) | 47,061 |
| Maharashtra | 725,078 (293,429) | 670,815 (271,469) | 634,158 (256,635) | 139,755 |
| Manipur | 1,830 (741) | 1,685 (682) | 1,682 (681) | 1,258 |
| Odisha | 180,935 (73,222) | 171,268 (69,310) | 157,530 (63,750) | 143,485 |
| Punjab | 11,086 (4,486) | 87,207 (35,291) | 82,609 (33,431) | 77,570 |
| Rajasthan | 595,152 (240,849) | 554,693 (224,476) | 453,171 (183,392) | 77,629 |
| Tamil Nadu | 208,452 (84,358) | 200,322 (81,067) | 190,713 (77,179) | 150,905 |
| Tripura | 1,995 (807) | 1,994 (807) | 1,599 (647) | 1,424 |
| Uttar Pradesh | 371,323 (150,269) | 343,047 (138,826) | 267,248 (108,151) | 305,394 |
| West Bengal | 1,408,877 (570,152) | 1,318,159 (533,440) | 1,052,269 (425,838) | 3,137,662 |
| Dadra and Nagar Haveli | 0 | 0 | 0 | 0 |
| Delhi | 1,132 (458) | 394 (159) | 394 (159) | 654 |
| Pondicherry | 2,326 (941) | 1,286 (520) | 1,070 (433) | 1,464 |
| TOTAL | 6,712,016 (2,716,257) | 6,120,350 (2,476,818) | 5,078,111 (2,055,039) | 5,787,379 |

Data provided is up to December 2015; Information for the remaining States and union territories not given.

Source: Land Reforms Division, Department of Land Resources, Ministry of Rural Development, Government of India (2016)

EMERGENCE OF LAND CONFLICTS

India’s intent to pursue rapid economic growth has caused even more tension over land, as the government struggles to balance the needs for land for various needs such as economic development, agriculture to feed the growing population and even housing.

In many cases, the government itself comes into direct conflict with the farmers as land is forcibly acquired from farmers to give way to special economic zones (SEZs) or free trade zones. The justification is that big business groups and industries that will set up in these special economic ones will bring in jobs and investments for the people and contribute to economic growth.

But with the loss of access to land, whether through force, intimidation or deception, entire communities lose the means to sustain their livelihoods, thus leaving them landless and powerless, consequently swelling the ranks of India’s extreme poor. Government data showed that nearly 500 SEZs have been approved and close to 60,000 hectares of land have been set aside for the development of these SEZs, all in the name of “public purpose” and “development” that meant the widespread transfer of land from the farmers to the private sector.

What is disconcerting is that a good portion of the land being used to develop these SEZs is prime agricultural land, converted through the State’s power of eminent domain. For example, the West Bengal Government acquired fertile agriculture land in West Medinapur for the Tata Metaliks Company in 1992, dispossessing small and marginal farmers, even when equally suitable less productive land was easily available. This inevitably led to conflict, with the government bent on acquiring even more land for the SEZs using the Land Acquisition Act.

The table below talks about the key characteristics of land conflict across the different regions in India.

Table 2. Land Conflicts Across Regions, India

| Region | No. of Conflicts Analyzed | Types of Disputed Land | Primary Causes of Conflict | Major Violations | Parties Often Involved |
|----------|---------------------------|--|-----------------------------|---|---------------------------------------|
| Northern | 93 | <ul style="list-style-type: none"> • private land (55 percent) • non-forest common land (26 percent) | Infrastructure (71 percent) | <ul style="list-style-type: none"> • land encroachment • displacement of IPs • harassment • unfair compensation • loss of livelihood | Community and Government (75 percent) |

| | | | | | |
|--------------|---------|--|---|---|--|
| Eastern | 116 | <ul style="list-style-type: none"> • forest land (58 percent) • non-forest common land (15 percent) | <ul style="list-style-type: none"> • Plantation (37 percent) • Power (15 percent) • Infrastructure (13 percent) • Industry (13 percent) | <ul style="list-style-type: none"> • land grabbing • evacuation of forest dwellers • psychological harm • loss of livelihood • unfair compensation | Community and Government (81 percent) |
| Western | 90 | <ul style="list-style-type: none"> • private land/farm lands | <ul style="list-style-type: none"> • Industry (44 percent) • Infrastructure (38 percent) – mostly roads | <ul style="list-style-type: none"> • illegal acquisition of farm lands • loss of livelihood | Community and Government (91 percent) |
| Central | No data | <ul style="list-style-type: none"> • forest land | <ul style="list-style-type: none"> • Infrastructure (35 percent) • Mining (22 percent) • Industry (21 percent) | <ul style="list-style-type: none"> • forest rights violation • loss of livelihood | Community and Government |
| Northeastern | 24 | <ul style="list-style-type: none"> • forest land (46 percent) • non-forest common land (43 percent) | <ul style="list-style-type: none"> • Infrastructure • Industry | <ul style="list-style-type: none"> • displacement of tribes • physical violence | Community and Government (92 percent) |
| Southern | 74 | <ul style="list-style-type: none"> • private land (40 percent) • non-forest common land (39 percent) | <ul style="list-style-type: none"> • Infrastructure (51 percent) • Power (13 percent) • Industry (11 percent) | <ul style="list-style-type: none"> • displacement of tribes • poor implementation of Land Reform Act • psychological harm | <ul style="list-style-type: none"> • Community and Government (64 percent) • Community and Business (24 percent) |

Source: Data collected from Land Conflict Watch Website (n.d.)

The paper on land conflict in India that was based on 397 cases of land conflict showed that in four of the six regions, the majority of the land disputes involved forest lands, thus affecting tribal groups or indigenous peoples. In the Western and Southern Regions, many of the disputes covered private lands or farmlands, thus affecting farmers.

The data also showed that many of the conflicts arose due to the setup of infrastructure projects over disputed land. In the Eastern and Southern Regions, the disputes were due to power projects, while in other areas, the land was aimed for use in road construction and industrial projects.

There are laws in place that are meant to protect the rights of indigenous groups and farmers, including the Forest Rights Act of 1927 and the Land Acquisition Act of 2013. Poor implementation and lack of knowledge by the concerned parties over the provisions make it



difficult, however, to use them for the benefit of the marginalized groups with land claims and ownership.

Common violations include encroachment on tribal lands, land grabbing and illegal acquisition of private and community-owned lands, thus leading to the displacement of farmers and forest dwellers and, in some cases, human rights violations such as damage to property and even killings. Indeed, the euphoria over development has come at the expense of indigenous peoples or scheduled tribes, who were forcibly displaced and shabbily resettled to give way to the construction of big dams and other large infrastructure, adding to the conflict over land.

It does not help that India's indigenous peoples are largely unaware of their constitutional rights, that, for example, their land cannot be transferred to non-tribals. Poverty and perpetual indebtedness have also made them hesitant to pursue their cases in court in the face of the strong lobby of land grabbers.

States such as Odisha that have large populations of indigenous peoples are expectedly more advanced when it comes to protecting their land rights. Odisha, for example, has its own Odisha Land Reforms Act of 1960 that provides for the restoration of illegally acquired land to the tribals. If the acquisition is found unlawful, the local revenue officer may order the eviction of the non-tribal and the return of the property to the owner or to his heirs.

Odisha government data show that since 2013, about 46,357 cases involving 80,865.75 acres (32,725 hectares) that were acquired from the tribals were brought to court. Of these, 15,768 cases were decided in favor of the tribals and 14,096 cases involving 13,319.11 acres (5,390 hectares) were restored to the tribals.

These are but some of the roughly 30 percent of the 30 million civil cases pending in courts involving land disputes. Indeed, new ways to get around the rights of the Indian people under the Land Acquisition Act are currently being employed as the government is bent on pursuing economic growth, seemingly at all costs. A 2016 study by Rights and Resources Initiative and the Tata Institute of Social Sciences concluded that approximately \$170 million worth of investment has been tied up in various land conflicts across India.

Further complicating the land issues is the lack of access to useful and updated data on land. There are land-related data at the national and State levels, but these are mostly old and not comprehensive. Data on land transfers are either not available or unreliable, preventing the farmers and small landowners from strengthening their claim or laying their rightful claim over the land that should be legally theirs. And even if they do press their claims, they are faced with cumbersome procedures and old or conflicting rules on land or tenure rights.

There is also the specific case of women fighting for their own rights over land.



Women have the right under laws such as the amended Hindu Succession Act to inherit land under their own name. However, patriarchal customs prevail, especially in the rural areas, thus preventing women from owning or inheriting land or property.

This can also be seen among indigenous peoples, where customs dictate that only sons get to inherit property. Some women do get the right to cultivate land for their survival, but such usufruct rights are limited. For example, in case there are no sons, a daughter can enjoy the land of her father as long as she continues to live in the village of her father, and with her husband and children. If she leaves, then she will have to give up her rights over the land.

Latest data show that only 13 percent of agricultural landowners in India are women. However, thanks to successive movements, more women across India are asserting their political and economic rights.

There is still a significant social risk involved in asserting those rights as stubborn traditional rules remain a strong influence, but it can not be denied that there is increased awareness of the benefits of increasing the legitimacy of women's land rights, among them is the greater economic contribution of women who account for 43 percent of the agricultural labor force.

SUMMARY AND RECOMMENDATIONS

India has already taken great strides toward providing land to the tiller and promoting social justice. However, more needs to be done. For one, progressive land reform laws, including the landmark Forest Rights Act ought to be more judiciously implemented.

It should also be noted that many State governments in India have the power to give communities formal rights and governance over community property. This power should be put to good use. CSOs need to work with communities across numerous States to help improve their rights and effective governance of common property resources.

On the issue of land records, the government should continue to aggressively pursue the digitalization of the records so that the farmers can have easy access to the latest and most reliable land records. After all, an inadequate land record gives rise to land tenure insecurity for the poor. That said, alternate dispute resolution mechanisms need to be put in place to clear the dockets and to more quickly resolve these conflicts.

On women's rights, ensuring women's land rights during marriage may afford those greater claims on the disposition of assets in the case of divorce or death of their husband. In indigenous communities, tribal women should be guaranteed their individual ancestral ownership and inheritance rights according to either or both customary or State law.



Indeed, patriarchal and discriminatory attitudes and practices need to be addressed. States should ensure that women and girls have equal tenure rights and access to land and other natural resources independent of their civil and marital status. States should ensure equal tenure rights for women and men, including the right to inherit and bequeath these rights, and harmonize family codes.

The government must also implement the Forest Rights Act more diligently, for failure to do so have made the indigenous peoples of India vulnerable to land grabbing and eviction, as their land is coveted by both the government and private sector firms who want to use it for economic development projects. The government has to respect and restore the rights of indigenous groups to their land, forest, mineral, and oil resources.

Efforts to reduce poverty must include efforts to provide land to the landless. This can be accomplished through allocation of existing unused or under-utilized government-owned land, programs that assist landless persons or groups to purchase private land, and even land acquisition.

Greater efforts should be exerted to make tenants more productive through enhanced tenure security as well as improved access to credit and government services, put more land into productive use, and facilitate needed occupational mobility from agriculture.

Given the high incidence of land disputes in India and the limited access to legal services for the poor, NGOs, law colleges and universities, and legal service agencies could do much to fill the gap. The use of paralegals, in particular, in helping poor people resolve their land problems has enormous potential in India for large-scale impact. ■

ACKNOWLEDGMENTS

This article was produced based on the papers and presentations of Barna Baibhab Panda from Foundation for Ecological Security (FES), and Dr. G.N. Reddy of the South Asia Rural Reconstruction Association (SARRA). The authors also acknowledge the contributions of Dr. E. Satyanarayana, Dr. M. Somasekhar, Dr. M. Kumar Raju, Mr. B. Madhavi, Mr. Arun Arasan, Mr. Vishnuvardhan, and Mr. Dileep to the source material authored by Dr. Reddy.

REFERENCES

- Babu, S., Bisen, P., Narayan, A., Soni, R., and Tewari, A. (2019). India Land Conflict Monitoring Report. In ANGO (Ed.) *In defense of land rights: A monitoring report on land conflicts in six Asian countries* (pp. 73-82). Quezon City: ANGO.
- Binswanger-Mkhize, H., Bourguignon, C., and van den Brink, R. (Eds). (2009). *Agricultural Land Redistribution Toward Greater Consensus*. Washington DC: The International Bank for Reconstruction and Development and The World Bank.



- Land Conflict Watch, Mapping Land Conflicts in India. (n.d.). [Website]. Retrieved from <https://www.landconflictwatch.org/>
- Land Reforms Division, Department of Land Resources, Ministry of Rural Development, Government of India. (2016). *Progress Report (Cumulative) on Implementation of Land Ceiling Laws as on 31 December 2015*. Retrieved from https://docs.google.com/document/d/1nwu_Vm4Ch04lqKil8RX2iloQAS8sSh1u9aej-c-hv3w/edit?pref=2&pli=1
- Panda, B.B. (2018). *Land Watch Country Monitoring Report 2018 India*. Foundation for Ecological Security and South Asia Rural Reconstruction Association. Paper presentation during “CBI 8 Writeshop,” 23-24 October 2018, Bangkok, Thailand.
- Panda, B.B. (2019). *Land Rights and Land Tenure*. Foundation for Ecological Security and South Asia Rural Reconstruction Association. Panel presentation during “Regional Workshop on Land Rights and Land Governance,” 14-15 February 2019, Bangkok, Thailand.
- Reddy, G.N. (2018). *Land Watch Status Report of India – 2018*. South Asia Rural Reconstruction Association. [Draft manuscript].
- Rights and Resources Initiative (RRI) and Tata Institute of Social Sciences (TISS). (2016, November 16). *Land conflicts in India, an interim analysis*, Retrieved from http://rightsandresources.org/wp-content/uploads/2016/11/Land-Conflicts-in-India-An-Interim-Analysis_November-2016.pdf
- Schwab, K. (2018). *Insight Report – The Global Competitiveness Report 2018*. Retrieved from <http://www3.weforum.org/docs/GCR2018/05FullReport/TheGlobalCompetitivenessReport2018.pdf>
- World Bank. (2019). *Poverty & Equity Brief – South Asia – India*. Retrieved from https://databank.worldbank.org/data/download/poverty/33EF03BB-9722-4AE2-ABC7-AA2972D68AFE/Global_POVEQ_IND.pdf