

Bangladesh Land Conflict Monitoring Report 2018



Land Rights as Human Rights



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ACRONYMS

ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CBI	Commitment-based Initiative
CHT	Chittagong Hill Tracts
FAO	Food and Agriculture, Organization
HDRC	Human Development Research Centre
IP	Indigenous People
ILC	International Land Coalition
PRI	Policy Research Institute
TIB	Transparency International, Bangladesh
UNGPs BHR	UN Guiding Principles on Business and Human Rights
UNPO	Unrepresented Nations and Peoples Organization
UNIFTPA	UN Interagency Framework Team for Preventive Action

1. INTRODUCTION

a. Project and study background

Management of land and natural resources is one of the most critical challenges facing developing countries like Bangladesh. The exploitation of high-value natural resources has often been reported as a key factor in triggering, escalating, or sustaining violent conflicts around the globe. Increasing competition and conflict for diminishing land and natural resources is on the rise, and creates new challenges such as: environmental degradation, population growth, and climate change, which contribute to new conflicts and obstruct the peaceful resolution of existing ones. To improve capacity for land and natural resource management and conflict prevention, needs a country-wide systematic land conflict monitoring and research. Because, most of the conflicts over land directly or indirectly affect enjoyment of human rights. Disputes over land are the reason behind human rights violations, conflicts and violence. Land has always been a source of conflict, which is not only increasing, the degree of conflicts-employing violence in many cases-is intensifying with the hunger for land and the consequent onslaught of development initiatives. A proper land monitoring mechanism is essential on a regular basis to take action against land grabbers and protect rights defenders ensuring human rights. Because, incidences of harassments, tortures, killings and rape of women and girls and many other human rights violations by land grabbers are common in many countries, including Bangladesh.

Against this backdrop, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) in partnership with CSOs in Bangladesh, Cambodia, India, Indonesia, Nepal and the Philippines, are implementing the "Defending Land Rights and Human Rights Defenders" to contribute in reducing land rights violations and promote the concept of land-human rights. The main objectives* of this initiative are a) popularize the concept of land as human rights through engagement with National Human Rights Institutions (NHRIs), b) equip CSO partners in land-human right monitoring through engagement in UNGPs-BHR processes and developing scorecards for business investors, and c) mainstream land as human rights by engaging NHRIs and regional bodies in policy discussions. This initiative started on October 12,

2017 ended in December 2018. It is supported by the International Land Coalition (ILC), as part of its two commitments--effective actions against land grabbing (CBI-9) and protected land rights defenders (CBI-10)-among its People Centered Land Governance.

b. Rationale and objectives

The UN Human Rights Council unanimously endorsed the UN Guiding Principles for Business and Human Rights in 2011 to enhance standard and practices with regard to business and human rights. Land rights are indeed human rights. Land conflicts between communities, government, as well as private and state-run enterprises are on the rise that has led to violence, eviction, and human rights violation against land holders and defenders. As one of the world's most densely populated countries, competition for land and resources has made Bangladesh a hotspot for land conflicts.

The country's weak system of land governance, rooted in the British colonial administration, contributes to these conflicts through its inefficiency. Three-quarters of all pending court cases in Bangladesh are related to land, costing an estimated 10 percent of the country's GDP (Land Portal & Uttaran, 2017). The UN Guiding Principles should be understood individually and collectively so that land holders and land rights defenders will get space and enjoy human rights bypassing conflicts. But the Bangladesh government and NGOs are yet to be aware of the Guiding Principles and its implementation in the country. This study report will help develop some skills on land conflict monitoring to stop grabbing and disputes engaging land rights defenders. It will not only help monitoring land conflicts and violation of human rights in the country, it will assist preparing the National Action Plan popularizing land-human rights according to the UN Guiding Principles on Business and Human Rights. Implementation of the UNGPs is essential in rectifying business-related human rights violations as well as in preventing future injustices in investments on land. This report will also help national human rights institutions in the monitoring of land conflicts that impinge on human rights and thereby contribute to the understanding and resolution of the issues. So, this study aims to answer the following three questions:

- What is the nature and prevalence of land and resource conflicts in Bangladesh? .

- What are the causes of land and resource conflicts, their outcomes, and impacts?
- How effective are existing conflict management and resolution mechanisms?

c. Methodology

Both primary and secondary data have been collected to understand the nature and prevalence of land conflicts, its causes, impacts and resolution mechanisms in Bangladesh. Primary data have been collected through FGDs and consultation workshops. Secondary data have been gathered from books, published research reports, and media reports.

Two consultation workshops, on 30 July 2018 and 5 November 2018 were conducted with the participation of CSOs and land rights activists. One focus group discussion with the participation of CSOs, land rights activists and experts was also conducted to identify causes of land and resource conflicts, their impacts, as well as to know the existing conflict-management and resolution mechanisms.

Scope and limitations

This study is limited to land-human rights violation against indigenous people in the Chittagong Hill Tracts (CHT) and in plain lands across the country. It is mostly based on secondary data taken from Human Rights Reports of Kapæeng Foundation, which gathered data from media reports and its own network from 2015 until June 2018. However, the content of the land conflict reports published in the Bangla daily Janakantha from 1 January 2017 to 31 December 2017 have also been analyzed in a bid to know the overall country's situation related to land conflicts. The limitations, which were identified during the study are:

- Land conflicts are different in hilly, coastal, riverine and plain land areas. This report does not clearly represent such different territorial nature of land disputes and its remedy as no systematic study focusing on these separate regions and natural resources has been done.
- Limited reach of CSOs and availability of the government's data.

d. Definition of land conflict

Land is "the surface of the earth, the materials beneath, the air above and all things fixed to the soil (Dale & McLaughlin, 1999)". Land, therefore,

includes houses, buildings and other improvements to the land, and it includes both rural and urban areas. natural resources are defined as the "actual or potential sources of wealth that occur in a natural state, such as timber, water, fertile land, wildlife, minerals, metals, stones, and hydrocarbons (As cited in UNEP, 2009)".

Conflict arises when two or more groups believe their interests are incompatible. A land conflict, therefore, can be understood as a misuse, restriction or dispute over property rights to land (Wehrmann 2005).

In this study, land conflicts also cover natural resources, including water resources, trees and forests. Conflicts over water resources, trees and forests have also been considered while analyzing land grabbing.

II. COUNTRY PROFILE

a. Geographic, socio-economic, and demographic overview

Bangladesh is blessed with an ample gift of nature. It is adorned with a huge area of land-spaces embraced with some outstanding attributes ranging from the plain land flora and faunas to the crests and peaks of highland and mountains. Bangladesh is highly vulnerable to regular natural hazards, including floods, tropical cyclones, storm surges, landslides and drought. These natural hazards, combined with high population density (1,265 per square km in 2017) and poor socio-economic situation, are sometimes leading to the destruction of housing, land and property, the loss of livelihoods and widespread migration and displacement across the country. Furthermore, Bangladesh is one of the countries most vulnerable to the effects of climate change. Basic geographic and socio-economic and demographic data has been presented in Table-1.

Table-1: Bangladesh Development Indicators 2017

Population, total (millions)	164.67
Population growth (annual %)	1.0
Surface area (sq. km) (thousands)	147.6
Population density (people per sq. km of land area)	1,265.0
Poverty headcount ratio at national poverty line (% of population)	24.3
Poverty headcount ratio at \$1.90 a day (2011 PPP) (% of population)	14.8

GNI (Atlas method) (current US\$) (billions)	242.75
GNI per capita, (Atlas method) (current US\$) (billions)	1,470
GNI PPP (current international \$) (billions)	664.45
GNI per capita, PPP (current international \$) (billions)	4,040
Life expectancy at birth, total (years)	72
Mortality rate, under 5 (1,000 live births)	32
Urban population growth (annual)	3.2
Energy use (kg of oil equivalent per capita)	222
CO2 emissions (metric tons per capita)	0.46
Electric power consumption (KWh per capita)	310
GDP (current US\$) (billions)	249.72
GDP growth (annual %)	7.3
Inflation, GDP deflator (annual %)	6.3
Forest area (sq. km)	14.3
Terrestrial and marine protected areas (% of territorial area)	4.9

Source: World Development Indicators database

b. Major features of land and natural resources in Bangladesh

Bangladesh is the second largest delta in the world. The delta plain of the Ganges (Padma), Brahmaputra (Jamuna), and Meghna Rivers and their tributaries occupy 79 percent of the country. Four uplifted blocks (including the Madhupur and Barind Tracts in the centre and northwest) occupy 9 percent, and steep hill ranges up to 1,000 m high occupy 12 percent in the southeast [Chittagong Hill Tracts] and in the northeast. Land scarcity is immense here as it is one of the world's most densely populated (1,265/km) countries. Agricultural land (% of land area) in Bangladesh was reported at 70.63 percent in 2015 while forest area is 10.98 percent, according to the World Bank collection of development indicators. In Bangladesh, discussions about land conflict includes disputes over access to water bodies and inland fisheries, as about 11 percent of the total population, or over 17 million people are involved in fisheries for their livelihood,

1. JalMohal means water body.

2. According to the government, a small water body covers below 20 acres of land while a large water body covers over 20 acres or above.

3. Khas land means fallow land owned by the government and available for allocation to the landless poor. It may be agricultural land, non-agricultural land and water bodies.

4. According to Banglapedia, Char is a tract of land surrounded by the waters of an ocean, sea, lake, or stream. It usually means, any accretion in a river course or estuary. It is the alluvial land or land thrown up from river.

majority of them on seasonal basis. Major features of land and natural resources for which conflicts occur in the country are mentioned as below.

Water bodies

Conflicts also occur over water bodies frequently in Bangladesh. The water bodies are State property and the government leases out those to the individuals or organisations to use under the JalMohal¹ Management Policy, 2009. There are 34,373 water bodies in the country. Of them, number of small water² bodies are 2469 while large water bodies 31,904.

Khas land³

Grabbing incidences of Khas land (fallow land) is rampant in the country. Alluvial land, land without owner, surplus/unused land of acquired land for public interest, auctioned land, etc. that has been distributed to landless families for 99-year use rights. The Land Ministry is responsible for allocating khas land to the landless. Total agricultural khas land is 2,051,748 acres while non-agricultural khas land 2,070,026 acres in 2017, according to the Annual Report 2016-17 of the Land Ministry. There are also 0.8 million acres of khas water bodies in the country.

Char Land⁴

In the dynamics of erosion and accretion in the rivers, the sandbars emerge as small islands within the river, or attached to the riverbanks as 'Chars' (small islands) in Bangladesh. There are 1,723sq of Char land, which is 1.2 percent of the country's land area. Char land remains as an ignored national natural resource. Millions of acres of char lands have been illegally occupied by land grabbers.

Sand Mohal (quarry)

Under the Sand Quarry and Soil Management Act, 2010, the government controls sand mining and leases out those and execute management. But the law has failed to control illegal and excessive sand mining affecting environment and human life. Illegal sand lifting from water bodies and rivers has led to widespread damage of agricultural land and residence in the adjacent areas. There are 765 sand quarries in the country.

Shrimp Mohal

Following the Shrimp Mohal Management Policy 1992, the government has declared shrimp cultivation-prone areas as shrimp Mohal and leases out those. There are 1,586 shrimp Mohals in the country.

Salt Mohal

The government has formulated Salt Mohal Management Policy, 1992 to control salt cultivations in Chittagong region. There are 155 salt Mohals in Chittagong.

Tea Estates

Now there are 160 State-run tea estates and 26 private tea estates in Bangladesh. State-run tea estates are in Sylhet region. Large corporate groups have started investing in tea plantation in recent years. Investment in tea plantation in north-western region especially in Panchagarh is increasing gradually.

Vested property⁵

Huge amount of land in the country are vested property declared under the Vested Property Act. The act has been one of the sources of land conflicts and oppression against the main religious minority, the Hindus. Enforcing the Vested Property Act, some 220,191 acres of land have been declared as vested property under "Ka⁶ Schedule" in gazette notification by the government. The government had declared another 742,421 acres of land as vested property under 'Kha⁷ Schedule' and later cancelled the notification. Some 118,173 applications/cases over vested property had been pending in the country for disposal till 2017, according to the Annual Report 2016-2017 of the Land Ministry.

Abandoned property⁸

Executing the Bangladesh Abandoned Property (Taking over Procession) Rules, 1972 the government has given control and management of some 6,068 acres of land to six ministries-the Land Ministry, Housing and Public Works Ministry, Commerce Ministry, Textile and Jute Ministry, Information Ministry, Religious Affairs Ministry and LGRD and Cooperatives Ministry, says the annual report.

Land acquisition

Land acquisition causes conflicts and affects life, livelihood and environment. The legal instrument

for expropriating lands for public purposes is the Land Acquisition and Requisition of Immovable Property Ordinance, 1982 which has roots in the British colonial Land Acquisition Act of 1894. The Land Ministry acquired at least 5203.88 acres of land on behalf of other government bodies, and institutions for development projects or establishments across the country within one year (2016-2017 fiscal year). The projects include establishment of army camps, Border Guard Bangladesh (BGB) camp, Export Processing Zones, IT Special Economic Zone, roads, water treatment plant, and power plant.

The Bangladesh Economic Zone Authority (BEZA), after acquiring 75,000 acres of land and giving licenses for six economic zones to the private sector, has targeted the acquisition of an additional 100,000 acres of land to establish 100 Special Economic Zones across the country by 2030 (Barkat & Suhrawardy, 2018).

c. Contemporary land and resources conflicts

Rampal Power Plant Project

The proposed Rampal power station is an approved 1320 MW coal-fired power station at Rampal Upazila of Bagerhat district. It is a joint partnership project between Bangladesh and India on an area of over 1,834 acres of land, 14 kilometers north of the world's largest mangrove forest, the Sundarbans. Though this project violates the environmental impact assessment guidelines (Kumar, 2013), the Department of Environment approved the construction on 1 August 2013.

Environmental activists and experts fear that the power plant might destroy the ecology of the Sundarbans, a UNESCO world heritage site, Poshur river, and marine animals. It may damage the livelihood of about 2.5 million people, including wood-cutters, fishermen, and honey hunters, who depend on the Sundarban region.

But the government rejects the fear and allegations of the possible damages rather keeps stick at its position, which will be the major disputes over land and natural resources. The National Committee on Protection of Oil, Gas, Mineral Resources, and Power-Port, environmentalist groups and general people have been protesting the project.

5. Property of religious Hindu minority. 6. 'Ka' is the first alphabet of Bangla. 7. 'Kha' is the second alphabet of Bangla.

8. 'Abandoned property' means any property owned by any person who is not present in Bangladesh or whose whereabouts are not known or who has ceased to occupy, supervise or manage in person his property. See more: The Abandoned Property (Control, Management and Disposal) Order, 1972.

1,842 acres of Santal's land grabbed

Backed by a local influential group, police and a sugarcane mill authority evicted 1,500 families, including 1,200 of those Santals on 6 November 2016. The law enforcers opened fire on the plain land indigenous people when they resisted the eviction drive, leaving three dead, many injured and were missing. Santal's properties were destroyed and looted in a razed village. The indigenous people rebuilt their houses on part of 100 acres of acquired land. The government acquired the land at Shahebganj in Gobindaganj of Gaibandha from Santals to cultivate sugarcane for Rangpur Sugar Mills Ltd in 1962 with a condition that the land would be returned to them if the mill went under, which it eventually did.



Locals backed by police burning the houses of Santal on 6 Nov 2016. Photo was taken from video footage published by The Daily Star.

Some 1,502 of 1,842 acres of land were leased for cultivating other crops, according to a land office document, which is a violation of the 1962 agreement, reports The Daily Star on 19 November 2016, checking old land records and the agreement. Since the eviction, some 1200 Santal families had been living in tents in two villages in Gaibandha, says another report of the English daily on 6 November 2018.

Bashkhali Incident

A local company, S. Alam Group, with a Chinese company started construction of a 1320 MW coal-based plant in Bashkhali of Chittagong in 2016. The authorities started to acquire 600 acres of agricultural land, homes and graveyards with the help of local ruling party men. All these steps were taken without any Environmental Impact Assessment and public consultation. There was no environmental clearance too (Muhammad, 2016).

Experts warned about the environmental impact of the new coal plant, and protests began on 19 March 2016. Defying Section 144, community people gathered and started protest there on 4 April 2016.

Police opened fire on the protesters, leaving five people killed and over 100 injured. According to the protesters, four more people went missing after the clash with police. Law enforcers later sued 3,000 people over the unrest.

In another incident on 1 February 2017 over the land, another protester was killed and "about a dozen" were injured at a protest rally against the power station, which is supposed to be completed in 2019.

III. LAND AND RESOURCE CONFLICTS IN BANGLADESH

Bangladesh is experiencing strong pressures on land due to population growth. In rural areas, 89 percent of landowners have less than 1 ha in their possession while 39 percent has less than 0.2 ha (LANDac, 2018). Others are either landless, have only small plots of land, or are depending on tenancy or sharecropping. Tenure insecurity is high due to outdated and inactive laws and policies. Incidences of land conflicts and land grabbing are increasing. Influential people have encroached on public land. Flood control projects are accompanied by expropriation; and ongoing conflicts over control of water bodies are negatively impacting the lives and livelihoods of poor communities.

The number of land cases is increasing every day. People have to spend almost 3 billion USD (Tk 24,860 crore) a year to resolve these cases. Disposal of a case takes nine and a half years on average, meaning it would require Tk 2.70 crore years to dispose of the 2.5 million (25 lakh) pending cases (The Daily Star, 23 December 2015, citing a study of Barkat, 2015).

146 land-related laws
80% cases over land
25 lakh cases pending
9.5 yrs on average for disposal of a case
23.5 lakh acres of land are disputed
Annual household losses Tk 11, 520 crore
Tk 24,860 crore spent on land cases a yr

Source : Barkat, 2015.

α. Nature of land conflicts

Land conflicts occur in many forms in Bangladesh - between individuals, between communities, landless and land grabbers, and people and State actors. Disputes occur over State property, private property, and collective and common property (see table below).

Table 2: Nature of land conflicts in Bangladesh

Conflicts over all types of property	<ul style="list-style-type: none"> ▪ Inheritance and ancestral land conflicts ▪ Boundary conflicts ▪ Conflicts over overlapping rights (indigenous rights vs. statutory laws, such as between Bengali settlers and IPs in CHT and plain lands) ▪ Conflicts due to lack of land registration, i.e. 45.2 percent unregistered documents in cases of inherited land parcels (BRAC HRLS-PRI, 2014) ▪ Conflicts between State and private/collective owners due to unclear and non-transparent land demarcation ▪ Multiple sales/allocations of land ▪ Limited access to land due to discrimination by law, custom or practice ▪ Peaceful and informal land acquisitions without evictions ▪ Violent land acquisitions ▪ Evictions by land owners ▪ Illegal evictions by State officials acting without mandate ▪ Establishment of tea gardens and Eco Parks/social forestry ▪ Commercialization of land and unplanned development projects ▪ Disputes over the payment for using/buying land ▪ Disputes over land value ▪ Destruction of property (pre-grabbing for dispossession, ex. violent attacks and burning)
Conflicts over private property	<ul style="list-style-type: none"> ▪ Eviction by the State without compensation ▪ Sales of other's property ▪ Leasing/renting disputes ▪ Agrarian reform issues ▪ Intra-family conflicts, especially in the case of polygamy ▪ Indigenous people's land is falsely recorded as Vested Property
Conflicts over collective/common property	<ul style="list-style-type: none"> ▪ Competing, illegal, or improper uses of collective land ▪ Unauthorized sales of collectively owned property ▪ Disputes over the distribution of revenue from collective land
Conflicts over State property	<ul style="list-style-type: none"> ▪ Competing, illegal, or improper uses of State property ▪ Land grabbing by politicians, public officials and other influential persons ▪ Illegal sales/lease of State land like forests, mines, and concession land to be used by the Water Supply and Sewerage Authority (WASA), city corporations ▪ Improper land privatization (e.g. unfair land distribution or titling)

b. Recent developments/emerging issues

Recent and emerging factors are contributing to land and resources conflicts in the country include commercialization of agricultural land and value chain development; migration due to climate change; industrialization and unplanned development projects; unplanned housing projects around cities; unplanned urbanization due to demographic and economic growth as well as new/expansion of cities in the name of increasing civic services; and multinational investments.

The recent influx of more than 700,000 Rohingya refugees from Myanmar has led to the degradation of the environment and undermining of the land and resource rights of the hill tribes in CHT, and has had a critical impact on forest land in Cox's Bazar, as thousands of hectares were cleared to make way for makeshift camps and firewood.

The Rohingya influx has put a critical impact on the forest land in Cox's Bazar as thousands of hectares have been destroyed for making makeshift camps and collecting firewood, reports The Daily Star on 20 January 2018 quoting a Rapid Environment Impact Assessment of UNDP. Apart from threatening the biodiversity, the use of the forest resources may also lead to a rise in the social conflict between the host communities and the Rohingyas, says the UNDP assessment. Some 1485 hectares of forest land under Ukhia, Whykong and Teknaf ranges has been encroached, and more land will be degraded if the collection of firewood continues, says the report.



c. Land conflicts victims and perpetrators

The table below shows the victims and perpetrators of land conflicts.

Table 3: Land conflicts victims and perpetrators

Land conflicts victims		Perpetrators
<ul style="list-style-type: none"> ▪ Landless poor people ▪ Agricultural labors ▪ Construction workers ▪ Tea garden workers ▪ Small peasants ▪ Migrants ▪ Slum dwellers ▪ Marginalized people 	<ul style="list-style-type: none"> ▪ Women and girls ▪ Children ▪ Old-aged people ▪ Indigenous people in both hilly and plain lands ▪ Persons with disabilities ▪ Occupational minorities ▪ Transgender people 	<ul style="list-style-type: none"> ▪ Political leaders ▪ Influential persons/groups ▪ Local administration and government officials, bureaucrats ▪ Military and para-military forces ▪ Police ▪ UP chairman ▪ Land grabbers ▪ Agriculture investors

d. Land conflicts: An analysis on CHT and plain land indigenous people

Over 54 groups of indigenous peoples have domiciled in different part of Bangladesh since time immemorial. They are staying in Chittagong Hill Tracts (CHT) and plain lands in the northwest (Rajshahi-Dinajpur) central north (Mymensingh-Tangail, northeast (Greater Sylhet), south and southeast (Chittagong, Cox's Bazar and Barisal). According to the 2011 census, the indigenous population is about 1,587,000, which is around 1.8 percent of the total population of Bangladesh. Land is crucial and indispensable for indigenous people. But they both in CHT and in the plains continue to be dispossessed of their lands by State and non-State actors. Many indigenous families have been and are being displaced from their traditional lands following large-scale development projects such as establishment of security forces and BGB (Border Guard of Bangladesh) camps, training centres, tourism complexes, national/eco parks, especial

economic zones and so on, according to a human rights report (KP, 2017). The human rights report says the land grabbing scenario of the indigenous peoples in the plains is also miserably depressing. The majority of the indigenous peoples in Moulvibazar and Tangail districts are living in fear of getting evicted from their ancestral lands. Moreover, the government failed to provide a satisfactory solution to the 1200 indigenous Santal families who were evicted following an arson attack that took place on 6 November 2016 at Bagda Farm, Sahebganj under Gobindaganj Upazila in Gaibandha district.

Land conflicts in CHT region

Chittagong Hill Tracts region is the principal home of the country's indigenous people and a separate legal regime. It blends unwritten customary and State's laws. Practicing customary land-rights in line with the State's laws (legal pluralism) creates problems in land-use pattern of the indigenous peoples. Following the Chittagong Hill Tracts

Accord⁹ 1997, the government has formed the CHT Land Dispute Resolution Commission to settle land disputes in the region. But it is still ineffective due to lack of rules as per the law and mechanisms. Thirty-thousand applications are now pending with the land commission to settle disputes over land (Prothom Alo, 2018). Fierce clashes, killings, rape, abduction, arbitrary arrests, detentions and eviction of indigenous people are common incidents in CHT region due to mainly conflicts over land. Citing the CHT Daily, UNPO in an article says, in January-June of 2018, at least 70 incidents of human rights violation against indigenous peoples both in

plain and CHT region have been reported. Some 209 indigenous persons, including 12 children and 23 women and girls, of 125 families have been subjected to the victims (UNPO, 2018). Due to non-resolution of land disputes, land grabbing, eviction and ethnic conflicts are frequently taking place in CHT and plain lands, which leads to a great trouble of lives and livelihood of indigenous communities, the article added. Besides, the conflicts among different political groups in the Chittagong Hill Tracts over establishing supremacy have left an estimated 600 people killed since signing of the peace accord in 1997 (Rahman, 2008).

Last six Marma families evicted

Land grabber plans to build 5-star hotel, resort in Bandarban Marma Para



(Left) Influential people built this structure after ousting six families belonging to ethnic Marma community from their ancestral land at Saingya Marma Para in Bandarban Sadar upazila in January 2018. (Right) A signboard of Sylvan Wye Resort and Spa Ltd grabbed this land claiming that it purchased the property. Photos : The Daily Star.

The indigenous communities of Bandarban live on in fear as their ancestral land continues to be grabbed by influential people.

Once inhabited by 42 families, the Saingya Marma Para of Bandarban in southeast Bangladesh has been subject to land grabbing for long. There were only six families remaining till middle of last year when they began receiving death threats to leave their homes and their government-allocated jhum lands.

The last of the inhabitants finally moved out in January, said Paincha Thoai Marma, headman of the affected para. He has taken shelter at his father-in-law's house at Dalu para.

The land and approximately 100 acres of jhum land are now under the control of Jasim Uddin Mantu, chairman of Sylvan Wye Resort and Spa Ltd, he added.

"When we protested, the grabbers lodged a false case with Bandarban Police Station. Later, the police picked up me and my son."

According to the Hill District Council Act 1989 and Chittagong Hill Tracts Regulation 1900, no land shall be leased out, settled with, purchased, sold, or transferred without prior approval of the department concerned.

Since the 1997 signing of the Chittagong Hill Tracts peace agreement, around 180 indigenous families have been evicted from their ancestral land only in Bandarban, grabbed by Bangalee settlers, private rubber plantation owners and horticulturists, said Jumlian Amlai, president of Parbatya Chattagram Forest and Land Rights Protection Movement, Bandarban Chapter.

A handful of villages together are called a Mouza in Bandarban, each headed by a government appointed headman. There are 109 mouzas in the hill district.

Refuting the allegation, Jasim, also younger brother of lawmaker Nazrul Islam Chowdhury of Chittagong-14, said he bought around 150 acres of land in the Bandarban Mouza.

[This report was published in The Daily Star on 9 August 2018]

9. At the backdrop of two decades of insurgency in the Chittagong Hill Tracts (CHT), the peace accord was signed between the state-led National Committee on Chittagong Hill Tracts and the Parbatya Chattagram Janasanghati Samity (PCJSS), the political wing of the separatist rebels, on 2 December 1997.

Human rights violation against indigenous people over land disputes in CHT and plain lands in Bangladesh have been analyzed with the compilation of annual human rights reports on indigenous people from 2015 to June 2018 published by Kapaeeng Foundation.

Table 4: Human rights violation against indigenous people over land disputes

Table-4 shows that a total of 1484 houses (237 houses in CHT and 1,247 in plain lands) of indigenous people were burnt to ashes, while 206 houses (115 in CHT and 91 in plain lands) looted and ransacked, 146 indigenous persons (13 in CHT and 133 in plain lands) assaulted/injured, nine killed (two in CHT and seven in plain lands) and 40 women (eight in CHT and 32 in plain lands) were raped or victim of attempted rape from 2015 to June 2018.

Types of human rights violation against indigenous people	2015-June 2018		Total
	CHT	Plain lands	
Number of houses burnt to ashes	237	1,247	1,484
Number of houses looted and ransacked	115	91	206
Number of persons assaulted and injured	13	133	146
Number of persons killed	02	07	09
Number of rape attempt/molestation against women	08	32	40
Number of evicted families	263	1,281	1,544
Number of families threatened to eviction	1,163	1,3465	1,4628
Land grabbed (in acres)	7,618.98	13,108.66	20727.64
Land under grabbing/acquisition (in acres)	8362.96	12,907.52	21,270.48
Number of victims faced false cases	89	682	771
Number of arrested victims	10	29	39

Source: Compilation of Kapaeeng Foundation's Human Rights Reports on Indigenous People.

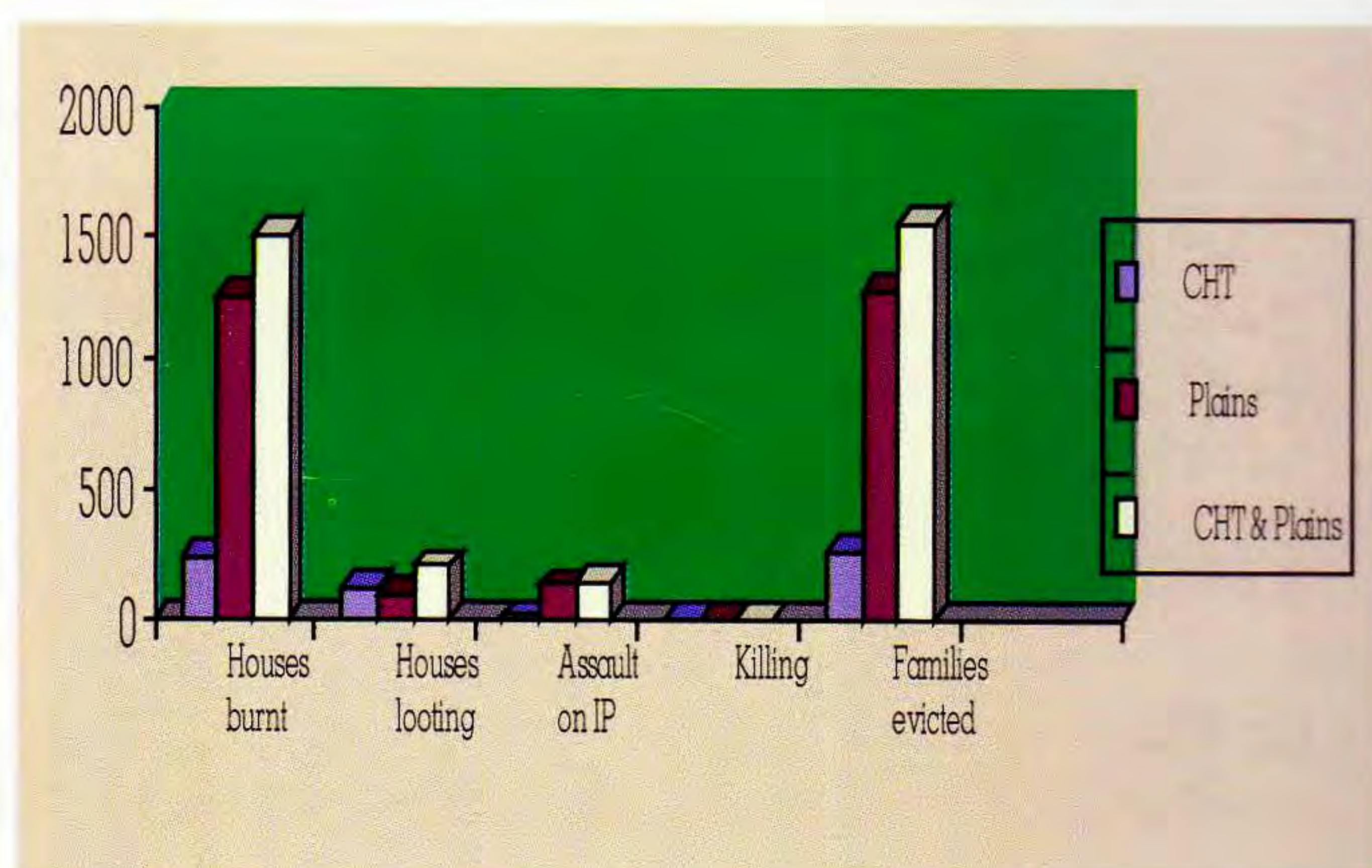


Figure 1: Human Rights Violation against Indigenous People from 2015-June 2018.

During the time period, some 1,544 indigenous families (263 in CHT and 1,281 in plain lands) were evicted from their ancestral land by the State and non-State actors, while the livelihood of 14628 indigenous families (1,163 in CHT and 1,3465 in plain lands) came under the threat of land grabbing/eviction.

Some 20727.64 acres of their land (7618.98 acres in CHT and 13,108.66 acres in plain lands) were grabbed while 21,270.48 acres under the process of grabbing/acquisition (8362.96 in CHT and 12,907.52 in plain lands). It also shows that 771 indigenous people (89 in CHT and 682 in plains) were facing false cases while 39 persons (10 in CHT and 29 in plains) arrested.

e. An analysis of newspaper reports on land conflicts

The content of the land conflict reports published in the daily Janakantha from 1 January 2017 to 31 December 2017 have been analyzed. The major findings from the newspaper monitoring have been given below.

A total of fifty-six incidents of land conflict occurred in the country were reported in the daily Janakantha in 2007. Among them, highest number of land conflict incidences happened in Dhaka followed by Barisal (n-12), Rajshahi and Rangpur (n-8 each), Chittagong (n-6), Khulna (4), Shylhet (n- 3) and Mymensingh (n-2).

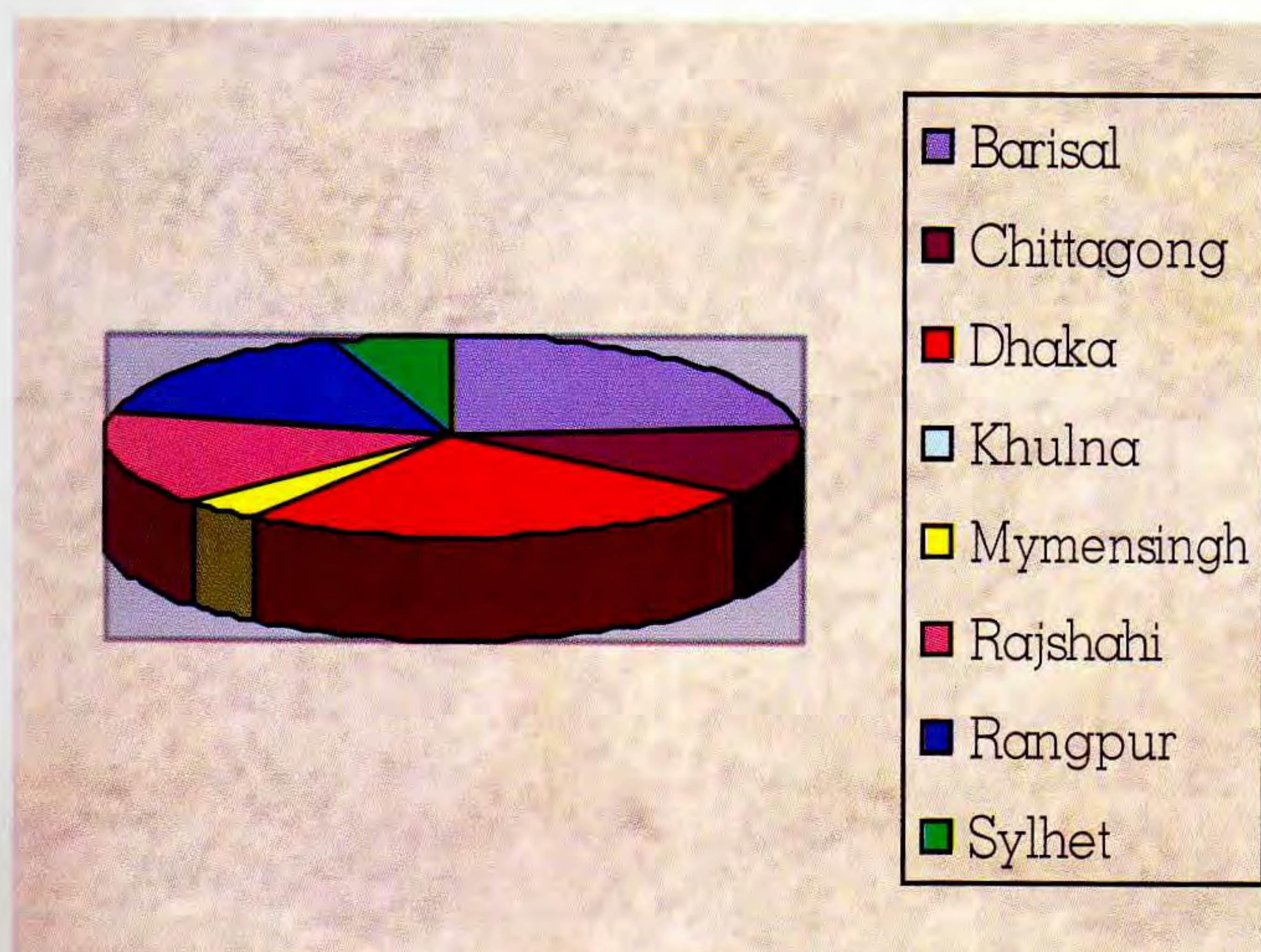


Figure 2: Division-wise land conflicts reported in the newspaper.

Table 5: Types of land conflict incidences

Types of land conflict incidences	Number	Percentage
Clash	08	14.29%
Land grabbing	29	51.79%
Eviction by the government authorities	02	3.57%
Land acquisition	03	5.36%
Attack/arson/looting or damaging of houses	12	21.43%
Torture	02	3.57%
Total	56	100

Source: Content analysis of the newspaper reports in 2017

Table- 5 shows that most of the land incidences are land grabbing (51.79%) followed by attack/ arson/ looting or damaging of houses (21.43%), clash (14.29%), land acquisition (5.36%), eviction by the government authorities (3.57%) and torture (3.57%).

Table-6: Types of ownership of the disputed land

Types of ownership	Number	Percentage
Khas/water/char/forest/ government land	22	39.29%
Individual ownership	32	57.14%
Organizational ownership	02	3.57%
Total	56	100%

Source: Content analysis of the newspaper reports in 2017

Table-6 reveals that most of the disputed lands are individual ownership of land (57.14%) while 39.29 percent of the lands are khas/water/char land/forest land or government land.

Table 7: Violation of land-human rights

Human rights violation	Number
Killed	06
Injured	58
Tortured	02
Attack/arson/looting & damaging property	12
Driving out from houses	05
Acid attack	01
Threat	03

Source: Content analysis of the newspaper reports in 2017

It was found in the newspaper that six persons were killed, 58 injured, and two others tortured over land disputes in 2017. Twelve incidents of attack/arson/looting/damage of property and one incident of acid attack happened over the land conflict in 2017. It was also found that victims were drove out from their houses in five incidents over land dispute during the period.

IV. ANALYSIS OF CONFLICTS

a. Historical causes of land conflict

Sense of ownership of land began when people started building their homes, planting trees, cultivating lands. Historically, the incidences of land disputes took place in the human society from the sense of ownership of land. The history of Bangladesh as well as the Indian subcontinent over centuries and until the middle of the last century is the history of external rulers from the north and west. The land ownership laws in the plain areas of the country were changed. These laws were highly influenced by the external rulers such as the Mughal and the British (colonialism) over the last five hundred years and took the present form (Barkat et al., 2010). Major historical causes of land conflict include:

- Invasion of Aryans (before 1000 BC) in Indian subcontinent led long-standing conflicts with indigenous people. Aryans occupied their land and made them agriculture laborers and sharecroppers.
- Prior to the British colonial period, the Bengal area used to be governed by Mughal emperors whose control also extended over vast areas in present-day India, Pakistan and Bangladesh. Peasants were given the right to cultivate the land in exchange for a rent, which were collected in some areas through a system of intermediaries (middlemen) or zamindars (Quizon, 2011). When the Mughals later introduced the hereditary and occupancy rights of peasants to the land, including the rights of transfer, this also gave rise to a tradition of "permanent intermediaries", or the heritable system of zamindars (Quizon, 2011).
- Zamindari system¹⁰ during British colonial regime (1765-1950), when the East India Company collected land revenues from Raiyats¹¹ through its representatives called Zaminders.¹²
- After British colonial rule, the people faced neo-colonial religious agnate of Pakistan till independence of Bangladesh in 1971.
- After 47 years of independence, the people could not get relief as the bad land governance still exists. A section of people's mindset is still dominated by British colonial behaviours (i.e. non-transparency, anti-people or anti-poor, corrupt).

10. Zamindari system was introduced under British colonial rule in Indian subcontinent through permanent settlement. Under this system Zamindar was the landlord of a given area who had to pay a fixed sum of land revenue to the State, which the landlord collected from the peasants. The system was abolished during land reforms in East Bengal (Bangladesh) in 1950, India in 1951 and West Pakistan in 1959.

11. Raiyats were tenants and cultivators, and served as hired labour in the Indian subcontinent while zamindars were landlords. A raiyat was defined as someone who has given a right to hold land for cultivating it.

12. See No 2 and No 3 footnotes.

b. Current drivers of land conflicts

Socio-economic and demographic causes

- Patriarchal society and discrimination of women
- Unsettled vested property, abandoned property and khas land
- Evolution of land markets and increasing land prices
- Strong population growth and rural exodus
- New and returning refugees
- Development projects undertaken without consent (FPIC) from locals/IPs, for establishing tea gardens and Eco Parks/social forestry, etc.

Legal & judicial causes

- Unfavorable & outdated laws and policies
- Discriminatory State policies and inheritance laws
- Legal pluralism & customary land laws
- Formal law, which is not sufficiently known to all
- Limited/no access to law enforcement and jurisdiction by the poor/disadvantaged
- Insufficient implementation of law and policies
- Ignorance about mutation and laws
- Insufficient or absence of land conflict resolution mechanisms

Administrative causes

- Corruption in land administration, which ranks among the top three institutions with worst rates of bribery (71.2%) (TIB-FAO, 2011).
- Insufficient control over State land
- Lack of co-ordination within and between different government agencies.
- Lack of responsibility/accountability/ transparency
- Lack of conflict management capacity of government officials
- Delayed land survey
- Limited access to land administration, especially for the poor and rural population
- Contradiction between judicially and land ministry
- No updated data and ideas about tax, court fees, prices of stamps etc

Technical causes

- Missing or inaccurate surveying
- Missing land register (e.g. destroyed) or one that does not meet modern requirements
- Lack of modern land management system
- Lack of proper documents keeping
- Falsification of deeds

Causes of political economy

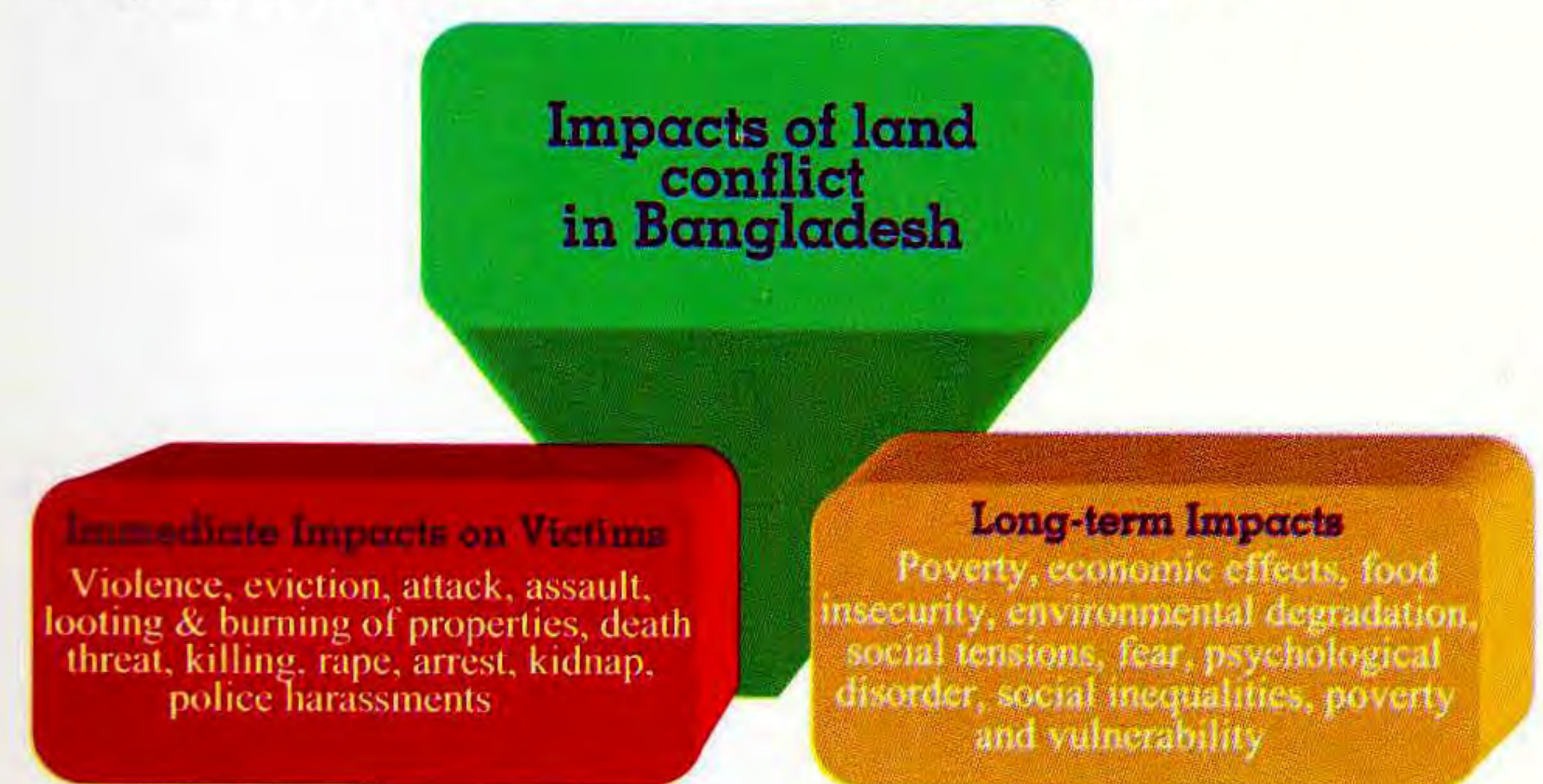
- Change in the political and economic system
- Exercise of political influence
- No political commitments to resolve land conflicts and land grabbing
- Political corruption, State capture and land grabbing
- Political (and economic) support for big agricultural investments, which go against the poor peasants
- State land acquisitions/expropriations for infrastructure & investment areas (i.e., establishment of special economic zones)

c. Impacts of land conflict

Land conflicts often have extensive negative effects on economic, social, spatial and ecological development. This is especially true in developing countries and countries in transition, where land market institutions are weak, opportunities for economic gain by illegal action are widespread and many poor people lack access to land (Wehrmann, 2008).

It is said that 80 percent of criminal offences today stem from land disputes (Saleh, 2015). Victim families take the toll of financially and in terms of safety and the enormity due to land conflicts. According to a study, some 18.3 percent families pay Tk 22,270 to police while Tk 5483 to local arbitrators as bribe for pending cases or resolve land disputes (BRAC HRLS-PRI, 2015).

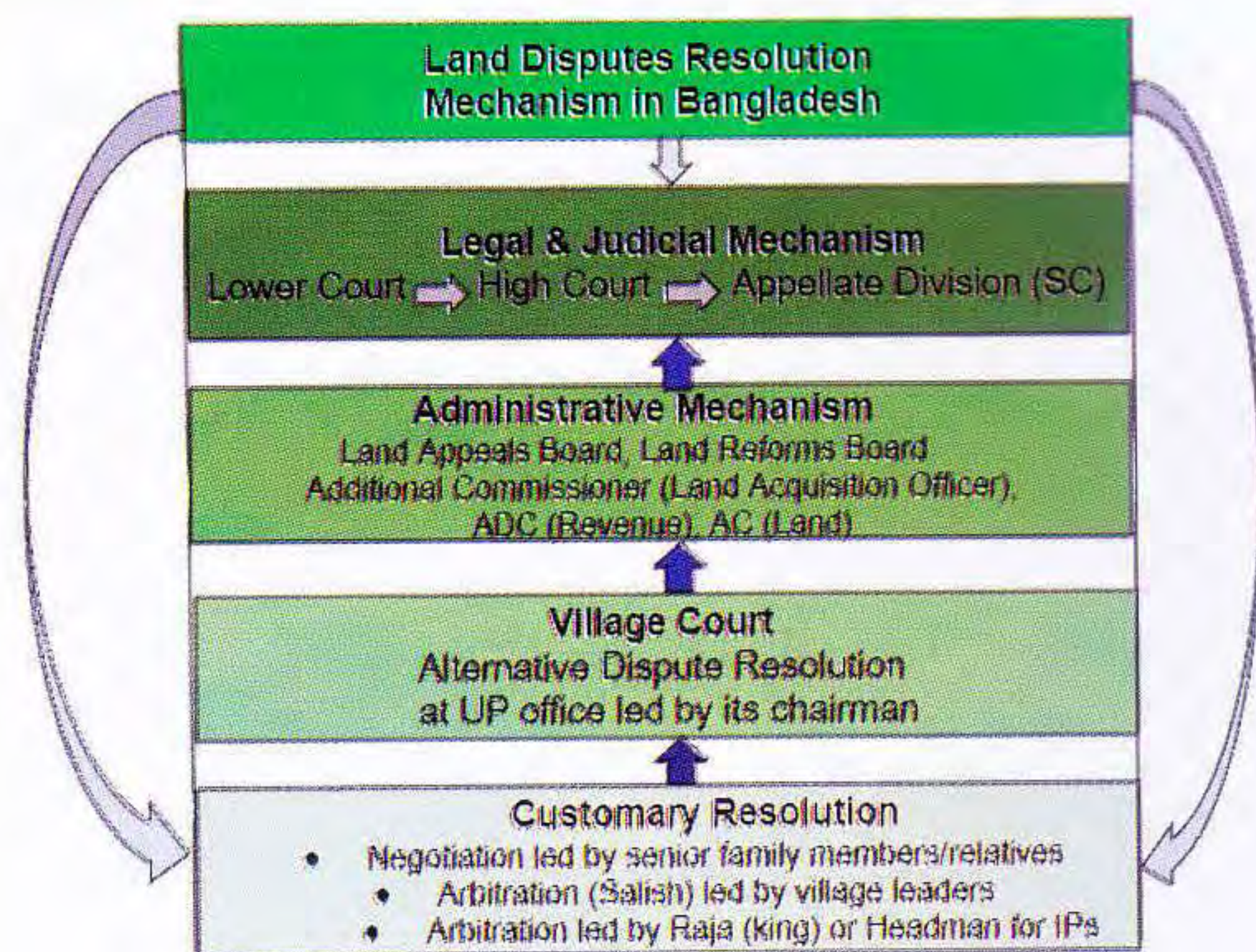
According to the study, 75 percent of households with past or present land conflict have experienced a physical assault. Receiving a former legal assistance costs the households most. Lawyers' fee accounts for about 60 percent of the total costs for resolving a dispute. The total cost to see through a land dispute is 45 percent of a household's annual income. The following diagram portrays impacts of land conflicts in Bangladesh.



V. MECHANISMS TO ADDRESS CONFLICT AND VIOLENCE

Land administration and management is the realm of the Ministry of Land, which has four divisions: i) Land Administration; ii) Land Appeal Board; iii) Land Reforms Board; and iv) Directorate of Land Record & Survey (DLRS).

The Land Appeals Board and Land Reforms Board are in charge of administrative dispute resolution over land. Assistant commissioners, additional deputy commissioners, and Additional Commissioners hand down decisions on disputes. These two bodies are the final arbiters in matters of khas land, changes in records, mutation, plot demarcation, and taxation at the lower levels. After administrative decision, people can take their cases to the lower court, which is the first step of a judicial procedure. The following diagram portrays all types of land dispute resolution mechanism of Bangladesh.



Land litigation is a curse to the family in litigation in Bangladesh over the years for huge backlog of cases, legal expenditure, corruption, bribe and harassments. Land litigation mediates destitution and distress among the families in litigation. It is a losing battle for both parties. It is a win-win situation only for the officials of the corrupt system, including the judiciary; police, land administration and management, advocates, influential locals, touts, and alike (Barkat & Roy, 2004). The formal legal and judicial system is obviously cumbersome in Bangladesh and does not work at the end.

One in every seven households in Bangladesh is involved in land disputes, according to a study conducted in 14 districts (BRAC HRLS-PRI, 2015). About two million land related cases are pending with the judiciary, which make up more than 70 percent of all litigations in the country, according to the research report. Of the resolved disputes, each took about three years to be adjudicated, but some cases found settlement after 17 years, it said. However, the average time a case remains pending is approximately eight years, while a few cases have been continuing for nearly 40 to 50 years.

Actually, delayed justice over the land disputes denies justice for the litigants in Bangladesh. It is necessary to strengthen and popularize alternative dispute resolution system like village courts though local touts, influential groups and political leaders influence over it. Even, many land rights holders become victim second time in the name of arbitration (Salish). Establishing rule of law, reform in judiciary and land administration, and curbing corruption and bribe are essential to ensure poor people's lawful rights.

Motivation for peaceful movement: Conflict is not always a negative phenomenon. Non-violent conflict can be an essential component of social change and development, and is a necessary component of human interactions. Non-violent resolution of conflict is possible when individuals and groups have trust in their

governing structures, society and institutions to manage incompatible interests (UNIFTPA, n.d). With the participation of all section of people, peaceful movement, which is emerged from motivations, can be effective to bring peace minimizing conflicts that occur due to land acquisition, eviction or investments on land. For example: In December 2010 to February 2011, several thousand people gathered and protested the proposed Bangabandhu International Airport, which was to be built covering a vast area, including agricultural and wetlands in three upazilas of Dhaka and Munshiganj districts. The authorities had started the process of acquiring over 25,000 acres of land for the airport. Of these, 10,895 acres are wetland in Sreenagar, 7017 acres are in Nawabganj and 7188 acres in Dohar. Later, the government cancelled the project amid the movement. However, a policeman and several protestors were injured during the movement.

Measures to prevent land conflicts and land rights defenders: There no direct measure to prevent land conflicts in Bangladesh. There are some policies and laws related to land and water resources but no effective land policy, legal and institutional framework for private and public investments to prevent land grabbing and land disputes, including the existence of procedural safeguard. Land grabbing is rampant in Bangladesh but there is no specific law to stop such acts. There is no specific monitoring and tracking system of land cases or specific dispute resolution system. Land rights defenders are vulnerable and often subject to human rights violations. No law or policy is yet to be formulated to protect land rights defenders. There is no specific law to protect land grabbing. Both civil and criminal cases are lodged against land grabbing depending on the nature of incidences. There is no rehabilitation and protection mechanisms like halfway house, security, legal assistance, witness protection, relocation, medical, psychosocial, subsistence, etc. to protect the right defenders in the country.

VI. POLICY IMPLICATION AND RECOMMENDATIONS

For government

- Repeal discriminatory laws against marginalized people- such as against women's land and inheritance rights, and against indigenous peoples land entitlements before any reforms like formulation of a comprehensive land policy or land governance system.
- Enact a specific law to prevent land grabbing and ensure quick resolution of land disputes.
- Establish an independent land commission for the plain land indigenous people to protect

their land human rights and resolve land disputes.

- Strengthen the CHT Land Disputes Resolution Commission and enforce its law and rules.
- Enact laws and formulate a mechanism to protect land rights defenders.
- Check corruption, irregularities, and bribes at land administration, courts and police stations.
- Take initiative to withdraw false cases over land conflicts and stop police or administrative harassments against land rights holders and defenders.
- Cancel lease of land among companies/corporations/political and non-political influential groups for violation of land-human rights.
- Ensure people-centered land governance and digitalization of land management system.
- National Human Rights Commission can act as a negotiator to resolve land disputes by engaging political parties, CSOs and other GO-NGO stakeholders.
- Fast-track resolution of land related cases at courts.
- Strengthen local mediation mechanisms to resolve land conflicts.
- Establish a 24-hour service-based unit/cell with hotlines under the Land Ministry to monitor land conflicts, take immediate actions against land grabbers and protect victims and defenders. A mobile court led by the executive magistrate can be run under the unit/cell to stop land grabbing and protect victims.

For CSOs

- Popularize land rights as human rights as well as business and human rights.
- Monitor land conflicts continuously and publish land conflict monitoring reports periodically and annually.
- Formulate and implement a strategic plan to reduce land-human rights violation and to assist victims and land rights defenders.
- Build public solidarity and support especially in cases of large-scale land grabbing and evictions due to land acquisitions that violate land-human rights.
- Empower affected communities and strengthen their organizations particularly landless and small producers.
- Improve reporting and response mechanisms to land conflicts. Monitor business interests that affect land rights.
- Undertaking strategic communication program engaging local land administration, CSOs, political leaders, landless people and marginalized farmers to resolve land disputes.
- Establish independent People's Institutions to investigate land conflicts, including the conduct of businesses and the role of the State, towards the protection of people's rights.

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NHRC, Bangladesh



The National Human Rights Commission, Bangladesh (NHRC), reconstituted under the NHRC Act 2009 as a state institution, monitors and examines legal framework for promotion and protection of human rights in the country. It keeps vigilance on human rights situation as well as conducts enquiries and investigations into incidences of human rights violations to ensure punishment of the perpetrators as per the law. More details at www.nhrc.org.bd.

ALRD



Association for Land Reform and Development (ALRD), founded in 1991 as a single-focused rights-based independent national policy advocacy and networking organization, is committed to the promotion and strengthening of land rights and agrarian reforms. It succeeds the NGO Coordination Council for Land Reform Program (NCCLRP), which was formed in 1987 as a coalition at the initiative of few leading national and international NGOs operating in Bangladesh. More details at www.alrd.org.

ARBAN



Established in 1984, Association for Realization of Basic Needs (ARBAN) facilitates the efforts of the landless poor peasants who migrate to urban areas or to cities and living as the slum dwellers in disempowering process. It also works for the indigenous people, workers and employees, disadvantaged women and destitute children who are worst hit by the impacts of globalization, liberalization, free market economy as well as the poor people who doesn't have access to gas, mineral resources, rivers, water bodies, fisheries and forests or any other means of productive resources. More details at www.arban.org.

Nagorik Uddyog



Nagorik Uddyog (The Citizen's Initiatives), established in 1995, has been working to promote human rights and good governance with a particular focus on local governance. It works for democratizing the conventional system of mediation (Salish), so as establish social and gender justice. It facilitates the realization of rights of women at grassroots level through education on civic rights, human rights and women's rights and by resolving community

and family disputes through mediation. NU also works on to promote the rights of the minorities, with special focus on Dalit, linguistic minorities and indigenous people. More details at www.nuhr.org.

Kapaeeng Foundation



Kapaeeng Foundation, a human rights organization established on 1 April 2004, works for the promotion and protection of rights of indigenous peoples in Bangladesh. It conducts advocacy, lobby and campaigns as well as builds capacity of indigenous people in promoting and protecting of their human rights. More details at www.kapaeeng.org.

Community Development Association (CDA)



Established in 1986 with a vision to build a 'United Agrarian Society', Community Development Association (CDA) as a non-profit development organization having facilitative role towards the landless rural poor and the excluded people helps them build village-based self-help organizations as namely "People's Organization" for ensuring land rights and human rights. CDA facilitates initiatives and movements for agrarian reforms and people-centered land governance, introducing self-styled development communication strategies through people's initiatives in the North-Western part of Bangladesh.

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