

# LEGAL TERRAIN

An Analysis of Legal Processes Involved in Land Conflicts in India



Land Conflict  
Watch

In partnership with  
**THE/NUDGE**  
INSTITUTE





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Watch**

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**An Analysis of Legal  
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Land Conflicts in India**

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**Publisher:** Nut Graph LLP

# Acknowledgements

This report is the result of three years of dedicated data collection, analysis and review, carried out in partnership with The/Nudge Institute.

We would like to thank Muhammad Ali Khan, Additional Advocate General of Chhattisgarh; and Namita Wahni, Senior Fellow at Centre for Policy Research, New Delhi; for their insight and inputs when the report was at the draft stage. We are grateful to Geetanjay Sahu, Associate Professor at Tata Institute of Social Sciences, Mumbai; Kundan Kumar, former Indigenous Peoples Resources and Climate Change Expert with the Food and Agricultural Organisation; Ritwick Dutta and Shomona Khanna, advocates at the Supreme Court of India; Tushar Dash, independent forest rights expert; and Usha Ramanathan, independent legal scholar; for their review of and inputs on our methodology.

Finally, we would like to thank the 102 field researchers who have contributed to the database and made it what it is.

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# Introduction

The Land Conflict Watch (LCW) database documents ongoing land conflicts in India.<sup>1</sup> At the time of writing this report, it contains 689 reported and verified land conflicts from across states and union territories. These include 82 conflicts that were subsequently resolved or became inactive. The database is dynamic and conflicts are regularly updated.

In order to qualify as a land conflict in the database, there must be an instance in which the use of, access to, and/or control over land and its associated resources are contested by two or more parties. The database does not include land conflicts between two private parties unless there is an underlying public interest, such as a caste-based or ethnic conflict.

Land conflicts are recorded in the database through data points that take into account the following factors:

- the location (including state, district, village/town, whether the district is classified as a fifth schedule area),
- the region classification (whether urban or rural),
- land type (whether private or common),
- total land area affected by conflict,
- the amount and type of investment associated with the land in conflict,
- the sector and subsector to which the conflict pertains,
- the timeline of the conflict,
- the number of people affected,
- parties involved,
- demands/contentions of the affected community,
- nature of protest,
- reported instances of constitutional rights violations,
- whether the conflict has ended, and if yes – how it ended.

This data can be used to answer a wide range of research questions, and tabulate qualitative and quantitative trends.

For the past two years, LCW has been revisiting its database in order to collect additional layers of legal data for every conflict. The data includes categories of legislation applicable to each conflict, the specific laws and provisions involved, government policies and precedent applicable, contentious issues or legal loopholes involved in the conflict, whether the conflict went to court, status of the case in the court, and the reasoning of the court while disposing of cases.

Overall, this provides for a thorough legal analysis of each conflict resulting in a record that is both extensive and, as a primary collection of data, conducive to a more intensive analysis. The ultimate objective being timely scholastic and journalistic interventions in relation to these land conflicts.

This analysis demonstrates how LCW data can be used to answer research questions. This report looks into the following:

1. What is the most frequently occurring category of land conflict?
2. What are the legislations applicable to this category of conflict?
3. How have these types of conflicts been dealt with and what proportion of them have ended up in court for judicial resolution?
4. Once in court, what is the status of these conflicts? What proportion have been disposed of?
5. How have courts treated these conflicts? Does the court's reasoning show a trend of disposal in a manner favourable or unfavourable to affected communities?
6. Is judicial disposal an effective mechanism for resolution of these conflicts? How many conflicts disposed of in court have also closed on the ground?
7. Out of those conflicts that have been disposed of in the court as well as closed on the ground, in how many instances can the closing be linked to the court's decision?

# Summary of Findings

- The 689 conflicts selected for this study affect more than 7.5 million people, nearly 1.7 million hectares of land and over ₹25.2 trillion in investment. Most conflicts (over 35%) pertain to the infrastructure sector.
- The demands made by affected communities in land conflicts indicate a high level of awareness regarding legal processes, rights and entitlements when their land rights are in question.
- Nearly three-quarters of the conflicts in the database involve common land in some way. The demands of communities also indicate the importance of common lands, over which communities rarely have formal rights.
- Land acquisition laws are the most common category of legislation involved in conflicts, applicable to over 45% of cases. These are followed by Forest and Scheduled Area Governance laws, and Environmental laws.
- The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 is the legislation predominantly applicable to land acquisition conflicts, along with the Land Acquisition Act, 1894. Sector-specific legislations such as the National Highways Act, 1956 and the Railways Act, 1989, and a number of state laws apply to land acquisition conflicts as well.
- Most conflicts in forested and scheduled areas involve the non-recognition and non-realisation of forest rights under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Most environmental conflicts are related to issues raised against environmental clearance obtained for commercial projects.
- Displacement is the most commonly reported constitutional rights violation associated with land conflicts, followed by physical attack and threats or intimidation. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act applies to 59 out of the 689 conflicts studied, with most conflicts falling under the Conservation and Forestry, and Land Use sectors.
- A total of 82 out of the 689 conflicts analysed have been reported as closed. A majority of these conflicts were closed when the community's original demands were met. However, a large gap can be seen between conflicts that were resolved (disposed of) by courts versus those that actually ended on the ground.

# Methodology

The conflicts are documented by field researchers. LCW has a team of 42 field researchers – in 26 of the 28 states and five of the eight union territories – working to identify and report conflicts. The researchers draw upon local and regional sources, such as newspapers, community networks, official documents and first-hand accounts to identify potential conflict leads, follow them up. They verify and report the conflict updates to a team of reviewers. In the review phase, the reviewers verify and cross-reference all the data and citations that the researcher provides, and edit the case summaries. Every important document related to the conflict that is publicly accessible is added to the database.

Based on the reported, verified and cross-referenced narrative summary of the conflict, legal researchers identify the laws applicable to the conflict. This includes constitutional provisions, state-specific, departmental, and municipal laws, along with the specific provisions of these laws that apply to the conflict. The legal researchers include the reasoning behind the applicability of each provision cited.

If the conflict has been litigated, the court documents are analysed and the decision of the court along with its reasoning are summarised in simple English. In the event that multiple jurisdictional forums have delivered separate orders/judgments, the operative parts of their orders are recorded and summarised.

The contentious issues or legal loopholes involved in the conflict are recorded from among the following broad options: Constitutional inconsistencies between state and central land laws, delay in allotment and possession of land/property, delay in compensation, forced evictions/dispossession of land, incorrect estimation of compensation, lack of legal protection over land rights, land-record discrepancies, non-implementation of land-ceiling laws, non-implementation of land-reform laws, non-implementation/violation of the FRA,<sup>2</sup> non-implementation/violation of the PESA,<sup>3</sup> non-payment of promised compensation, non-rehabilitation of displaced people, Scheduled Tribe status or lack of status, use of old/outdated laws, violation of environmental laws, violation of free prior informed consent, violation of the LARR,<sup>3</sup> and violation of standard international laws.

The legal analysis of the 689 conflicts is based on the following parameters:

1. Cause of conflict
2. Demands/Contentions of the affected communities
3. Categories of legislation applicable to conflicts
4. Whether the conflicts went to court, and status in court
5. Contentious issues and legal loopholes involved in the conflict
6. Reported violations of constitutional rights associated with the conflict
7. Closed conflicts

# Findings

## Overview of 689 Conflicts Documented

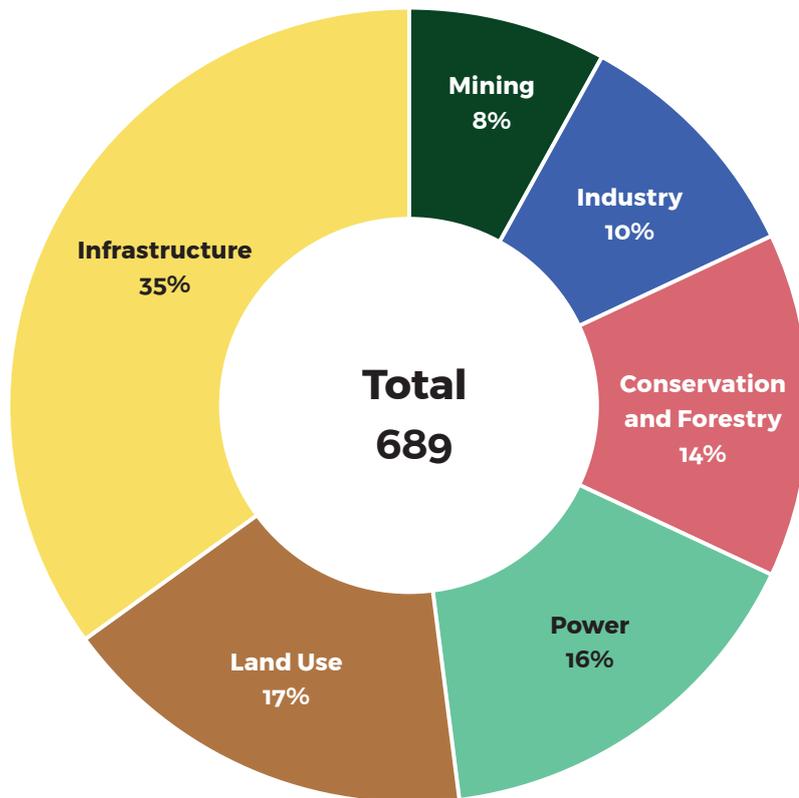
More than 7.5 million (7,540,559) people are directly affected by the 689 land conflicts recorded in the database. A total of 1,696,294 (nearly 1.7 million) hectares of land is affected by conflicts. The total investment<sup>2</sup> associated with the land in conflict is ₹2,521,259 crore, or ₹25.2 trillion (INR 25,212,598,600,000).

### 1. Sector-wise Classification of the 689 Conflicts

One of the bases by which land conflicts are categorised, is by 'Sector'. This classification indicates the activities that caused the conflict, and the overarching sector they fall under (Chart 1).

**Chart 1: Conflicts Classified by Sector**

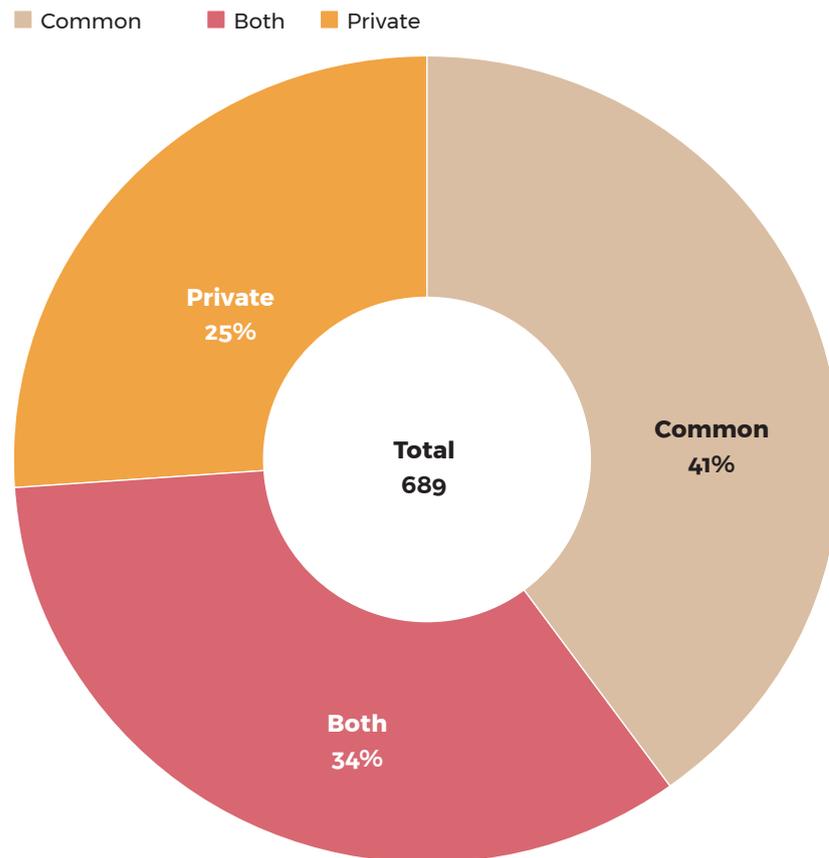
■ Infrastructure ■ Land Use ■ Power ■ Conservation and Forestry  
■ Industry ■ Mining



## 2. Classification by Land Type

Out of the 689 land conflicts, 41% pertain to common land, whereas 25% pertain to private land and 34% to both (Chart 2).

**Chart 2: Conflicts Classified by Land Tenure Type**



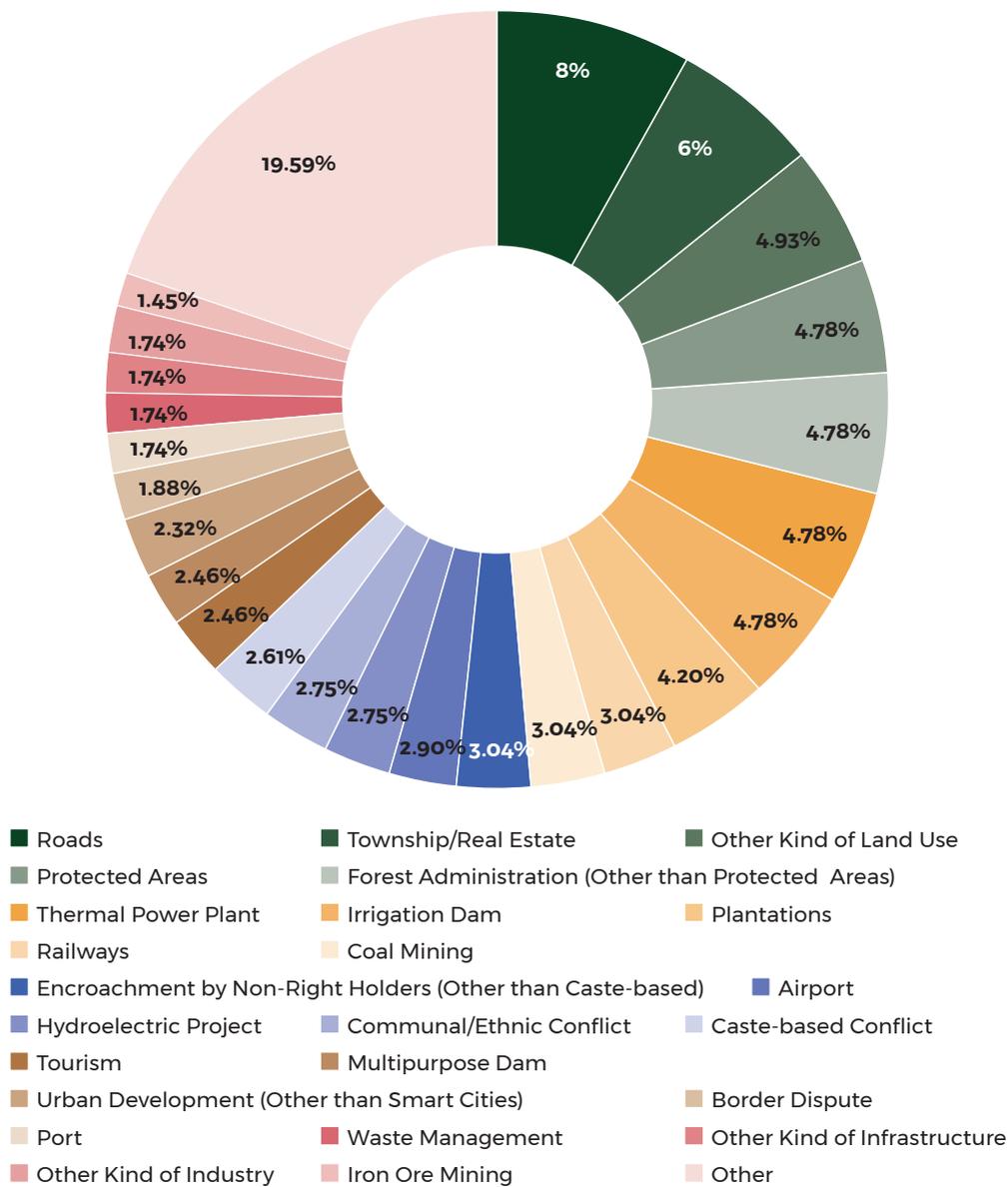
Note: The percentages in this chart have been rounded off to the nearest whole number.

## 3. Subsectors Pertaining to the Conflict

Unlike the classification of conflicts by 'Sector' (which showed infrastructure to be the leading sector associated with conflict), the subsectors are more specific. Multiple subsectors, together comprise one broad sector. For example, Protected Areas and Forest Administration (other than Protected Areas) comprises the Conservation and Forestry sector. "Other" subsectors include renewable energy, sand mining, special economic zones, smart cities, textile, etc.

Out of the 689 conflicts, roads are the most frequently occurring subsector pertaining to the conflict (8% of conflicts), followed by townships/real estate (6%), thermal power plants (5%), and irrigation dams (5%) (Chart 3).

**Chart 3: Conflicts Classified by Subsector**

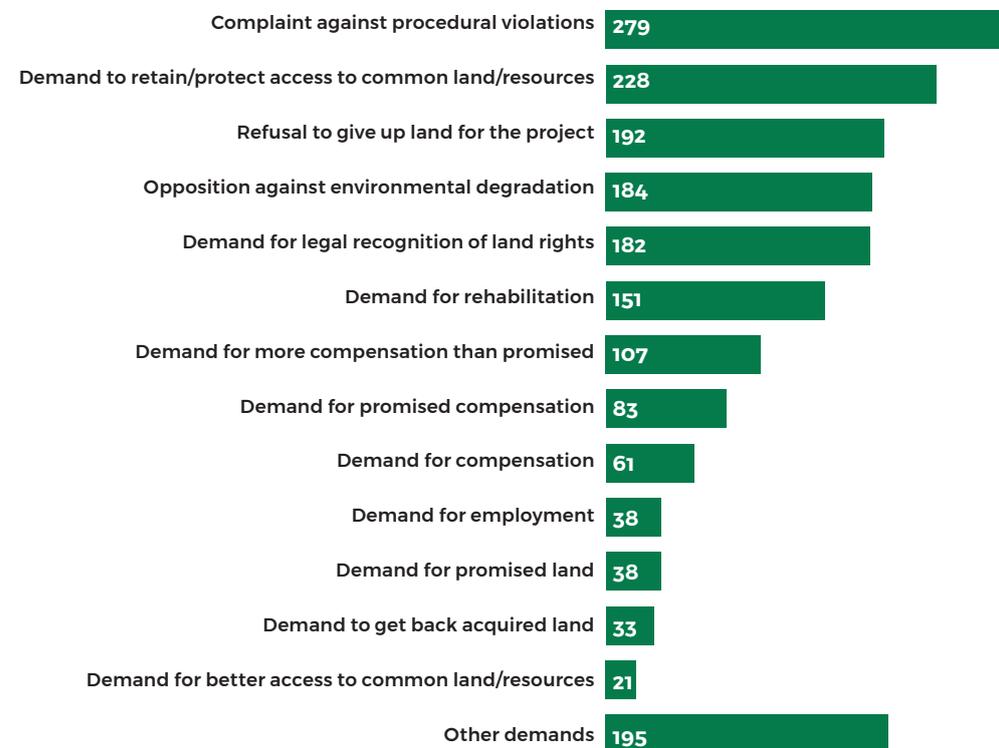


### 4. Demands/Contentions of the Affected Communities

Demands of the affected communities pertaining to a conflict refers to issues raised by the communities themselves. These are recorded in the database solely based on the community's actions and contentions. When juxtaposed with the independent findings of contentious issues and legal loopholes of the conflict, they indicate the grounding of the demands of communities in existing legal and rights frameworks.

Complaints against procedural violations (recorded in over 40% of conflicts) is the most common demand of communities affected by land conflicts. It is followed by demands to retain/protect access to common land and resources (recorded in 33.1% of

**Chart 4: Demands/Contentions of the Affected Communities**



conflicts), and a refusal to give up land for the project (recorded in 27.8% of conflicts) (Chart 4).

### What Does This Mean?

On the part of the communities, this indicates a high level of awareness regarding legal processes, rights and entitlements when their land rights are in question. Demands to retain/protect access to common land and shared resources indicate the importance of even common lands, over whom communities rarely have formal rights. The Scheduled Tribe and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 being one of the only legislations which directly vests rights over common land in the communities who reside on and access it. Refusals to give up land for development projects are significant in the post-2013 land acquisition regime which provides for a consent based model of acquisition.

Multiple demands were made in most cases since there are often overlapping issues in land conflicts.

“Other demands”, occurring in over 28% of conflicts, include conflict-specific demands. For instance, in one conflict, *Sponge Iron Factory is dumping waste and causing pollution in Jhargram district, West Bengal*,<sup>6</sup> the affected farmers demanded action to be taken against those involved in polluting their lands. In another conflict, *Tripura, Mizoram Agree on Joint Survey to Resolve Border Dispute over Phuldungsei Village*,<sup>7</sup> the demand was for settlement of the border dispute. In a significant number of conflicts, affected communities have demanded that a project be scrapped due to its impact on their land and livelihood.

## Legal Analysis of the Conflicts

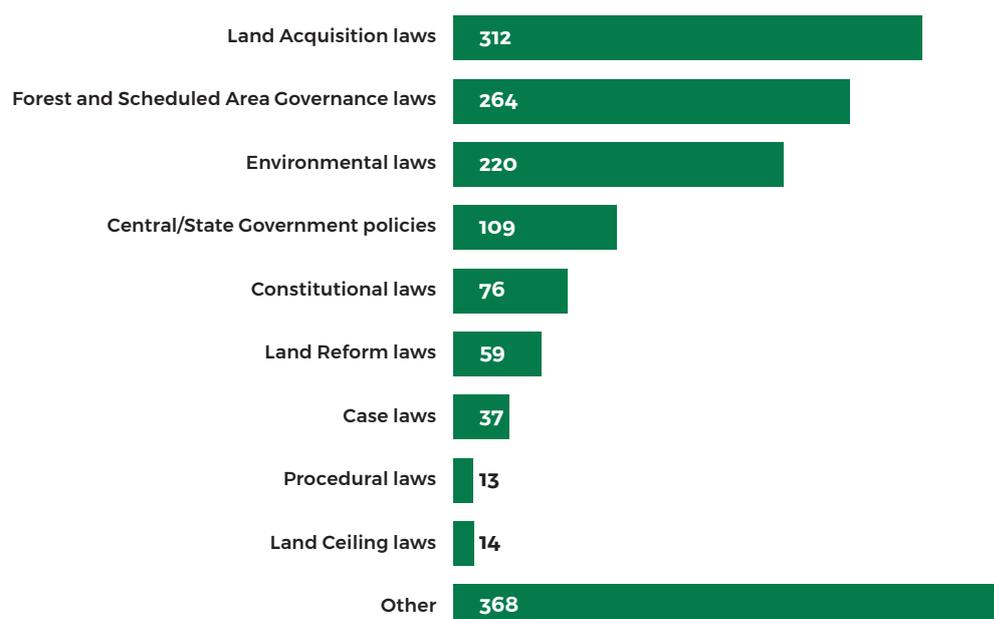
### 1. Categories of Legislation Applicable to Land Conflicts

The Land Conflict Watch database also classifies the conflicts according to the categories of legislation which apply in individual cases. Based on the law applicable to each conflict, based on an independent study of each, the legislations are grouped into categories which they entirely fall into. This categorisation includes: land acquisition laws (legislations under which private land may be acquired by the government), environmental laws (regulatory legislations aimed at environmental protection), forest and scheduled area governance laws (legislations applicable to forested areas and those designated under Schedule V of the Constitution of India), procedural laws (legislations that lays down procedures), land reform laws (which stipulate redistribution of land), land ceiling laws (which imposes a limit on the land that can be held by a landowner), along with constitutional laws, case laws, and central or state government policies. Legislations which do not fall squarely within any of these categories, such as municipal laws, wildlife protection laws, are classified as “Other”.

Land acquisition laws are the most common category of legislation applicable to conflicts in the sample set, followed by Forest and Scheduled Area Governance laws, and Environmental laws. Out of the 689 conflicts, 312 (over 45%) pertain to land acquisition (Chart 5).

Multiple categories of legislation may be applicable to one conflict, because there are often overlapping issues in land conflicts.

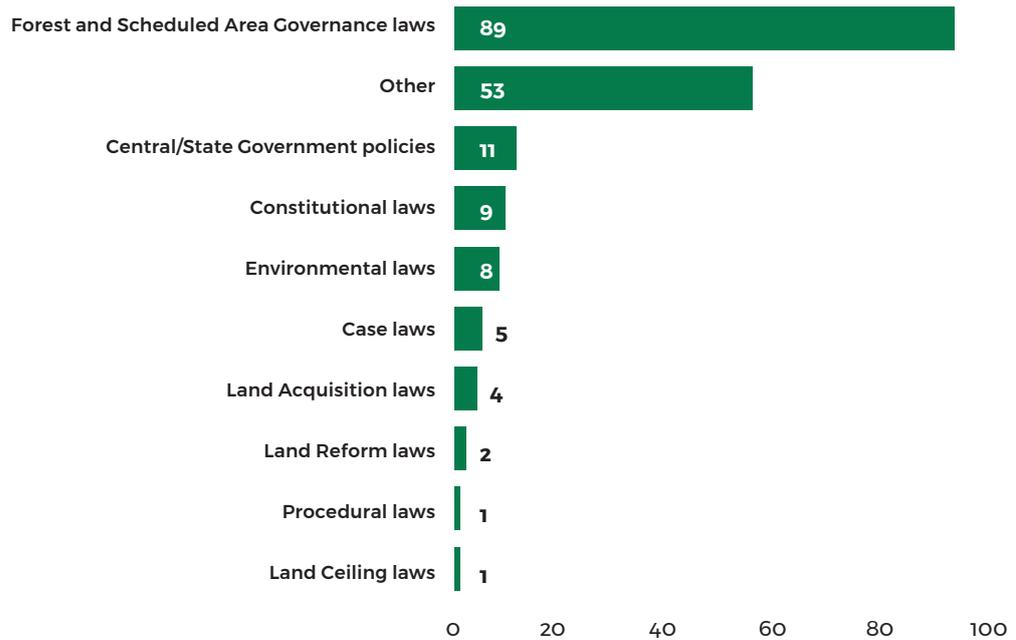
**Chart 5: Categories of Legislation Applicable to Land Conflicts**



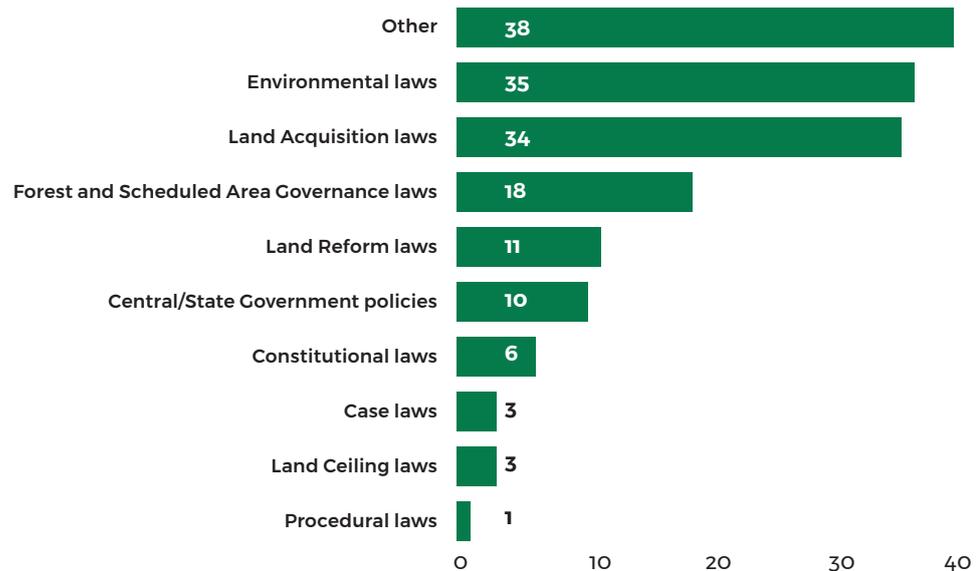
## 1.1 Categories of Legislation Applicable to Conflicts, Classified by Sector

The categories of legislation applicable to each sector indicate the legal issues that commonly arise in each land conflict. Forest and Scheduled Area Governance Laws are naturally the category of legislation most frequently applicable to conflicts from the Conservation and Forestry Sector (Chart 6).

**Chart 6: Categories of Legislation Commonly Applicable to Conflicts from the Conservation and Forestry Sector**

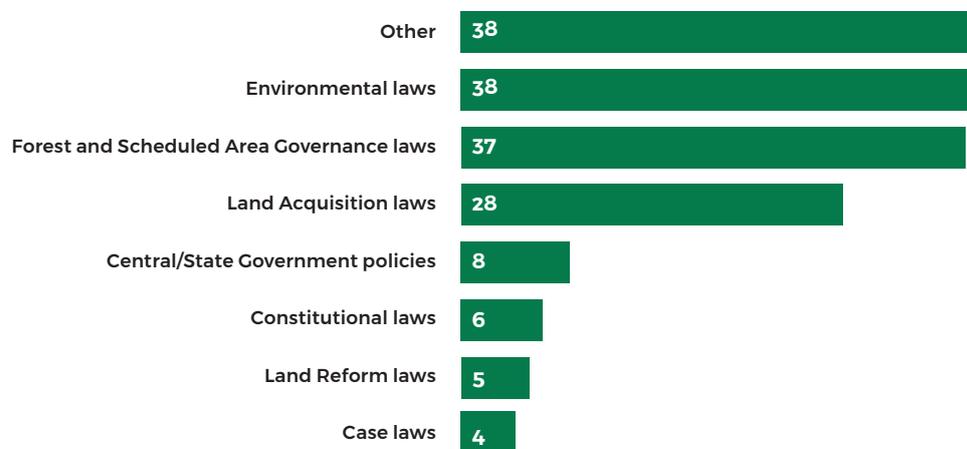


**Chart 7: Categories of Legislation Commonly Applicable to Conflicts from the Industry Sector**



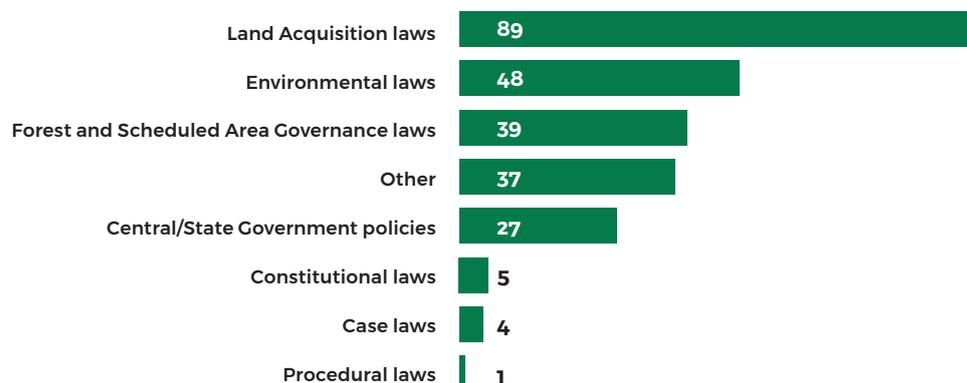
Environmental laws are among the most frequently applicable laws to industrial (Chart 7) and mining (Chart 8) conflicts, indicating a link between environmental concerns and industries and mining.

**Chart 8: Categories of Legislation Commonly Applicable to Conflicts from the Mining Sector**

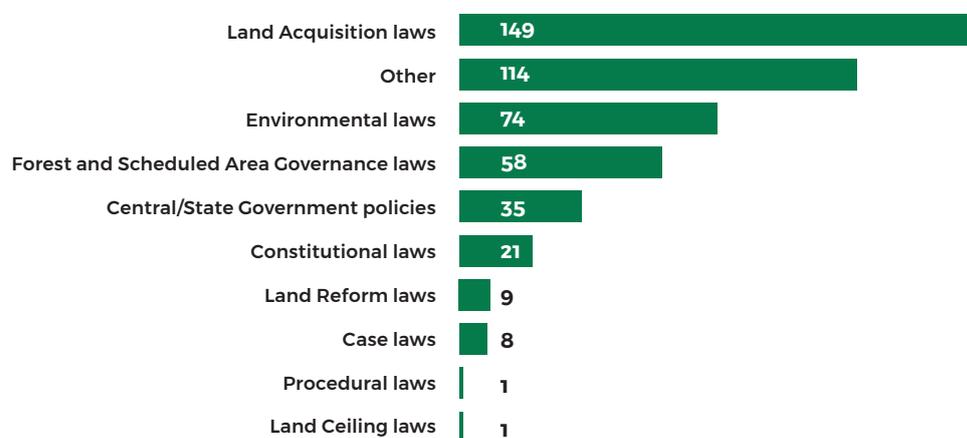


Land acquisition laws are the most frequently applicable to conflicts related to power (Chart 9) and infrastructure (Chart 10) sectors, indicating controversial land acquisitions taking place for power projects and to build infrastructure.

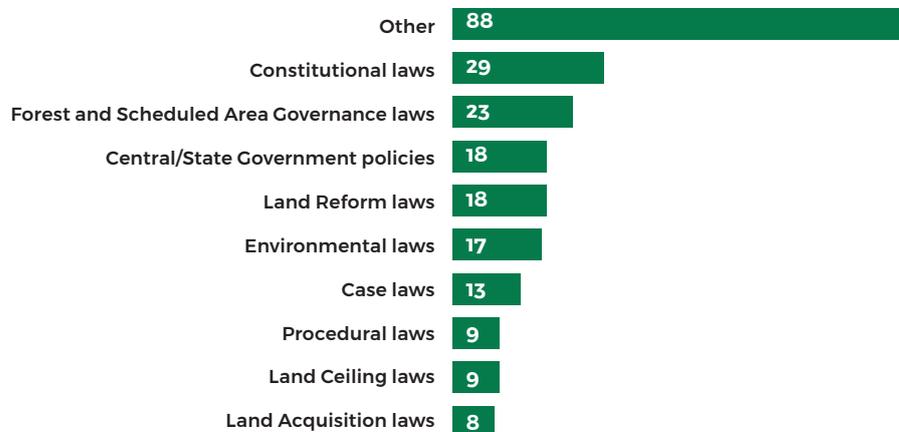
**Chart 9: Categories of Legislation Commonly Applicable to Conflicts from the Power Sector**



**Chart 10: Categories of Legislation Applicable to Infrastructure Sector Conflicts**



**Chart 11: Categories of Legislation Commonly Applicable to Conflicts from the Land Use Sector**



Constitutional laws are among the most commonly applicable to land use conflicts (Chart 11), indicating that fundamental rights come into question in such conflicts. Land use conflicts include caste-based and ethnic conflicts.

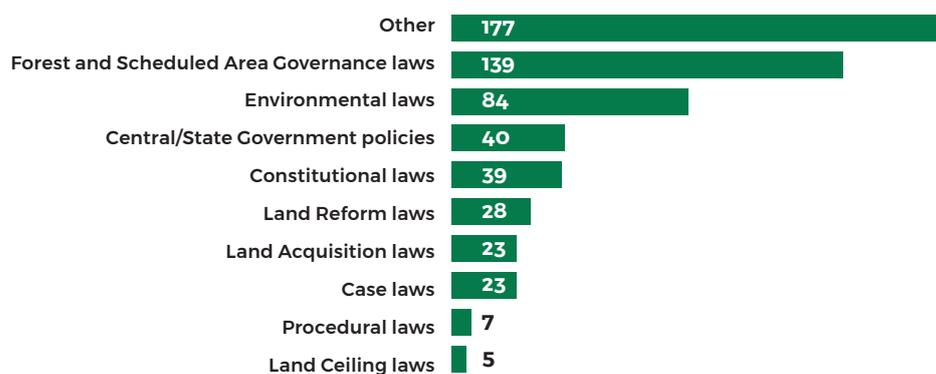
## 1.2 Categories of Legislation Commonly Applicable to Each Land Tenure Type

Forest and scheduled area governance laws are among the most frequently applicable categories of legislation to conflicts over common land. This is due to the fact that it is the only legislation dedicated to confer rights over common land directly to the communities that inhabit and access it.

On the other hand, non-forested commons, which comprise the majority of common land involved in conflicts, including village land and various types of government land, are governed by a mixed bag of laws. It ranges from land revenue laws (which allow eviction of encroachments on the land) to municipal laws (which govern the use of the land) – none of which fall squarely under any one broad category of legislation. As a result, “Other” laws are most frequently applicable to conflicts over common land.

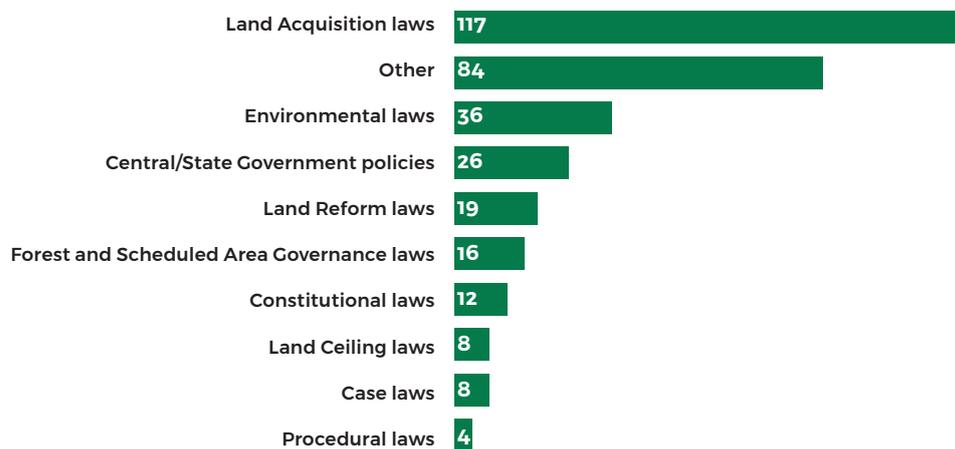
Environmental laws are also frequently applicable to common land conflicts (Chart 12), with pollution and resource contamination affecting land which communities may not own but need to access for their survival and livelihood.

**Chart 12: Categories of Legislation Commonly Applicable to Conflicts over Common Land**



Land acquisition laws are the most frequently occurring category of legislation to conflicts over private land (Chart 13). Only privately owned land can be acquired under most legislations. Land acquisition laws are followed by “other” laws and environmental laws.

**Chart 13: Categories of Legislation Commonly Applicable to Conflicts over Private Land**



Land acquisition laws are the most commonly applicable category of legislation to conflicts which involve both common and private land (Chart 14).

**Chart 14: Categories of Legislation Commonly Applicable to Conflicts over Common and Private Land**



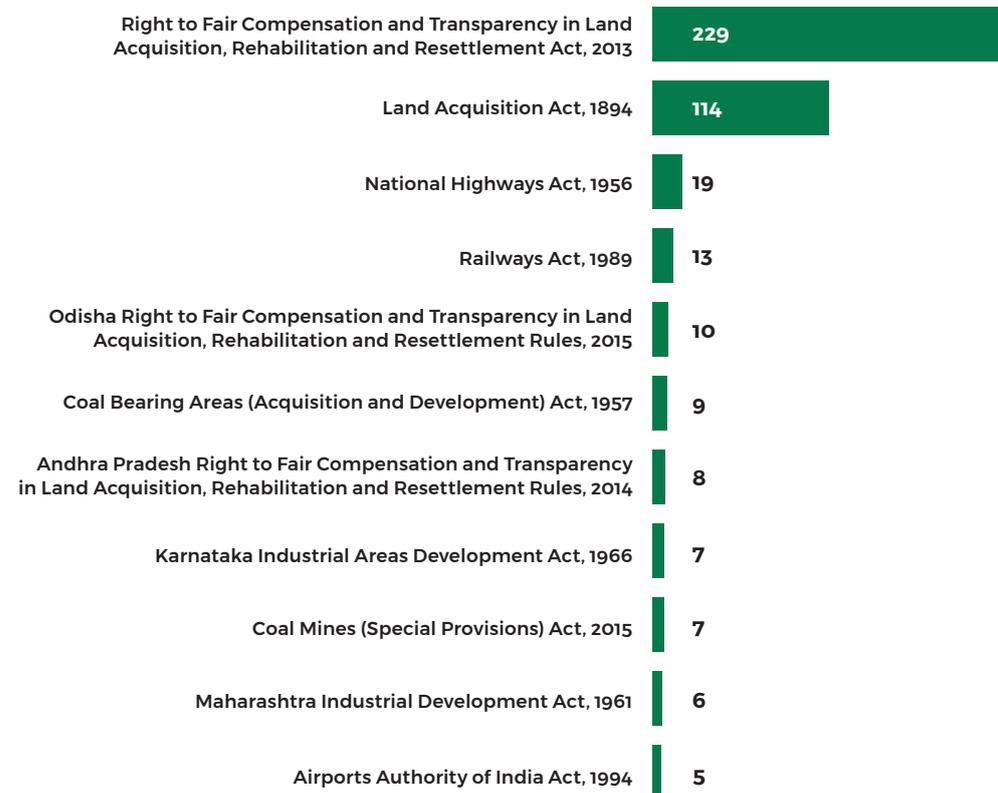
## 2. Legislations Commonly Involved in Land Conflicts

LCW collects details of specific legislations or acts that apply to each land conflict. Land Acquisition laws, Forest and Scheduled Area governance laws, and Environmental laws are the most frequently occurring legislations. The analysis below shows the legislations most frequently applicable legislations under each of these categories.

## 2.1 Land Acquisition Laws

Total number of conflicts to which land acquisition laws apply: 312

**Chart 15: Laws Under Which Land Frequently Acquired**



### Laws Invoked to Acquire Land

The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (LARR) is the legislation predominantly applicable to land acquisition conflicts (Chart 15). This independent finding of applicability is arrived at in three separate scenarios:

- A. When land has been acquired under LARR,
- B. When land should have been acquired under LARR, but was acquired under another legislation, and
- C. When land is acquired under one of the legislations LARR itself exempts. In this situation, compensation, resettlement and rehabilitation are still required to be carried out as per the provisions of LARR.

This is notable because the purpose behind drafting the legislation was to create a consent-based model for acquisition that ensured a just and equitable mechanism for land acquisition.<sup>8</sup>

The frequency of the applicability of LARR is followed by the applicability of the Land Acquisition Act, 1894. This is then followed by state-specific land acquisition legislations and state amendments to central land acquisition acts.

### What Does This Mean?

In conflicts prior to 2013, the acquisition took place under the 1894 Act. There is an overlap of applicability of the 1894 Act and the 2013 Act where the Section 24 exception of LARR is applied. This happens in instances where acquisition was initiated but not completed under the 1894 Act. In such cases, the compensation would be determined in accordance with the 2013 Act. While the 2013 Act itself enumerates the instances in which higher compensation and rehabilitation would be awarded, even to proceedings initiated prior to its commencement, the applicability of the Section 24 exception has been carved out judicially.

Examples of state legislations for land acquisition include the Karnataka Industrial Areas Development Act, 1966, and the Maharashtra Industrial Development Act, 1961. State amendments include the 2014 Tamil Nadu Amendment,<sup>9</sup> 2016 Telangana Amendment<sup>10</sup> and 2018 Maharashtra Amendment<sup>11</sup> to LARR.

State amendments often bypass the stringent consent and assessment-related provisions of LARR. For instance, a number of states (Andhra Pradesh, Gujarat, Karnataka, Maharashtra and Telangana) have passed amendments to the 2013 Act. These amendments allow projects related to defence, irrigation, highways, and those undertaken by public-private partnerships to be exempt from the Social Impact Assessment requirement. The 2014 Tamil Nadu Amendment was upheld by the Supreme Court, which opined that the inconsistency between the state laws and LARR was irrelevant, as the government had followed due legislative procedure in enacting them.<sup>12</sup> However, a number of petitions currently pending before the Supreme Court argue that the revival of state land acquisition laws is violative of Article 14 of the Constitution.<sup>13</sup>

Finally, it can be seen that sector-specific legislation such as the National Highways Act, 1956 and the Railways Act, 1989 are also applicable to a number of conflicts. The LARR exempts a number of such legislations from its provisions. However, the compensation and rehabilitation to be provided to affected people is still required to be in accordance with LARR, as per a 2015 ordinance.<sup>14</sup>

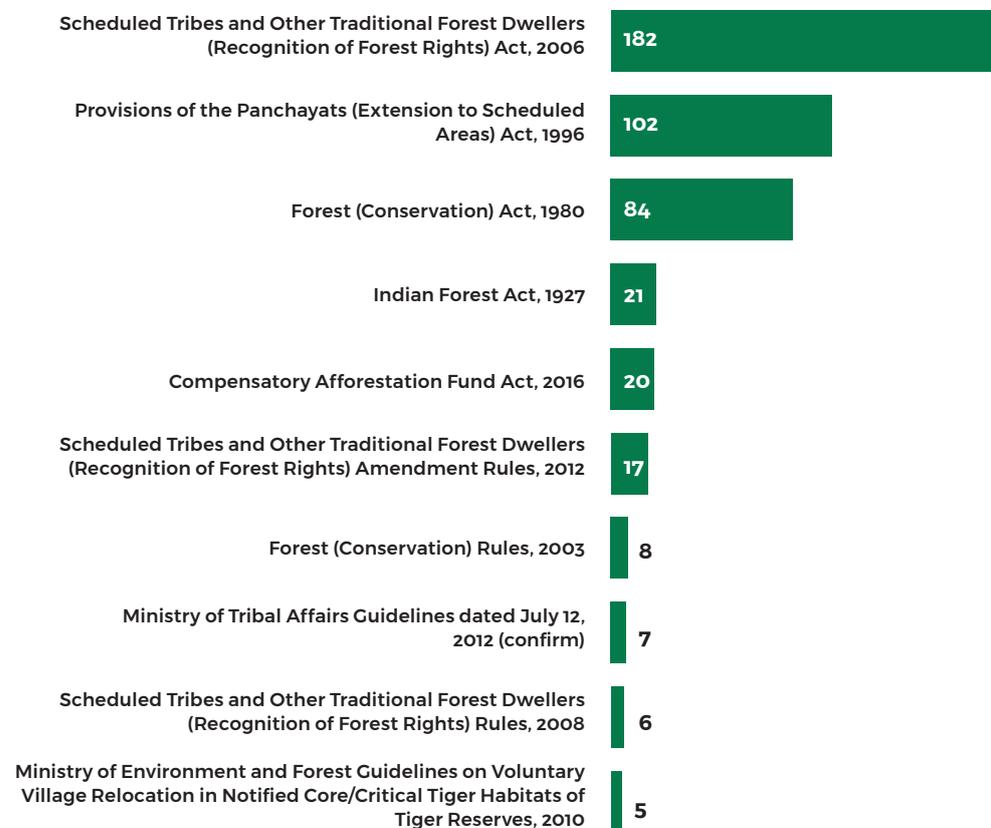
Forest and Scheduled Area Governance laws and Environmental laws are the second and third-most frequently applicable categories of legislation to land conflicts. Below is a breakdown of the legislation most frequently recurring in each of these categories.

### 2.2 Forest and Scheduled Area Governance Laws

Our database at the time of writing this report features 264 conflicts involving Forest and Scheduled Area Governance laws. The most recurring legislation is the Recognition of Forest Rights Act, 2006. It is applicable to 182 conflicts. It is followed by the Forest (Conservation) Act (85 conflicts) and Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 (69 conflicts) (Chart 16).

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (Forest Rights Act or FRA) vests rights over forest land in the communities who have traditionally lived on it, and provides for titles claimed in the form of individual and community forest rights. The Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996 makes it mandatory to seek consent of the concerned Gram Sabha in Scheduled Areas before any land is being used for development purposes – a requirement that is often sidestepped.<sup>15</sup>

**Chart 16: Forest and Scheduled Area Governance Laws Applicable to Conflicts**



The Forest (Conservation) Act, on the other hand, requires the Union government to approve the use of any forest land for non-forest purposes such as mining and commercial development.

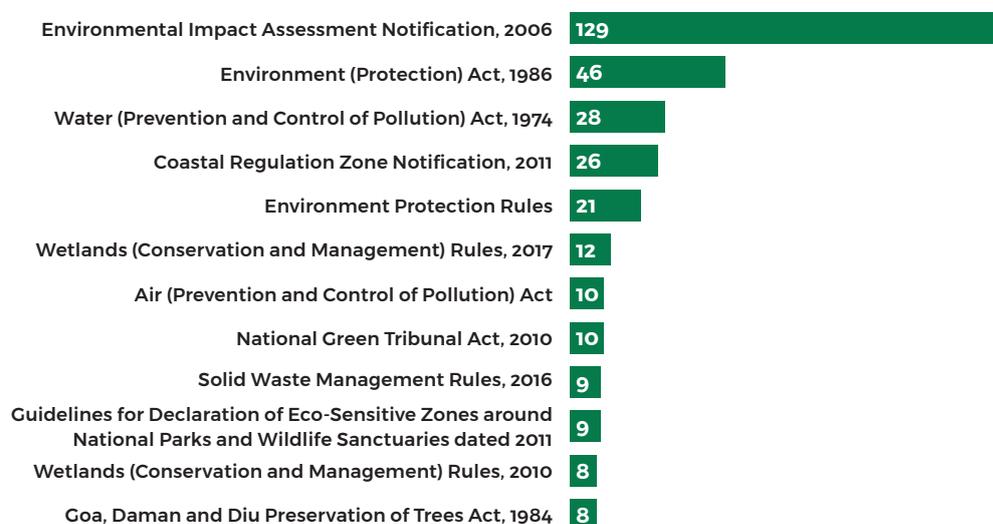
### 2.3 Environmental Legislations Embroiled in Conflict

Land and natural resource conflicts pertaining to environmental issues are frequent as well, with a total of 221 conflicts. The most commonly applicable legislations to environmental conflicts are the Environmental Impact Assessment (EIA) Notification, 2006 (129 conflicts), followed by the Environment (Protection) Act, 1986 (43 conflicts) and the Coastal Regulation Zone (CRZ) Notification, 2011 (26 conflicts) (Chart 17). Most legislations concerning the protection of the environment and notifications issued by the environment ministry (such as the EIA Notification, 2006 and CRZ Notification, 2011) are passed and issued under the Environment (Protection) Act itself.

#### What Does This Mean?

The Environmental Impact Assessment Notification, 2006 lays down the procedure through which environmental clearances must be sought for most types of commercial activity. It being the legislation most commonly applicable to environmental conflicts indicates that most environmental conflicts pertain to environmental clearance in some way. It is also among the most frequently involved legislations when land conflicts are being litigated – suggesting that contentious environmental clearances are often taken to court.

**Chart 17: Environmental Laws Most Commonly Applicable to Conflicts**



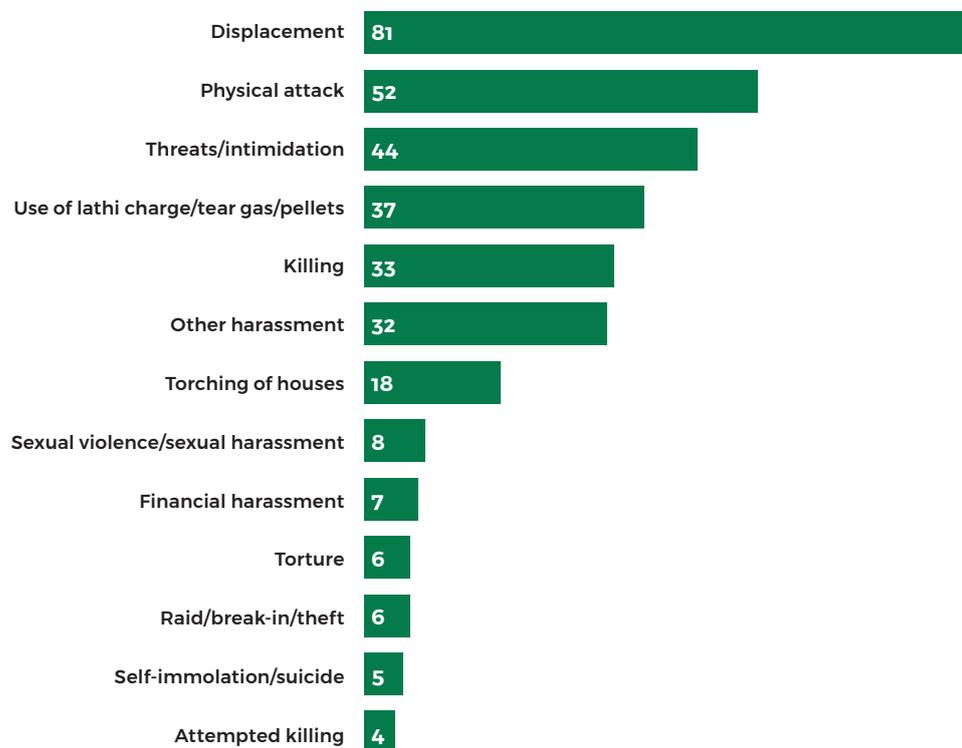
### 3. Contentious Issues and Legal Loopholes Involved in Land Conflicts

Contentious issues and legal loopholes indicate either legal violations or legal lacunae pertaining to the conflict. A lack of legal protection over land rights, forced evictions and dispossession of land are the most frequent issues involved in land conflicts. Non-implementation of the Recognition of Forest Rights Act, 2006, violation of free prior informed consent and non-rehabilitation of displaced persons are also alarmingly common occurrences, taking place in over 172 conflicts. (Chart 18).

**Chart 18: Contentious Issues and Legal Loopholes Involved in Land Conflicts**



**Chart 19: Violations of Constitutional Rights as Reported in Land Conflicts**



### 3.1 Violations of Constitutional Rights

Displacement is the most commonly reported constitutional rights violation associated with land conflicts, having taken place in 11.75% of all cases, closely followed by physical attack (7.54%), and threats/intimidation (6.38%) (Chart 19).

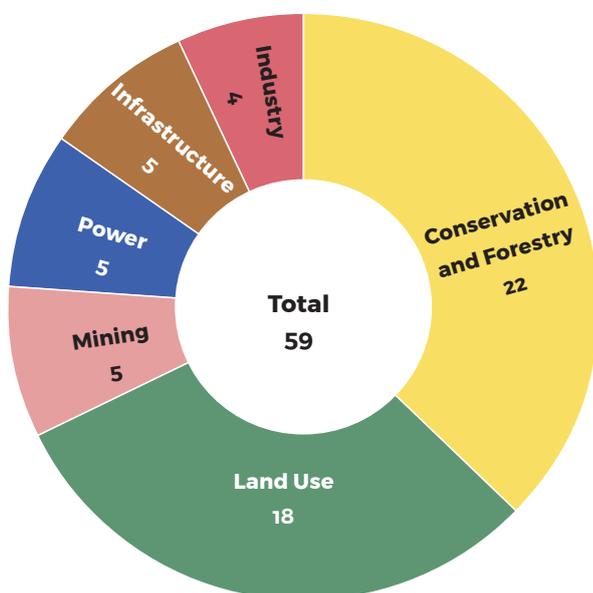
Chart 19 gives an overview of the frequency of certain types of constitutional rights violations across 689 conflicts. A further breakdown of these occurrences by sector, and/or categories of legislation applicable to the conflict would point towards the types of conflicts in which these violations are more rampant. Additionally, segregating instances of violations which involve state machinery (such as unlawful arrests, lathi charge/tear gas/pellets) would represent trends of how the state approaches land conflicts.

### 3.2 Arrests/Detention/Imprisonment as a Violation of Constitutional Rights

During the process of data collection for this report, we had classified arrests, detention and imprisonment as a violation of constitutional rights. But all instances of arrest or detention do not necessarily constitute a violation. In order for police or state action to be considered a violation, it would be necessary to have documented evidence of arbitrary action and/or violation of criminal procedure and safeguards. This determination is a nuanced one and often requires the application of judicial mind.

However, the occurrence of arbitrary arrests in response to protests in land conflicts is a grave issue that we hope to address through our research. To that end, we have undertaken a data collection exercise to add a layer of criminal law data to our database.

**Chart 20: Conflicts to Which the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 Applies, Classified by Sector**



This data pertain to the 59 conflicts to which the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 applies

Land Conflict Watch also tracks the legislations applicable to each conflict. In a number of conflicts, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act applies, which indicates the occurrence of an atrocity or a rights violation. In our database, there are a total of 59 conflicts to which the Prevention of Atrocities Act applies.

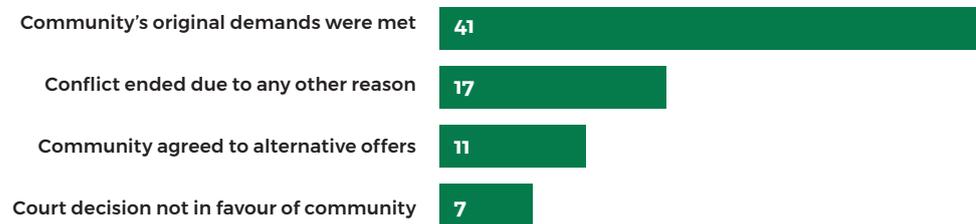
Scheduled Tribe communities are most frequently involved in conflicts to which the Forest Rights Act (FRA) applies (Chart 20). Here, all 22 conflicts to which the Prevention of Atrocities applies are those to which the FRA also applies. Conflicts involving violence against a member of a Scheduled Tribe community could also attract the application of the Prevention of Atrocities Act.

Land Use conflicts, or conflicts in which the use of land is disputed, tend to be inter-community conflicts which are often between members of two castes. If there is violence against a member of the Dalit or tribal community, the Prevention of Atrocities Act is likely to apply. Out of this data set, 9 out of 18 Land Use conflicts are caste-based conflicts, and 2 are communal/ethnic conflicts.

#### 4. Closed Conflicts

LCW tracks conflicts and updates them when they close and records data on the cause of closing. A total of 82 out of the 689 conflicts analysed here have been reported as closed. A majority of conflicts were closed when the community's original demands were met, followed by resolution due to the community agreeing to alternative offers. (Chart 21).

**Chart 21: Reasons Behind Closing of Conflicts**



In the cases where the conflict was closed after the community's demands were met, it is noteworthy to understand the nature of the community's demands. In a comprehensive set of conflicts this would also help indicate how a conflict is likely to be resolved.

For example, in our two documented instances – Farmers oppose land acquisition for *Edamon-Kochi power line in Kerala*,<sup>16</sup> and *Odisha Amends Electricity Act, Farmers Receive Compensation for Transmission Lines in Sambalpur*,<sup>17</sup> the community's demands that were met related to seeking higher compensation.

A significant number of conflicts ended when the project/scheme itself was cancelled, shelved or modified. Often, these conflicts overlap with those in which the demands of the community are either a refusal to give up land for the project, or a demand to protect access to common land/resources, which may be threatened by the proposed project.

“Other” reasons include conflict-specific ways in which the conflict would have closed. For instance, in *Centre, Assam Gives in to Bodos' Demand for Bodoland, Signs Peace Accord*,<sup>18</sup> the conflict was resolved when a peace accord was signed by the Union and Assam governments with the National Democratic Front of Bodoland, All Bodo Students' Union and United Bodo People's Organisation.

Often, conflicts end simply because there is no longer any resistance by the affected community. In *Manipuri Village Rebuilds Life after Rebel Group Torches 18 Houses over Land Dispute*,<sup>19</sup> the torched houses were rebuilt by the residents and the matter never went to court. In *Residents in Krishnagiri Protest Against Takeover of Land by SIPCOT*,<sup>20</sup> the conflict ended because protests were no longer taking place. In *Lalitpur-Dam Affected Farmers Demand Compensation*,<sup>21</sup> the dam was built and there was no update on the compensation/ rehabilitation for affected families. As such, based on available reports, the conflict has closed.

#### 4.1 Judicial Resolution of Conflicts: What Happens When Conflicts Go to Court?

Out of the 689 land conflicts, 354 (51%) went to court and 329 (48%) did not. Of those which went to court, cases in 162 conflicts (46%) were disposed of. The remaining are still pending before various courts (Chart 22).

“Disposal” refers to a final decision by the court that was approached. Courts also include the National Green Tribunal, which has exclusive original jurisdiction over matters pertaining to the environment. On the other hand, “Closing” refers to the conflict ending on the ground.

**Chart 22: How Many Land Conflicts have been Disposed by Courts?**



The number of disposed conflicts in court juxtaposed with the number of conflicts closed on the ground is an indicator of the effectiveness of the judiciary as a mechanism to settle and resolve land conflicts.

Take the example of land acquisition conflicts, the most frequently occurring of the lot. Out of the 312 land acquisition conflicts within the sample set, 172 (over 56%) have gone to court, indicating a higher frequency of approaching the judiciary than average. Out of the conflicts in court, 84 are pending while 88 (over 51%) have been disposed of. Notably, out of the conflicts that were disposed of in courts, only 11 (12.5%) have closed on the ground (Chart 23).

Despite the relatively small proportion of closed conflicts, an analysis of the manner in which the court disposed of them is significant in order to understand the extent to which the court’s decision influenced the ultimate resolution of the conflict.

For instance, in *Mithivirdi Nuclear Plant Shifted Out of Gujarat Following Protests, Delay in Land Acquisition*,<sup>22</sup> the conflict was resolved after the National Green Tribunal directed the plant to be shifted from Gujarat to Andhra Pradesh, owing to a delay in land acquisition.

In *Farmers oppose land acquisition for Edamon-Kochi power line in Kerala*,<sup>23</sup> the conflict was resolved after the community’s demand for higher compensation was met. This was following an order of the Kerala High Court to the power corporation to deposit the increased compensation amount. The court also held that any further obstructions to the project would be considered as offences.

One conflict regarding the proposed Khed Economic Zone<sup>24</sup> in Maharashtra was resolved when the project was cancelled by the Devendra Fadnavis government.

**Chart 23: Status of Land Acquisition Conflicts that have Gone to Court**



This data pertain to 312 conflicts to which land acquisition laws are applicable from within the 689 conflicts in the LCW database.

The then chief minister Fadnavis called it an “injustice done to farmers”. However, in this case the cancellation did not follow a judicial decision. While people had filed a writ petition against the project before the Bombay High Court, the petition was subsequently withdrawn. They had then approached the National Green Tribunal, which dismissed the appeal on grounds of limitation.

Similarly, an analysis of conflicts which have been disposed of in court, but not closed on the ground would indicate shortcomings in the judicial resolution process when it comes to resolution of land conflicts.

In some cases, the petitions of the affected communities were dismissed by the court. For instance, in *Tribals in Madhya Pradesh Fear Loss of Livelihood from Morand-Ganjil Irrigation Project*,<sup>25</sup> a public interest litigation petition was filed before the High Court of Madhya Pradesh, on the likelihood of submergence of villages and non-compliance of compensation and rehabilitation rules. This was dismissed by the court on the ground that the project had received the approval of all the concerned authorities, including the environment ministry. However, on the ground, the protests are ongoing.

### **What Does this Mean?**

A review of these conflicts shows that the reasons for ineffectiveness of judicial resolution for conflicts is manifold. In some cases, courts can be seen to be dismissive of communities’ demands and tend to pass unfavourable orders which do not grant relief to distressed communities.

Land conflicts are complex in nature and comprise many overlapping issues. While courts may be capable of resolving some, if the remaining are unaddressed then it does not result in resolution of the conflict on the ground. Additionally, litigation is an expensive process.<sup>26</sup> Seeing a petition through till the final stage of appeal before the Supreme Court requires tremendous resources, both monetary and otherwise. Most communities entangled in land conflicts are both vulnerable and marginalised. They often do not have the means to follow through every subsequent stage of appeal and may not judicially challenge every single issue involved in the conflict.

The analysis of both disposed and closed conflicts above indicates that in most cases when courts ignore communities’ concerns in their verdicts, the conflicts do not end on the ground. Under limited circumstances, unfavourable court orders may also result in the conflict ending on the ground based on the cost versus benefit anticipated by the affected community of continuing to resist.

A similar qualitative analysis of the land acquisition conflicts that have been disposed of in courts – 156 in total – would indicate whether the judicial decision was favourable or unfavourable towards the affected community, and its impact on those conflicts.

# The Way Forward

The overview and analysis of 689 conflicts, and further analysis of 312 land acquisition conflicts from within the sample set indicate broad quantitative and more specific qualitative trends.

The analysis shows that a majority of conflicts (74%) involve common land and 40% pertain solely to common land. However, there is a gaping lacuna in legislation governing rights to commons. The Supreme Court's decision in *Jagpal Singh and Ors. v. State of Punjab and Ors.*<sup>27</sup> had laid down guidelines and directed states to frame schemes to ensure these rights. Further to this, Land Conflict Watch has been conducting deeper research into the implementation of this decision, in order to aid interventions towards a comprehensive jurisprudence surrounding the right to commons.

Violations of constitutional rights associated with land conflicts point to arrest, detention, and imprisonment being alarmingly common occurrences. Associated criminal litigations against protesting citizens may drag on for years after the resolution of the primary land conflict. This would unfairly entangle protesting citizens and impact the manner in which other communities choose to resist for fear of similar harassment. Along with conducting deeper research into individual instances of legal proceedings as tools of coercion and specific legislation prone to abuse,<sup>28</sup> instances of criminal law being used against protestors are also being recorded as a legal field in the database and have the potential to make way for a larger study in the future.

Larger observations regarding the political economy of land conflicts and land governance can also be made from the data collected. A 2019 report used Land Conflict Watch data to show how the consent of tribal communities was being subverted nationwide by governments and industries as they took over swathes of forest land.<sup>29</sup> When analysed state wise, the performance of different state governments and the role they can play in resolving conflicts, can be seen as well. In May 2021, LCW published a report analysing conflicts from four states that were going to the polls,<sup>30</sup> making a connection to the politics behind trends in these conflicts.

The methodology employed to analyse the legislations applicable to individual land conflicts also lends itself to interrogations into how administrative laws may overlap with specific land and natural resource related laws. For example, in *Farmers Affected by Jewar Airport Demand Rehabilitation*,<sup>31</sup> compensation was being incorrectly calculated during the land acquisition for Jewar airport in Noida, leading to landowning farmers being offered far less compensation than they were entitled to, under the law. Under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, land in rural areas attracts four times its market value as compensation, while land in urban areas attracts two times its market value. A qualitative analysis of conflicts in urban and rural areas, in which the calculation of compensation has been challenged, would indicate trends and reasons behind landowners approaching the courts, complaining about being undercompensated during the process of acquisition.

## LEGAL TERRAIN

AN ANALYSIS OF LEGAL PROCESSES INVOLVED IN LAND CONFLICTS IN INDIA

Similarly, in 2020, Uttarakhand issued a revised River Training Policy that invoked the Disaster Management Act, 2005, to facilitate sand mining while bypassing environmental clearance requirements.<sup>32</sup> The classification of conflicts by sector and the cause of conflict shows that mining has led to 8% of the conflicts in the database, most of which are being resisted by affected communities for environmental concerns.

New conflicts would continue to be added to the database as they are reported. As the database grows, it would serve as an even more effective tool towards a comprehensive understanding of broad trends, and to facilitate specific investigations into the legal dimensions of land and natural resource governance.

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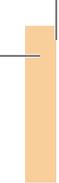
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# Appendix

## List of Field Researchers

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- Mahesh Deka
- Manasi Karthik
- Manish Tiwari
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- Mhao Kikon
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- Mubashir Bukhari
- Nazimuddin Siddique
- Neerajha
- Nihar Gokhale
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# LEGAL TERRAIN

## An Analysis of Legal Processes Involved in Land Conflicts in India

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The Land Conflict Watch database documents ongoing land conflicts in India. This report undertakes an analysis of legislations, legal loopholes and judicial interventions in nearly 700 reported and verified land conflicts from across states and union territories. The conflicts selected for this study affect more than 7.5 million people, nearly 1.7 million hectares of land and over ₹25.2 trillion in investment.

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