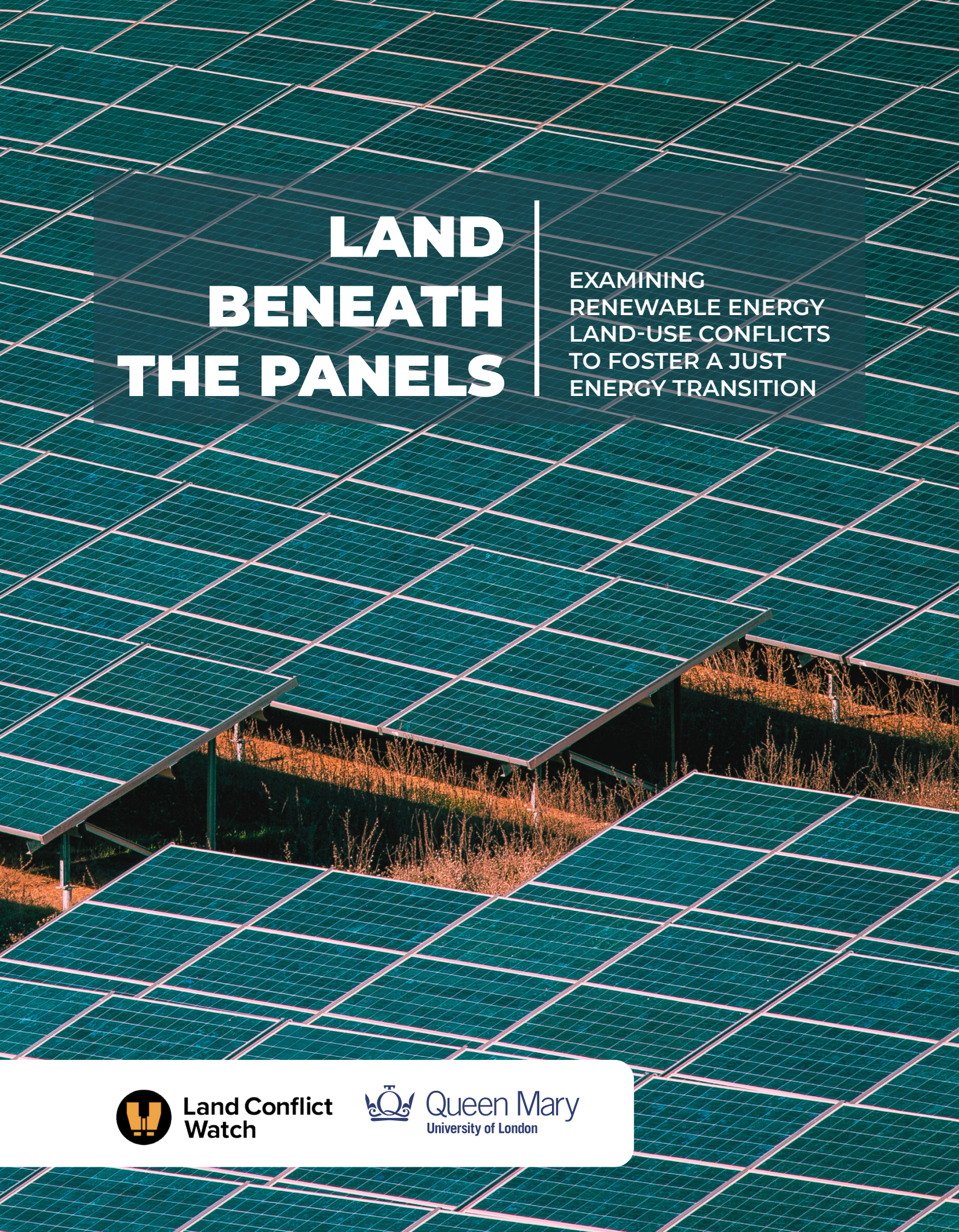

LAND BENEATH THE PANELS

EXAMINING RENEWABLE ENERGY LAND-USE CONFLICTS TO FOSTER A JUST ENERGY TRANSITION

Land Conflict Watch

Queen Mary University of London

LAND BENEATH THE PANELS

EXAMINING RENEWABLE ENERGY LAND-USE CONFLICTS TO FOSTER A JUST ENERGY TRANSITION

Authors: Priyansha Chouhan, Mrinali, Kumar Sambhav and Fernando Barrio

Editor: Mehak Mahajan

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CONTENTS

SECTION ONE

INTRODUCTION

India has set ambitious targets to deal with the polycrisis of climate change through its domestic as well as foreign policies. To this end, successive governments have come up with several policies since 2008, such as the National Action Plan for Climate Change[1] and the Nationally Determined Contributions[2] (NDC), which delineate plans and goals to combat climate change. The transition from fossil fuels to renewable energy sources, such as solar and wind, is a key component of these policies. By the year 2030[3], the country aims to generate 500 gigawatt (GW) of power from non-fossil sources alone. As per an Indian government estimate[4] from October 2024, at 201.45 GW, 46.3% of India's energy requirements are met from renewable sources. In this mix, solar and wind energy have the highest share, at 90.76 GW and 47.36 GW, respectively.

Consequently, there has been a massive push by the Indian government to encourage Renewable Energy (RE) investments. The union and state governments are increasingly incentivising RE projects by providing exemptions[5] in the form of tax rebates, subsidised fees and relaxed procedural regulations.

In March 2016, the union government introduced a new categorisation of industrial activity, termed as "White Industry"[6], based on how much pollution was caused by such activity—the government considers these white industries as "practically non-polluting." This list includes the RE industry, along with 35 other sectors, such as cotton, wool and hosiers making, and electric lamps manufacturing. One of the key aspects of the new categorisation is that these industries are exempted from a mandatory statutory requirement to assess their impact on the environment and people. White industries would no longer require the consent of central and state pollution-control boards for their operations.

Experts say that India has made considerable progress over the years by achieving a target of 200 GW as of October 2024. But to achieve its 2030 target, it must install 50 GW per year. The Ministry of New and Renewable Energy (MNRE) estimates that a solar plant requires a minimum of 4 acres[7] of land to generate one megawatt (MW) energy. This puts a lot of pressure on a scarce resource—land.

The acquisition of private land, for any purpose, is a time-intensive process, with several procedures to be followed. To bypass this, state governments have been facilitating the takeover of available[8] common land for RE projects, as this category of land has little or no policies governing it.

Common land, however, is land that has been historically used, and collectively managed, by communities for livelihood and cultural sustenance. Constituting a quarter[9] of India's land, common land also harbours rich biodiverse areas. It is not owned or controlled by any private person. In government land records, common land is mostly categorised as “government land,” “wasteland,” or “barren and grazing land.” These tenurial records are marred by discrepancies and inconsistencies, and often lack data on the current usage of land, including the traditional rights and practices that communities exercise over such lands—records were last updated[10] in 1998.

Land Conflict Watch (LCW), in collaboration with the Queen Mary University of London (QMUL), is conducting a study that aims to estimate the extent of land related conflicts being caused by large-scale solar and wind energy projects. For this purpose, the LCW team is collecting and monitoring data from 31 sites of conflicts that were identified using the LCW database[11]. The data is conservative as our methodology covers only those conflicts which have been reported in news or any other documented form.

Several studies in the past have focussed on the social and environmental impact of individual RE projects. A key challenge in assessing the underlying reasons for conflicts being caused by large-scale RE projects, and their impact on the quality of life of local communities, is the lack of socio-economic and environmental data, related to the project sites, in the public domain. Exemptions from Social and Environmental Impact Assessments (ESIAs) further impede the collection of such data before deciding on changing the land use at project sites. The absence of such data makes it difficult to accurately identify the policy gaps and business practices that trigger land conflicts at these sites and assess the impact on the affected communities and the investments

Hence, the ongoing study by LCW and QMUL is attempting to go beyond site-specific particulars, in order to identify common issues, patterns and trends across conflict sites. This will enable a deeper understanding of underlying policy issues and challenges. To this end, we are releasing an interim report that points to the trends emerging from these 31 conflicts.

The LCW team is currently in the process of conducting detailed surveys at 10 sites project sites, picked from the pool of 31 conflicts selected for the study, to collect additional information and inputs of affected communities that could be instrumental in crafting evidence-based policy recommendations to minimise and mitigate conflicts due to RE projects. This would achieve the goal of a just energy transition where communities, who shoulder the burden of this transition, also benefit from the green economic growth.

SECTION TWO

RESEARCH METHODOLOGY

A land conflict is defined as any instance in which the use of, access to, ownership of and/or control over land and its associated resources are contested by two or more parties, and where at least one of the contesting parties is a community (group of families). Land conflicts between two private parties are excluded unless the particular conflict has a larger underlying public interest.

The report analyses several data points including the type of land involved, its significance to the affected people, their demands, legal processes involved, status before the court and stage of projects and how it affects the investments involved.

We have eveloped peer-reviewed protocols and standards for data collection, research and analysis. These were fine-tuned with the help of academicians, researchers and practitioners working in the field of land governance. LCW collects data on 69 quantitative and qualitative parameters for every land conflict it maps.

These parameters include information on the people impacted; area under conflict; type of economic activity undertaken on the land; land tenure systems; the parties involved and their demands and contentions; the significance of the land to communities; the legislations and judicial pronouncements involved; legal loopholes and procedural violations associated with the conflict; and other location-specific characteristics.

A cross-referenced narrative summary of the conflict also documents why and how the conflict emerged and evolved. If a conflict ended or was resolved eventually, LCW records the reasons behind its closing or resolution. A conflict is marked as resolved if the affected communities' demands are met or when a settlement is reached between the affected party and the other stakeholder. It is marked as closed when there is no development in the case for a period of three consecutive years. LCW gathers and maintains the requisite evidence to support the data; this includes official, administrative and legal records pertaining to the conflict. This information is complemented by interviews carried out by LCW field researchers, who source additional information from the affected parties.

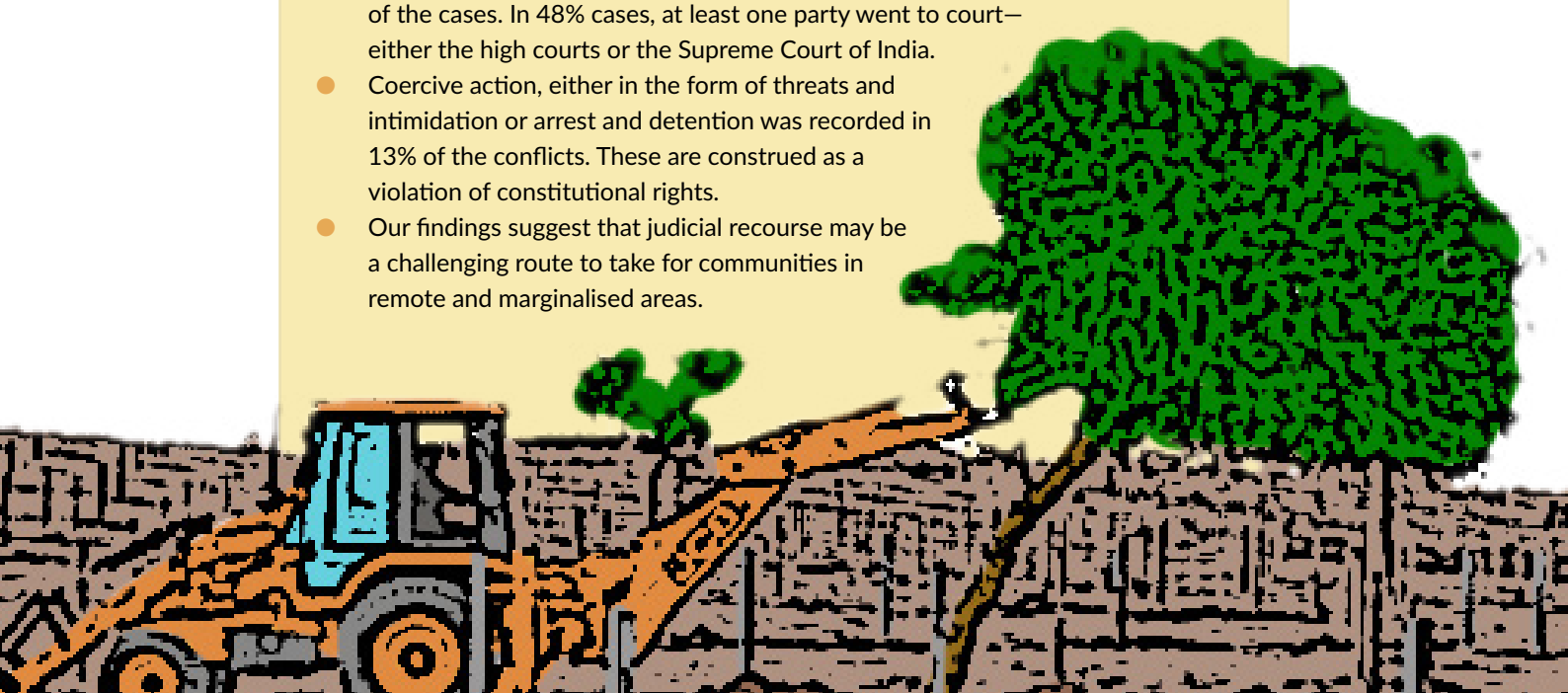
The LCW team consists of field researchers, coordinators, reviewers, legal researchers and data analysts. Each of them has clearly defined roles in the process of conflict identification, data collection, verification and analysis. The research uses specific terminology and definitions oriented towards field research and the subsequent analysis of land conflicts. (A detailed methodology of how LCW collects and verifies data[12].)

SECTION THREE

SUMMARY OF FINDINGS

The 31 case studies of ongoing land conflicts caused by large-scale RE projects were recorded and studied across 10 states in the country. Here are some key patterns emerging from this analysis:

- Rajasthan accounted for one fourth of all the recorded conflicts under review.
- Common land accounted for the highest incidence of conflicts driven by RE projects, with 48% of conflict cases situated wholly on such land. Conflicts that involved both common and private land stood at 32%.
- All the conflicts under review are located in rural areas. In addition, the highest incidence of conflicts, at 54.8%, is situated on land used for agricultural purposes.
- The main demand of communities affected by conflicts caused by RE projects is to retain or protect access to common land, recorded in 44% of the cases under review.
- In 29% cases, the projects were completed but protests continued. In another 29% cases, upcoming projects were facing protests. At least five projects have been stalled due to protests. In one case, the RE project was scrapped due to protests.
- In terms of contentious legal issues, lack of consultation with affected communities, before the land was awarded to projects, was recorded in 45% of the conflicts.
- The affected communities did not seek intervention by the court in almost 52% of the cases. In 48% cases, at least one party went to court— either the high courts or the Supreme Court of India.
- Coercive action, either in the form of threats and intimidation or arrest and detention was recorded in 13% of the conflicts. These are construed as a violation of constitutional rights.
- Our findings suggest that judicial recourse may be a challenging route to take for communities in remote and marginalised areas.



SECTION FOUR

FINDINGS

FROM THE DATABASE

The 31 case studies under review were recorded and studied across 10 states in the country. In each case, the communities were affected due to RE projects. Out of the 31 conflicts, seven conflicts had been resolved or closed at the time of publishing.

The 31 conflicts affected 43,946 people, and were spread across 32,410.14 hectares of land. The state of Rajasthan recorded the highest number of conflicts, a total of eight—out of these, two conflicts had been resolved or closed.

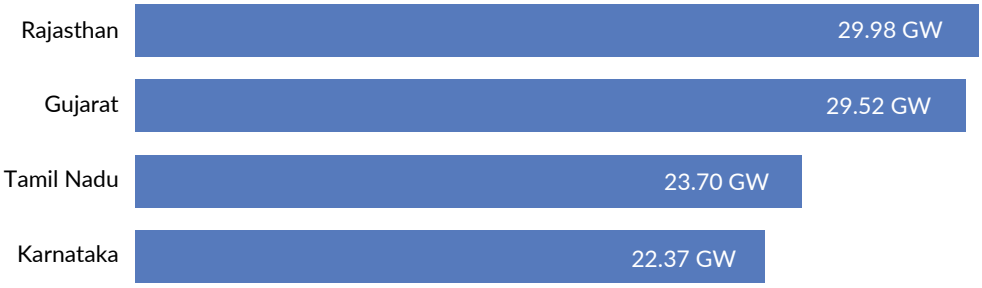
DISTRIBUTION OF CONFLICTS ACROSS STATES

Rajasthan, Gujarat, Tamil Nadu and Maharashtra saw a larger concentration of conflicts due to RE projects. In October this year, the MNRE data, on the country's RE generation, revealed that Rajasthan, Gujarat, Tamil Nadu are India's top performing states in terms of renewable power.

Table 1: Distribution of Conflicts across States

State	Conflicts
Rajasthan	8
Gujarat	6
Tamil Nadu	3
Maharashtra	3
Madhya Pradesh	2
Kerala	2
Karnataka	2
Assam	2
Andhra Pradesh	2
Odisha	1
Grand Total	31

Figure 1: States Driving India's Renewable Energy Capacity



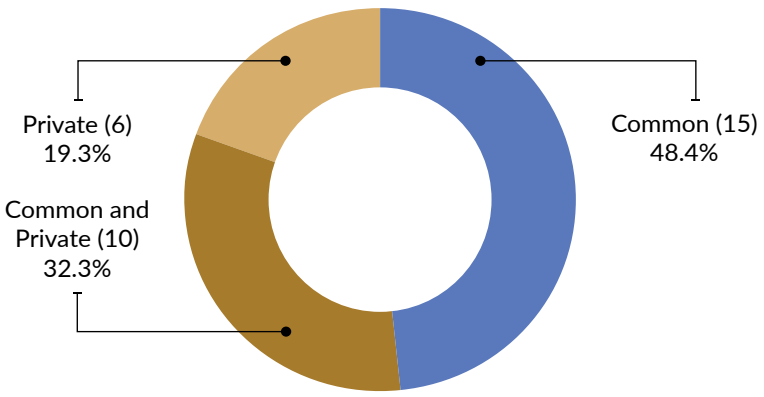
Source: PIB, As of 10 October 2024

TYPE OF LAND AFFECTED

LCW uses the type of tenure of the land—private, common and those which involve both—to further classify and analyse conflicts. Conflicts involving commons often see an infringement of the affected community's right to access common land.

Conflicts persisting over common lands are often caused when the authorities do not recognise traditional rights enumerated in Acts, such as the Forest Rights Act, 2006[13] (FRA) and the Panchayat (Extension to scheduled Areas) Act, 1996[14]. An analysis of the 31 recorded conflicts reveals that conflicts situated wholly on common land accounted for 48% of the cases (15), while the ones that involved both common and private land stood at 32% (10 cases). As is evident, common land is the most affected type of land.

Figure 2: Type of Land Affected



SIGNIFICANCE OF THE LAND TO THE COMMUNITIES

Documentation of the significance of the land to communities shows the variety of ways in which communities utilise the affected land. The land could be of economic, environmental, religious or cultural significance. With dependence ranging from agricultural and residential use to grazing, communities are directly or indirectly dependent on land for their livelihoods. A single conflict might record more than one significance of the affected land, thus these categories overlap in several conflicts.

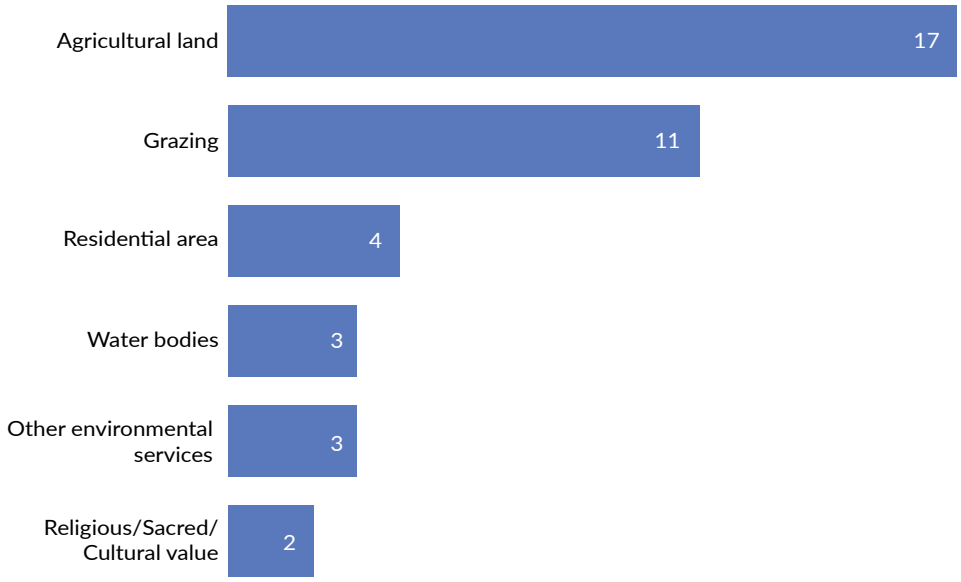
All the recorded conflicts in the LCW database were situated in rural areas. In most cases, the communities had been occupying the land for generations without tenurial protection and legal proof.

As per the LCW database, the communities in the affected area had been using the land for various purposes such as agriculture, grazing, residential and environmental services. In 54.8% of the cases (17 conflicts), affected communities used the land for agricultural purposes. The second most recurring use was grazing, recorded in at least 35.4% conflict cases (11).

For instance, in Rajasthan's Bhimsar village, a solar project[15] was installed on land that was notified as "wasteland" in the land records. But the land had tubewells and water catchments and was used for agricultural purposes by surrounding communities, who vehemently opposed the project.

The land included Orans that is considered sacred by communitie s in Rajasthan. In two conflicts, communities protested against the setting up of RE projects in Orans, as the fencing for the project threatened their access to the sacred land.

Figure 3: Significance of Land to Communities



DEMANDS AND CONTENTIONS OF THE AFFECTED COMMUNITIES

The LCW database records demands and contentions with respect to the ownership, control, use, access to or transfer of the land, articulated by the communities directly involved in land conflicts. This data is recorded based on the community's actions and voices documented on official and public forums. A community could have multiple demands and contentions in a conflict, and thus these categories overlap in several conflicts.

The two most prominent contentions raised by the communities were: the demand to retain or protect access to common land in almost 42% of the cases (13), and the demand for legal recognition of land rights, which was also recorded in 42% of the cases (13). Further, 35.4% cases (11) involved complaints by the communities against procedural violations. Some of these violations included the lack of consent of the gram sabha under the FRA, and insufficient notice period given to communities, which amounts to forced eviction.

One of the most egregious examples of a conflict caused by procedural violations was recorded in Kerala's Palakkad, where tribal lands were transferred in violation[16] of Kerala's Tribal Land Act, 1975[17]. In this case, a Supreme Court order was circumvented, and the tribal community was misled into transferring land for the project.

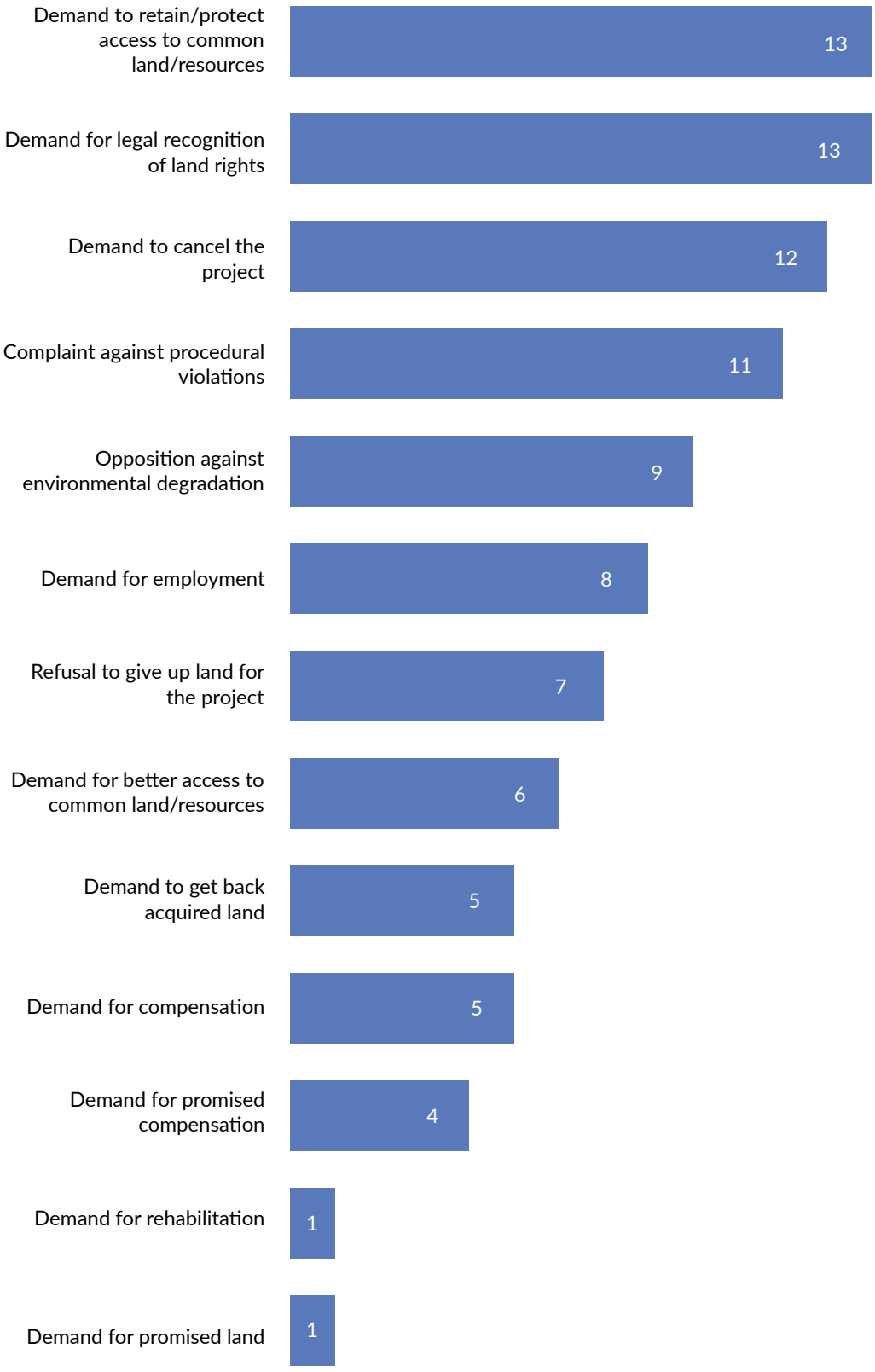
Similarly, in Karnataka's Tumkur,[18] instead of acquiring land under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 (LARR[19]) farmers were made to lease[20] their land for setting up a solar park. This was done by retired government officials, who belonged to the region and were supposedly respected by the people. Envisioned as one of the biggest solar parks in the state, researchers claimed the project ignored[21] conducting Social Impact Assessments and public hearings—a mandatory requirement under LARR.

Another common contention, raised in 29% of the cases (9), was that the project poses a threat to the local environment.

Although the government categorises[22] white industries as "practically non-polluting," LCW's data shows that RE projects have faced criticism for contributing to the degradation of the local environment. For instance, a wind farm in the Western Ghats of Pune, Maharashtra[23] has led to frequent flooding around the area, causing problems for locals. In Rajasthan[24], the Great Indian Bustard(GIB), an endangered species, is rapidly declining due to the overhead power lines of the RE projects in the area.

On 21 March 2024, the Supreme Court constituted a seven member committee[25] to find a balance between the conservation of the GIB and RE initiatives.

Figure 4: Demands of Affected Communities



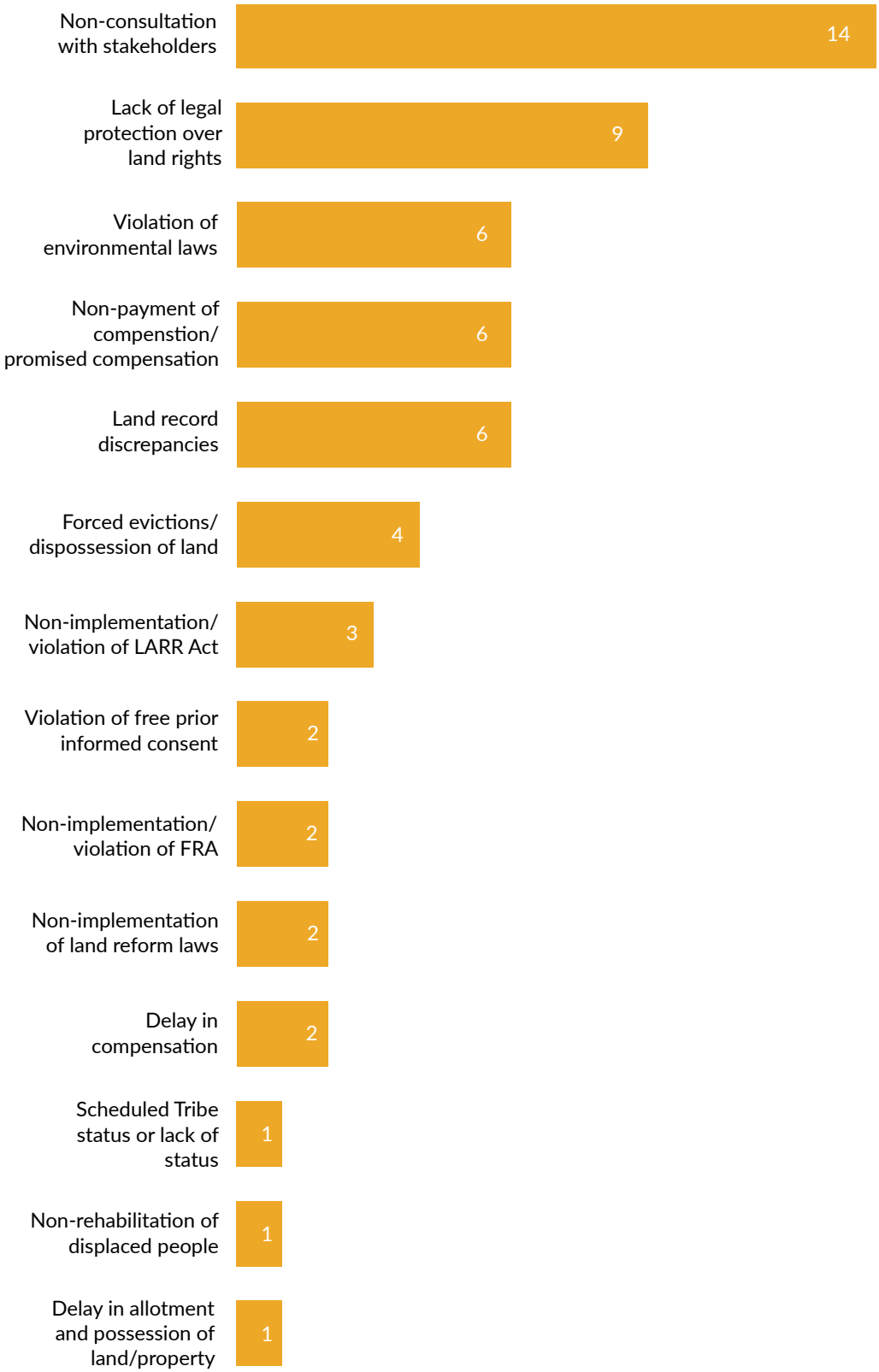
CONTENTIOUS LEGAL ISSUES

Situations and/or issues in a land conflict where a question of law is involved, and which aggravate a land conflict or prevent its resolution, are defined under LCW methodology as loopholes in legal processes. Such situations and issues may or may not be covered under existing legislations; they may also arise out of a violation of laws. There could be multiple legal loopholes in a conflict, thus these categories overlap in several conflicts.
Non-consultation with the stakeholders and lack of legal protection over land rights were the two most recurring legal loopholes. In 45% of the recorded conflicts (14), stakeholders were not consulted. In this context, non-consultation with the stakeholders implies that land holders, communities or the gram panchayats were not consulted before land was allotted to the RE project developers.

Lack of legal protection over land rights indicates either that traditional rights over the land have not been recognised by the law or that legal rights over land have been violated by the state or were not protected by the judiciary. In 29% of the recorded conflicts (9), the communities agitated for lack of legal protection over land rights. For instance, in Rajasthan's Nedan[26] village, common land was changed to a wasteland via an executive order, for a solar park project. The villagers who had been using the parcel of land for agricultural purposes challenged the move and demanded that the status of the same be changed to agricultural land again.

Further, 19.3% cases (6) involved issues regarding violation of environmental laws, non-payment of compensation/promised compensation and land record discrepancies. In Rewa, in Madhya Pradesh,[27] the social and environmental impact assessment (EIA) was bypassed for a mega solar power project, even though the EIA flagged that land acquisition has the potential to disrupt local ecology. Like several Indian states, Madhya Pradesh's RE policy lacks rehabilitation and resettlement provisions, making affected communities particularly vulnerable to displacement.

Figure 5: Legal Processes Involved

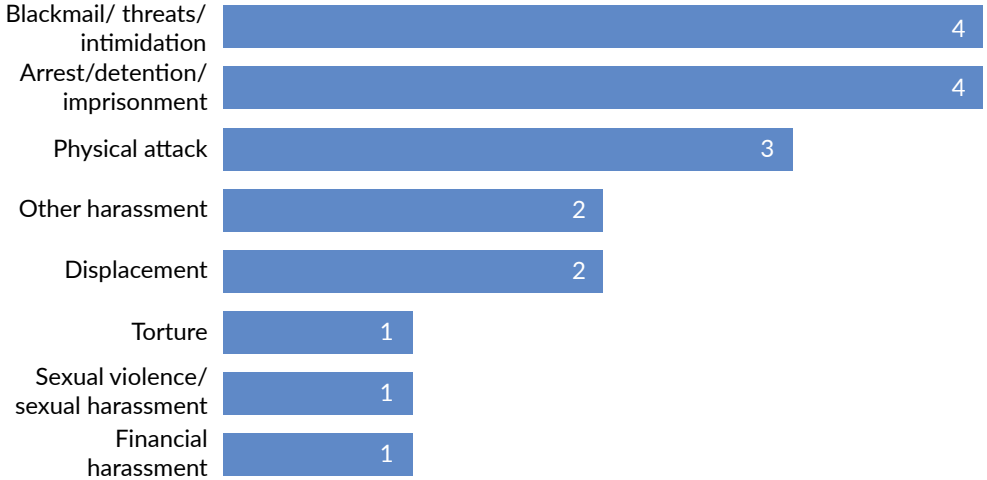


VIOLATION OF CONSTITUTIONAL RIGHTS

Historically, severe land conflicts can lead to violence and the violation of the constitutional rights of the affected people. LCW collects data on instances of such violence or violations, classified by the nature of these incidents. There could be more than one violation of constitutional rights in a single conflict, and thus these categories overlap in several conflicts.

According to the LCW database, violations of constitutional rights were recorded in 25.8% (or 8) of the total 31 cases under review. The most commonly occuring violation was blackmail, threats, intimidation, arrest or detention of those opposing the project, recorded in 13% of the conflicts . For instance, in Neemuch, Madhya Pradesh, community members were detained[28] for 40 days on allegedly false charges of theft. In another conflict in Assam[29], a pregnant woman was kicked by police officers when villagers protested their eviction, leading to a miscarriage.

Figure 6: Violation of Constitutional Rights

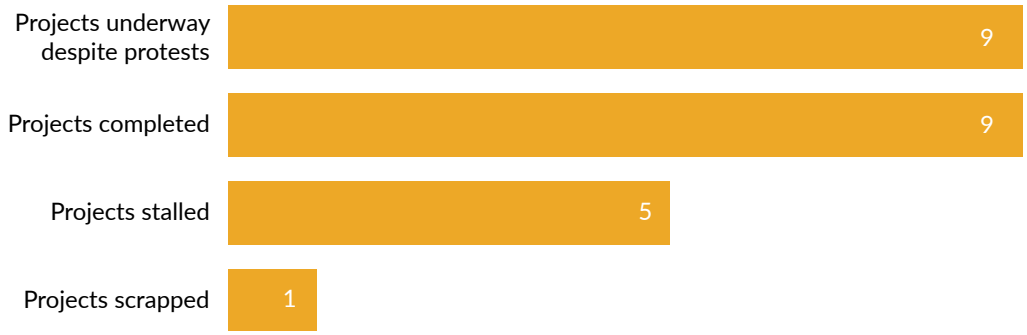


PROJECT STATUS

Analysing the status of projects involved in ongoing land conflicts gives a better picture of the conflicts' impact on projects in these investment-intensive sectors. LCW uses publicly available records to classify whether the projects embroiled in the conflicts are underway, stalled, scrapped or completed. Then, within stalled and underway projects, it identifies delayed projects by recording the original commissioning deadlines of the projects. This helps estimate any cost or time overruns of these projects.

Out of the 31 cases under review, data on status of projects was available for 24 cases. In 29% cases(9), the projects were completed but protests continued. In another 29% cases (9), upcoming projects were facing protests, and another five projects have been stalled due to protests. In one case, a project was scrapped due to protests.

Figure 7: Status of Projects



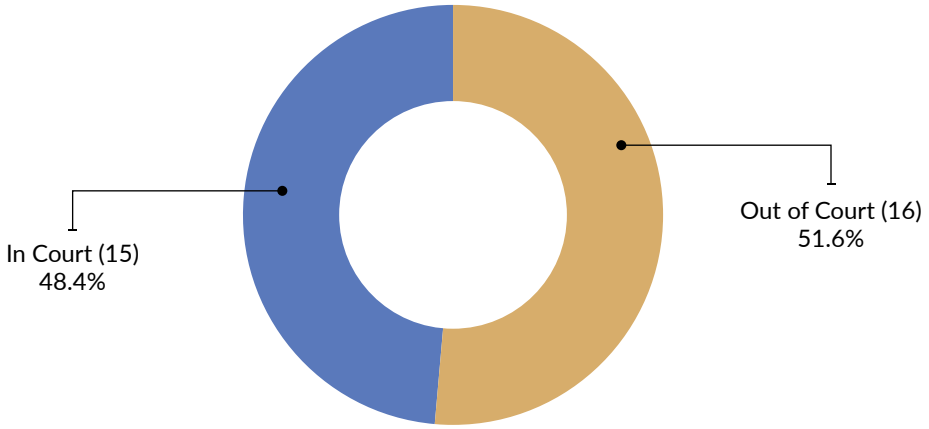
CONFLICTS AND COURTS

At present, the judiciary is the supreme arbiter of conflicts. It is also one of the few means of conflict resolution that is widely considered to be legitimate. Thus, an analysis of litigation in land conflicts can help identify patterns in how the judiciary decides on such conflicts, the effectiveness of the judiciary in resolving these conflicts, the kinds of conflicts that most often end up in court, and the accessibility of the judiciary to the communities that are most frequently impacted by land conflicts.

Out of the 31 cases, the communities did not seek intervention by the court in almost 52% of the cases (16). In 48% cases (15), at least one party went to court—either the high courts or the Supreme Court of India.

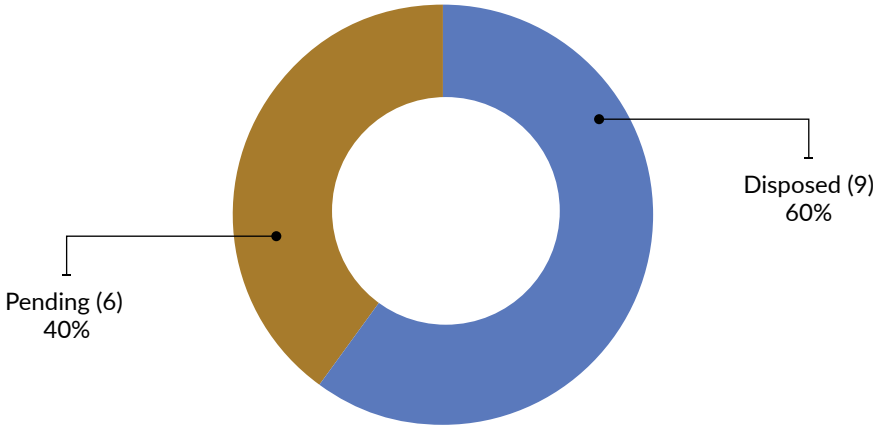
Communities approached the court over allegations of procedural violations in the acquisition or lease of the land, inadequate compensation and to register opposition against environmental or ecological damage.

Figure 8: Legal Status of Cases



As per the LCW database, among the conflicts that ended up taking the judicial route, the courts had disposed of 60% (or 9) of the appeals that came to them. However, out of the nine conflicts that were disposed off by the courts, only three have ended on the ground
.
In one case, th e land allotment in favour of the company was cancelled. In the remaining cases, the question of allotment and compensation was dismissed, either for lack of evidence, death of petitioner, finding of adequacy of compensation, or the court said that it could not interfere in the project. Our findings suggest that, since civil litigation is a resource intensive[30] exercise, communities in remote and marginalised areas might find the judicial route challenging.

Figure 9: Status of Cases before the Court



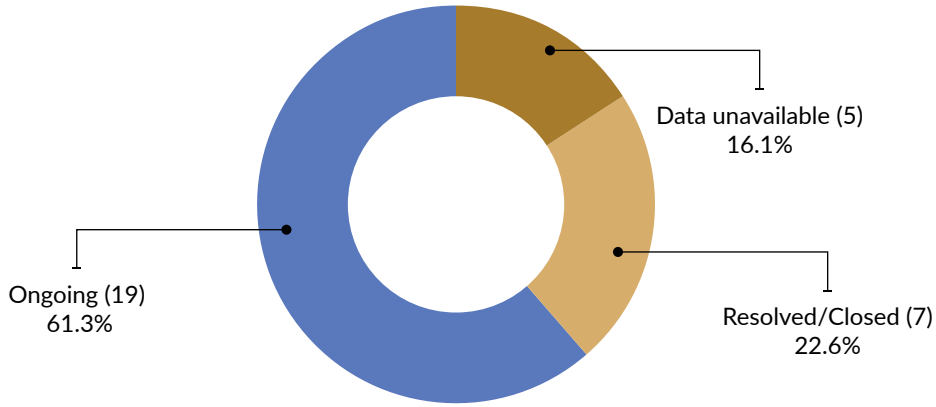
STATUS OF CONFLICTS

Examining conflicts that are either closed or resolved is important to analyse why they emerged on the ground. A conflict is considered “closed” when no development has been reported on the ground for a period of over three years.

This could be because the community decides to no longer protest actively, for reasons other than resolution. In such cases, the contesting parties may or may not have reached a consensus. In case of a “resolved” conflict, the contesting parties are understood to have arrived at a consensus or the original demands of the community have been met.

Of the 31 conflicts, seven conflicts were recorded as resolved or closed in the LCW database. In three cases, the conflict was recorded as closed either because the community was forced to give up its demands or the court decision was not in their favour. On the other hand, in four cases conflicts were recorded as resolved because the project was either cancelled or modified, or the community's original demands were met.

Figure 10: Status of Conflicts



SECTION FIVE

WAY FORWARD

This interim report gives a snapshot of the complex challenges emerging on the ground due to the rush to install large-scale RE projects—an urgency that is seemingly overlooking the social, cultural and economic realities tied with the land. Therefore, it is imperative to further assess the real cost of such conflicts, for the communities and the investments being put in place by the RE industry. It is important to systematically examine and address the issues in conflicts triggered by RE projects, to measure and ensure sustainability for both the communities and the investments pouring in. In order to do so, LCW is building on this data, and conducting extensive surveys on 10 selected sites to assess the following:

- Profiling the people affected by the project—documenting data on their socio-economic profile, including community, class, caste, gender, among other parameters.
- Impact of the project on the people around the site.
- Impact of the project on the flora and fauna of the area.
- Details about the compensation offered to communities.
- How project developers engaged with the communities while setting up the project.
- Whether any benefits were reaped from the project by the communities.

We hope that the information gathered from these surveys will help us design pathways to foster a socially and environmentally responsible transition to RE. Our objective is to collect information from the ground that highlights the importance of ESIAs, and a bottom-up approach to data collection in land-use planning for such large-scale projects.

We wish to showcase that understanding natural, human and capital resources of local communities, including community structures related to gender, caste, class, youth and ethnicity could ensure sustainability of RE projects for all stakeholders. Understanding the affected communities' dependence on agriculture, livestock and other natural resources; their access to land and land tenure patterns; their skills; and infrastructure availability in the region before planning a land-use change, could go a long way in planning and implementing a just energy transition.

Our research will hopefully lead to policy measures that can incentivise community participation, social dialogue and adequate representation of the affected communities in decision making related to land use. We also hope that the research will be able to suggest measures to ensure inclusive and fair land transactions. Steps such as legal mechanisms that prevent fraudulent land deals, and empowering communities with financial literacy for effective and equal negotiations would go a long way to achieve these goals.

SECTION SIX

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APPENDIX A

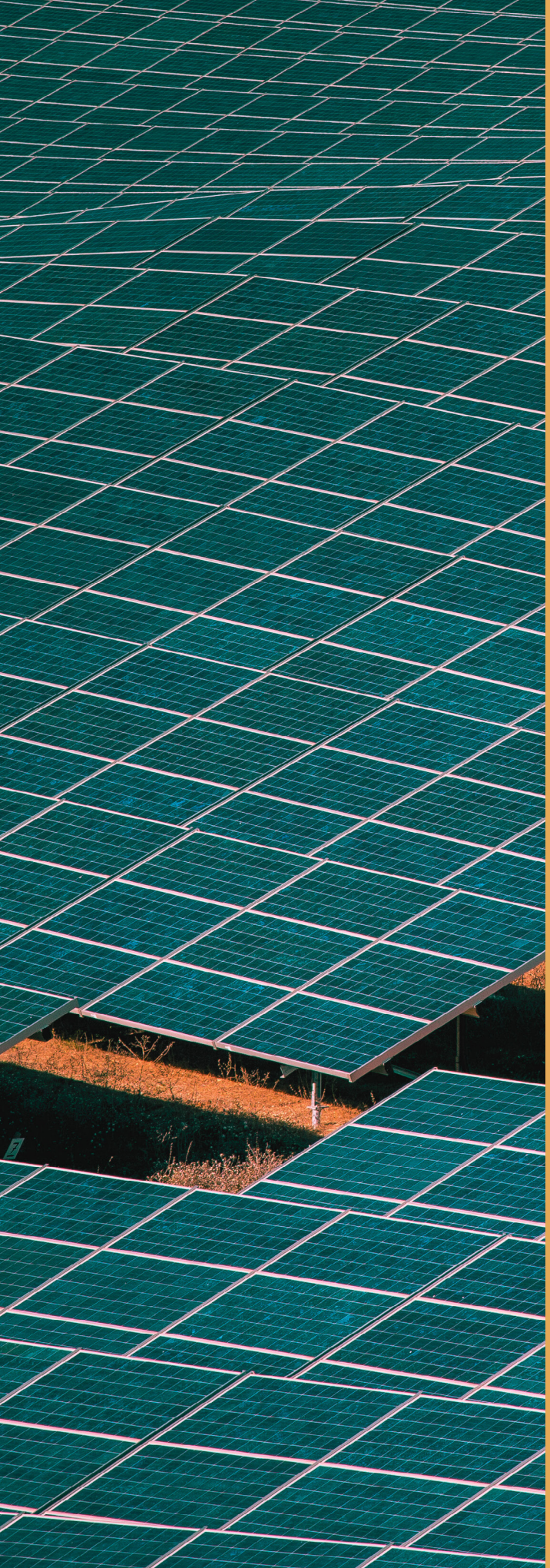
LIST OF CONTRIBUTORS

- Anupa Sagar Kujur
- Aishwarya Mohanty
- Anupriya S
- Deepak C N
- Dr. K.H. Amitha Bachan
- Kuber Bathla
- Mahesh Deka
- Maitreya Ghorpade
- Malavika Neurekar
- Nayantara Lakshman
- Priyansha Chouhan
- Rahul Maganti
- Rejitha Nair
- Sarup Sinha
- Soumya Pandey
- Suchak Patel
- Sukriti Vats
- Viswanathan Shridhar

Land Conflict Watch

ABOUT LAND CONFLICT WATCH

Land Conflict Watch (LCW) is a multidisciplinary research agency that generates data and insights to address systemic issues underlying natural-resources transactions to minimise risks of businesses and socioeconomic vulnerabilities of communities. It has built the country's first and largest database of ongoing land disputes in which the public, or particular communities, are contesting changes in land use or ownership. These conflicts have been mapped on the LCW portal (https://www.landconflictwatch.org).



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Queen Mary University of London