

Dialogue on Land, Conflict, and Investment Risks in India

Organized by

Rights and Resources Initiative

in conjunction with

National Council of Applied Economic Research

September 3, 2015

New Delhi, India

Overview

India's increasing energy, industrial, and development needs require a substantial transformation in land use,¹ impacting millions of customary users of land. It is evident that India has not been able to address the contradictions arising out of these transformations, as indicated by an increasing number of land related conflicts in the country. Almost all these conflicts, with severe economic and human costs for local communities, arise from state takeover of lands, often on behalf of private investors.

The prevailing discourse on the land-conflicts remains focused on the political and economic risks of these conflicts, while paying little attention to the risks arising out of conflicts for investors, companies and the financial and banking system. Indian banks' health has been deeply affected by NPAs,² and a large portion of these NPAs as well as "restructured loans" are in the infrastructure sector, where issues of land availability remain a major bottleneck. Indeed, a link can be drawn between the instability of India's banking system and the ongoing land related conflicts affecting commercial, industrial and infrastructure projects. This critical aspect has been largely absent in the appraisal of investments by investors and banks and has also been ignored by regulatory institutions.

¹ One study estimates that the requirement for land for development projects would be more than 11 mha (Gopalakrishnan, 2012). However, the study doesn't take into account the land needed for urban expansion.

² Non-Performing Assets (NPAs) have increased in comparable to the net worth of all the public sector banks combined, and it now appears that it will require a massive injection of capital from the government if public sector banks are to meet Basel III norms.

A central theme in India's land related conflicts are the unclear and uncertain land tenure regimes. This specifically applies to almost 100 million hectares (mha)³ of "state owned lands," which, while on paper are legally unencumbered, in reality have both customary rights and usage rights exercised by thousands of communities. In cases such as Vedanta, POSCO, Mahan,⁴ and many others, the transfer of these lands for mining, industrial and infrastructure projects has led to major conflicts, creating risks for investments and thereby for the larger financial systems. In this, India is not unique. Global scale studies clearly demonstrate that this problem is endemic around the world and that there is little appreciation within financial systems of the investment risks posed by insecure and uncertain land rights.

How India as a country responds to her growing development needs and challenges will determine whether she rises as a global power or instead continues to consign hundreds of millions of its residents – including approximately 100 million tribal people – to further deprivation, displacement, and dispossession. Specifically, India's future will be decided by whether we can find effective answers to questions like what happens to the hundreds of millions who depend on lands needed for development, and how can we mitigate the investment risks from land related conflicts. This one-day dialogue will explore the way forward on this critical issue by combining insights from global level and India level analysis.

Objectives

The objective of this one-day dialogue is to learn from global and Indian analysis on the risks of insecure land tenure to investors and financial systems. The event will provide an opportunity to decipher lessons to be learned from the rest of the world to address the challenges associated with obtaining land for industries, commercial purposes and infrastructure in the Indian context, and to discuss how risks arising out of uncertain and insecure land tenure can be mitigated.

Target Audience

The target audience for this one-day dialogue will comprise of a diverse set of stakeholders including: **financial and regulatory institutions** in order to take cognizance of investment risks arising from insecure land tenure; **companies and investors** towards the mitigation of financial risks and avoidance of conflicts that delay investment projects; **civil society organizations** working with affected communities to find rational ways of avoiding conflicts and to protect the rights and interests of local communities; and **economic and financial analysts** in order to help develop new analyses dealing with the challenges created by the substantial shift in land use to meet India's growing development demands.

The event is invitation only.

³ These include 75 mha of land classified as legal forests, more than 10 mha of pasture lands and various categories of land classified as revenue wastelands and other categories controlled by Revenue Departments. These lands also constitute the commons for the hundreds of millions of marginalized ecosystem people.

⁴ Forest lands claimed and used by local communities in the case of POSCO, Vedanta, and Mahan.

Background Resources

The main background resources to be discussed at the dialogue are:

- i) [Policy Brief on the Growing Threats to India's Financial System](#) (2014)
- Rights and Resources Initiative
- ii) [Communities as Counterparties](#): Preliminary Review of Concessions and Conflict in Emerging and Frontier Market Concessions (2014)
- The Munden Project
- iii) [Global Capital, Local Concessions](#): A Data-Driven Examination of Land Tenure Risk and Industrial Concessions in Emerging Market Economies (2013)
- The Munden Project
- iv) [The Financial Risks of Land Tenure: An Investment View](#) (2013)
- The Munden Project

Structure of Event

The one-day Dialogue will comprise of two sessions, in addition to an introductory session. Each two-hour session will begin with framing presentations focusing upon key discussion issues, followed by comments from expert panelists, and will end with a plenary discussion. The first session presentation, on *International Analysis of Land Tenure and Investment Risks*, will be delivered by Lou Munden (bio below) who heads TMP Systems (formerly The Munden Project). The second session presentations, on *Land, Conflict, and Investment Risks in India* will be given by Kundan Kumar, Director, Asia Program at RRI and Dr. Arun Agrawal, University of Michigan School of Natural Resources & Environment.

Proposed Agenda

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**September 3, 2015
The Claridges, New Delhi**

12-1 pm	Introduction and Welcome • Welcome – Shekhar Shah, Director-General, NCAER • Introduction to Dialogue - Arvind Khare, Executive Director, RRI • Introduction to Participants • Key note address
1-2pm	Lunch
2-4pm	Session 1: International Analysis of Land Tenure and Investment Risks Framing presentation <i>Presenter: Lou Munden – TMP Systems</i> Comments by Panelists Open Discussion
4-4.30pm	Tea
4.30-6.30pm	Session 2: Land, Conflict, and Investment Risks in India Presentations on Risks to Investors and Financial System <i>Presenter 1: Kundan Kumar, Director, Asia Program, RRI</i> <i>Presenter 2: Dr. Arun Agrawal, Professor, University of Michigan</i> Comments by Panelists Open Discussion
6.30-6.45 pm	Wrap-up – Arvind Khare, RRI
7 pm	Reception

About the Speakers

Lou Munden – TMP Systems (formerly The Munden Project)

Lou Munden is the founder of TMP Systems – formerly known as The Munden Project – a boutique consultancy that works across asset management, commercial investment systems design in carbon, energy and land use and environmental, social and governance diligence. Lou develops and oversees the company's asset management solutions and has also created numerous systems for TMP Systems' work on climate, ecosystems and economic development. This includes systems for securitization of sustainable agriculture and forestry credit, quantitative analysis of ESG risks and performance-based investment of development assistance capital. His 20-year career as an entrepreneur began with a temporary contract from a Web 1.0 start-up that had just 15 employees. Within two years, he rose to take charge of the company's sales strategy as it went public and eventually attained a market capitalization in excess of \$2.4 billion. Lou left the Internet industry in 1999 with a passion for complex analytical problems. He spent the subsequent decade as a partner and investor in various private finance ventures, designing algorithmic trading systems and creating structured interest-rate products. A resident of Hatteras Island, Lou divides his time between the United States, France, and the Philippines.

Arun Agrawal – International Forestry Resources and Institutions

Arun Agrawal is a Professor at the School of Natural Resources & Environment at the University of Michigan. His research and teaching emphasize the politics of international development, institutional change, and environmental conservation. He has written critically on indigenous knowledge, community-based conservation, common property, population and resources, and environmental identities. His recent interests include adaptation to climate change, urban adaptation, REDD+, and the decentralization of environmental governance. He coordinates the International Forestry Resources and Institutions network, and is currently carrying out research in central and east Africa and South Asia. He is the author of *Greener Pastures* and *Environmentality*, and his recent work has appeared in *Science*, *PNAS*, *Conservation Biology*, *World Development*, and *Development and Change* among other journals. Arun received his Ph.D from Ph.D. in Political Science from Duke University

Dr. Shekhar Shah – National Council of Applied Economic Research (NCAER)

Dr. Shah is the Director-General of NCAER. Prior to joining NCAER in 2011, he was Regional Economic Adviser for South Asia for the World Bank, and based in New Delhi and Colombia. His career with the Bank spanned 20 years, beginning as its Deputy Research Administrator in 1989. At the Bank, he was a principal author of the influential 2004 World Development Report, *Making Services Work for Poor People*. Dr. Shah earlier worked in the financial services industry in Washington D.C. in the 1980s, and in 1984 moved to India to become the Ford Foundation's Program Officer for International Economics and International Relations for South Asia. He has published and lectured widely on issues relating to service delivery, governance, poverty, international trade and investment, social policy, aid, and monitoring and evaluation.

Arvind Khare – Executive Director, Rights and Resources Initiative (RRI)

Arvind is a natural resources management specialist with about 25 years of experience in the non-profit, corporate and public sectors. During this period he made significant contributions to the critical examination of poverty-environment linkages, initiated a number of innovative rural development projects and was involved in social risk assessment of development investments in India. His work has also involved the development and analysis of policies in infrastructure, forestry, tribal development, social development and watershed sectors for the state and central governments of India, infrastructure financial institutions, private and public sector enterprises, non-government organizations, bilateral and multilateral development institutions. He chaired the External Advisory Group of the World Bank on Forest Sector Strategy Implementation from 2005-2006.

Kundan Kumar – Rights and Resources Initiative (RRI)

Kundan is Director, Asia Program at RRI. He worked with NGOs and National Bank of Agriculture and Rural Development (NABARD) in India on community forestry, bank financing of forestry projects, watershed development and micro-credit. He has also been closely involved with social and environmental mobilizations in India, including the enactment of India's landmark Forest Rights Act. Prior to joining RRI in 2014, he worked as a faculty member in University of Toronto for five years, teaching and conducting research on forest governance (specifically forest tenure), environmental justice and social movements. He has published work in natural resources governance, forests and land tenure and social and environmental movements. Kundan has a PhD in Resource Development (2010) from Michigan State University and a Post Graduate Diploma in Forest Management from Indian Institute of Forest Management (1990).