

3. To develop a data base and indicator verifiers to improve the access to information by concerned stakeholders, including those who are poor and excluded from access to land.
4. To develop monitoring mechanisms in respect of land governance and land reform planning

3. Methodology

The following steps were adopted to identify the CSO monitoring indicators;

1. Brain storming sessions with the CSRC team and an external consultant in order to identify key aspects, variables, possible indicators, and verifiers as well as sources of data information.
2. Collection of relevant data and information
3. Consultation workshop, a half day workshop was organized with alliance members, GO/NGO partners to share the draft report and discuss the CSO monitoring mechanism
4. Preparation of a final report
5. Forwarded document to ANGOC/ILC Asia and other concerned organisations for further input
6. Incorporate input from ANGOC/ILC Asia and other concerned organisations
7. Share the final report

4. Status of land reform in Nepal: an overview¹

Nepal is a land scarce country. Only about 21% out of the total area of the country (147,181 sq km) is cultivable. Agricultural land (2,498,000 ha in 2001) is distributed across three different ecological belts. The mountain areas account

¹ Reviewed USAID, MOAC and other sources

for 6.8% of available agricultural land and 7.3% of the total population of Nepal; hills 40% of available land and 44.3% of the population and the terai 52.9% of the land and 48.4% of the population. The average land holding size is 0.96 ha with 32.1% of households being landless (CBS, 2002: 45). Out of the total land holdings, 1.4% landowners own 14% of arable land. Of the total cultivable land, about 9% is under the tenancy system (CSRC, 2005).

In the absence of successful land and agrarian reform in Nepal, the historical injustices in land distribution and exploitative relationships inherent in a feudal agrarian system remain intact. The continued existence of these systems is a significant factor in maintaining low levels of production and productivity on farm land. The issues of land and agrarian reform have become much more contentious in the absence of opportunities to expand land for cultivation and the continued division of land holdings amongst those who inherit it..

The distribution of land is very unequal. For example, 47% of land-owning households own only 15% of the total agricultural land with an average size of less than 0.5 ha, whilst the top 5% t occupies more than 37% of the land. Inequality in land distribution as measured by Gini Coefficient was 0.544 in 2001 (CBS, 2006). About 29% of households do not own any land (UNDP, 2004). About 80% of the indigenous populations are marginal landowners, owning less than 1 acre, or small cultivators owning 1-2 acres. Most Dalits are landless (around 44% in the terai, 22% in the hills). The gender dimension of land distribution is even more critical with men owning 92% of the land holdings (Adhikari, 2008). Furthermore, the analysis of the trend of change in land ownership in the past five decades (1961-2011) reveals the following points:

- Number of holdings more than doubled in the last 40 years, mainly because of population growth and continuous dependence of people on land.

- Cultivated land area increased very marginally, especially in the last two decades.
- The average land holding has been consistently declining, and it reached 0.8 ha per family in 2001, and further declined to 0.6 ha in 2009 (CBS, 2009).
- Land fragmentation is another problem in the country. There are about 3.3 parcels in each land holding, and the average size of a parcel was 0.24 ha in 2001. Such a small size of a parcel is also not conducive when using modern inputs, especially when building infrastructure such as irrigation facilities.

The land distribution pattern and unequal access to land for many peasant and landless people are at the heart of widespread poverty. High rates of poverty are still seen amongst marginal and landless farmers. Access and ownership of land is vital to food production as well as to make the most of other opportunities provided by the market. Agrarian reform is therefore essential if poverty is to be reduced.

The realization of land distribution was seen as early as the 1950s. The period 1950 to 1960 saw a plethora of Land Acts and Policies implemented to bring back land previously distributed to some elite ruling families. Forests were nationalized, as was pasture and some other natural resources. In 1964 the Land Act, 2021 was introduced with the aim of reducing inequality in the distribution of agricultural land. This act sought to fix ceilings on the amount of land that an individual could own, to protect the rights of tenants through registration, and to fix rent on agricultural land. However without any significant progress, this law has now been amended six times. The most important are the fourth and the fifth amendments.

The Fourth Amendment (1997) made provision for apportioning 50% of the land hitherto cultivated by a tenant between the tenant and the land owner, in order to ensure that tenants became owners of cultivated land.

Subsequently tenancy rights were abolished. This brought an end to the dual-ownership of land, which was a constraint to increasing production. A six months' notice period was given for tenants to claim their rights, but it is being argued that a large number of tenants in Nepal are not registered², and that they suffered as a result of the fourth amendment. The fifth amendment that came into force in 2001 and has reduced the ceilings whilst retaining the provisions of the Fourth amendment. However this was not implemented for a long time owing to a court case which halted the program, citing that it violated property rights, which were enshrined in the then constitution. Recently, the court has given an order to the government that this needs to be implemented. However, in reality there is not much land (officially registered) that is above the ceiling initially proposed in 2001.

The Government of Nepal instituted land reform commissions in 2009 and 2010, both of which produced land reform reports, which were made public in 2011. The recommendations are praised by all stakeholders but there remain doubts about implementation.

5. Land reform: Key variables and indicators

5.1. Input indicators

To assess the inputs in land reform, three main indicators have been identified; legal framework, budget share and allocation, and international conventions and the commitment of the country.

5.1.1 Legal framework

Nepal is in the process of revising its legal framework governing land rights, with adoption of a new framework

² The number of these unregistered tenants is thought to be 0.45 million (CSRC, 2007).