

Nepal



National movement on women's land rights held in Kathmandu, 2010.
Photo by CSRC

Women in Nepal face all kinds of debilitating discrimination from birth until death. Indeed, the mainly patriarchal society treats its women as second-class citizens. This is why women, who comprise a little more than half of the total population, are routinely deprived of basic services such as education, health, and social welfare.

The level of discrimination varies across classes, castes, ethnicity, customs, as well as regions. But on the whole, women occupy a lower position than men.

According to the Nepal Living Standards Survey 2010-2011, 71.6% of men are literate versus just 44.5% for women. That less than half of women in Nepal have some form of education is attributed to the fact that sons are considered the future caretakers of their parents, and thus have to be equipped with adequate knowledge.

Status of women's land rights

This discrimination extends to the issue of land rights. This vital asset is left mainly in the hands of the head of the household, such as the father, father-in-law, or husband. Thus, women only manage to gain hold of land either through their husband or father. According to Muluki Ain Eleventh Amendment Act, 2058, the daughter can inherit parental property when she reaches

Condensed from Scoping Study on Women and Land Rights in Nepal by Community Self Reliance Centre (CSRC). For more details of the study, contact: jagatb@csrcnepal.org.



The Muluki Ain Eleventh Amendment Act, 2002

The Muluki Ain Eleventh Amendment Act mainstreaming Gender Equality to some Nepal Acts, aims to ensure the rights of women in the country. Some of its provisions are:

- recognizing daughters as heirs of parental property
- recognizing a widow's rights to claim her share of property from the joint family estate after the death of her husband, and to use this property even if she gets re-married
- repealing sections 16 and 19A of the Chapter on Partition of the National Code and establishing exclusive property rights for daughters and married women to use and transfer property obtained through inheritance
- recognizing women's rights to share in their husband's property even before a divorce
- recognizing women's rights to register birth, death, and other personal events
- legalizing abortion with conditions
- recognizing equal terms of inheritance of unmarried daughters and sons

Source: Equal Rights Trust. 2010. National Code (Muluki Ain) 2020 (1963). Retrieved from <http://www.equalrightstrust.org/view-subdocument/index.htm?id=786>.

the age of 35. A wife can also get a share of her husband's property.

But while land ownership by women is dismal – government data shows that as of 2001, women only owned 8.07% of total landholdings (Central Bureau of Statistics, 2011) – they play a big role in Nepal's agriculture.

According to the Ministry of Agriculture and Cooperatives (2009), 72.8% of women are in agriculture versus just 60.2% of men, partly because of the migration of males from the farmland to other countries or to the cities in search of work. This puts a double burden on women, who not only have to handle all household chores but tend to the farm as well.

Land ownership is therefore important for women, argues Ghale (2009). Ownership will not only help improve women's social status and self-esteem, but will also help increase their chances of accessing other means of production and expanding their livelihood options. For one thing, land ownership will allow women to secure credit from financial institutions.

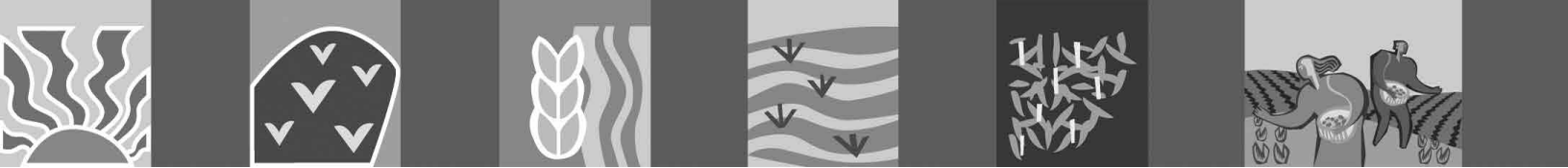
To summarize, the extent of women's access to land varies greatly across different ethnic classes, castes, and locations. What may work with one ethnic group may not be suitable to another, making it difficult to formulate appropriate policies and programs to address the lack of adequate access of women to land.

Nepal as signatory to international agreements

Nepal, however, quickly responded to calls to sign landmark international agreements that seek to uphold human rights, including women's rights.

It has ratified the Universal Declaration on Human Rights (UDHR), the International Convention on Economic, Social and Cultural Rights (ICESCR), the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Labour Organization (ILO) Convention No. 169. The problem, however, lies in the implementation and in putting avowed commitments to women's rights into appropriate action.

For example, while the government has revised many land laws policies like the Birta Abolition Act 1959, Land Survey and Measurement Act 1963, Land Act 1964, Range Land Nationalization Act 1974, Guthi Sansthan Act 1976, Land Acquisition



Act 1977, and Land Revenue Act 1977, no act has been passed addressing the issues of women, the landless, and the poor.

Nepal also committed to the Beijing Declaration 1995, which ensures under Article 35 women's equal access to economic resources, including land, credit, science and technology, vocational training, information, communication, and markets, as a means to further the advancement and empowerment of women and girls.

Feminization of poverty is a significant problem in developing countries like Nepal. Women have limited access to use productive resources and inequitable decision-making power in the household and public sphere.

A landmark law for gender equality

Even the Muluki Ain, or the National Code 1963 which governs inheritance laws as derived from Hindu Law, was revised. Originally discriminatory against women's rights to property, its provisions were changed after women's activists pressured the government into doing so. The resulting Eleventh Amendment Muluki Ain 2002 is considered a landmark legislation for gender equity. Some of the major changes brought about by the revisions are that daughters can now claim the same parental properties as sons; and a widow is fully entitled to inheritance and can keep the property even if she remarries, a change from the previous provision where the rights over property received from the deceased husband are forfeited if the widow is found to be "sexually disloyal" or decides to remarry.

However, some discriminatory provisions remain. For example, a daughter does get a share in the ancestral property, but after marriage, she

is obliged to return this to her father's family. Further, a married daughter is the last in the hierarchy for succession and a woman does not have the right to dispose of her property as she wishes, instead she must get the consent of family members, even if she is already living separately from the family. The law also does not recognize a transaction carried out by a woman concerning her husband's property without his consent.

Also, in the Ninth Plan (1998-2002), the Nepalese government incorporated the policy regarding women empowerment and gender equality. The long-term concept of women's development is the "creation of a developed society on the basis of women's empowerment and gender equality through mainstreaming women's participation in each and every aspect of national development." The objective of the plan is to achieve equality through empowerment of women in the social, economic, political, and legal fields and mainstreaming them into national development. A women farmer development program was also launched to create an environment for equal participation of men and women in family decision-making regarding agricultural development and to provide women with equal rights with regard to land ownership and utilization. It was also during the Ninth Plan that the Muluki Ain was amended.

Customary laws still in force

While there have been these improvements in the legal framework, women have a more serious fight on their hands when it comes to customary laws, which emerge from unwritten social rules derived from shared community values and traditions. These laws in Nepal limit women's rights to land, mainly due to the patriarchal nature of society.



Indeed, in Nepal, women's rights to inherit ancestral land are governed by customary practices or the Muluki Ain, which is derived from Hindu law and customary law. Under the Eleventh Amendment Muluki Ain, daughters and sons have equal rights to inherit land, which challenges the established cultural practices and social norms. However, these provisions are largely not followed. It is still the men who enjoy a favored status.

Sadly, the majority of women in Nepal are not even aware of their rights as enshrined in national laws. The low level of literacy is one culprit and another is the lack of knowledge regarding women's issues. Thus advocacy campaigns have a vital role to play in increasing the level of information available to people.

When it comes to land redistribution, there is still no law or provision allowing this. After the restoration of democracy in 1990, the government gave a higher priority to gender issues in every plan but very few programs were launched to specifically improve women's access to and control over land.

In the Three-Year Interim Plan, for example, government's programs to empower women and promote gender equality focused on public awareness programs against domestic violence and human trafficking as well as skills development and income generation. No significant mention was made of promoting women's rights to land.

Also, while the Government of Nepal ratified several international instruments, the policy frameworks do not conform to these laws. For instance, Article 14 of CEDAW states women's rights over land resources. However, despite Nepal being a signatory to CEDAW, it has not established any concrete policy or program

to fulfill the obligations of such international agreements.

Among the provisions that have been introduced by government is a fee waiver when registering land in the name of women and for joint ownership, but only certain groups of women are actually benefitting from this provision. Rural women, for instance, are not enjoying this benefit due to lack of information.

Similarly, the Land Rights Reform Act 1964 includes provisions for tenant rights, but women tenants hardly qualify to be entitled to land. They only receive access to other programs like education, cooperatives, and health services.

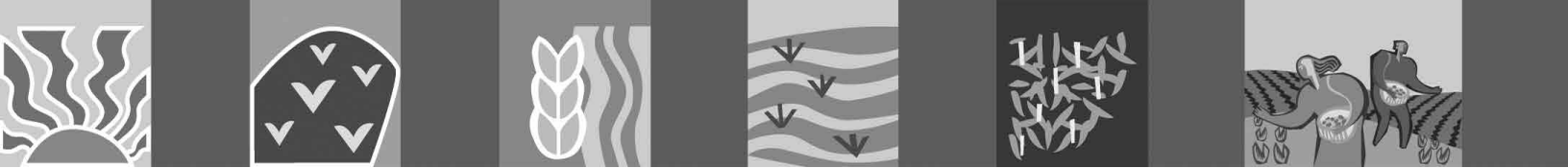
A measure of progress on women's land rights

Some progress, however, has been made.

For example, to increase women's land ownership, the government announced the provision of joint ownership certificates. For the wife, the cost of



Distribution of land certificate in Rasuwa District
Photo by CSRC



“In Nepal, most of the land is registered in the name of the men and rarely do they transfer ownership to the women while they are away. Without ownership, the women cannot access any credit and agriculture facilities.”

this transfer of ownership is 100 Nepali rupees (about \$1). Thus, in 2011-2012, 484 families acquired Joint Land Ownership Certificates covering an area of 118.80 hectares (ha) of land. The government also declared that land titles provide stability and security to women, protect them from marital violence, and enhance their decision-making power.

In its Budget Speech 2011-2012, the Nepalese government also announced that it would grant a discount on land registration if the land is to be registered under the name of a woman. The discounts would range from: urban areas 25%, hill regions 30%, and mountain areas 40%). This has yet to be fully taken advantage of, however.

Pressures now faced by the land sector

As for major developments, issues, and trends that affect women’s access to land, often cited is commercial pressure on land.

Land grabbing is a global phenomenon led by local, national, and transnational elites and investors, as well as governments with the aim of controlling the world’s most precious resources. In Asia

and Africa most especially land is being grabbed for industrial agriculture, mining, infrastructure projects, dams, tourism, conservation parks, industry, urban expansion, and military purposes (DENUNCIA, 2011). In most cases, indigenous peoples, ethnic minorities, and women are expelled from their territories to make way for the needs of corporations and governments.

In Nepal, land grabbing practices adversely affect women’s lives. Rural and indigenous women find themselves struggling to find solutions to cope with the loss of food security and the basic necessities (firewood, water) for their households.

For example, “indigenous women in Nepal continue to face the appropriation of their customary and traditional lands, resulting in loss of customary occupations, livelihood and roles in their societies. Mega-projects such as the Arun III Hydro-power dam are imposed on the lands of indigenous peoples and women face threats from in-migration and loss of control over their lives and their resources” (CSW, 2012).

There is also the unique pressure caused by male migration, which has led to the feminization of agriculture. Men are now leaving the farms in search of livelihoods in the cities or overseas.

Female-headed households were at 14% of the total number of households in 2009, and increased to 25% in 2012 (Sujata, nd), resulting in reduced agricultural production and increased workload for the women. Plus there is the fact that women are constrained by law and by custom from maximizing the use of the land.

In Nepal, most of the land is registered in the name of the men and rarely do they transfer ownership to the women while they are away. Without ownership, the women cannot access



any credit and agriculture facilities. And while they worry about the land, they also have to manage their households. Women also have to cope with the loss of household assets and dealing with resource crises like deforestation and the lack of water.

Improved access to land, technology, and financial resources would contribute a great deal to easing these burdens that the women have to bear.

Assessment of key factors promoting or impeding women's rights

Government

The main government agencies involved in land policy are the National Planning Commission (NPC) and the Ministry of Land Reform and Management (MoLRM). The MoLRM is responsible for ensuring efficient and effective administration and sustainable management of available land resources. The NPC, on the other hand, sets development policies and strategies. It is the central agency assigned to evaluate, facilitate, and monitor development plans, policies, and programs; and to provide a platform for discussion and consultation on economic development.

While there are cultural barriers preventing women from having adequate access to land, the government is doing its part to issue laws and policies to rectify the situation, such as joint ownership and the granting of discounts on the registration of land under the name of women.

Political parties and their impact

Most women's organizations in Nepal are affiliated with political parties. Because of this,

women's issues (or more specifically, welfare-oriented issues) have been generally used to attract votes rather than championed out of any genuine concern for women's issues, least of all their land rights.

In Nepal, there are eight major political parties, which have all declared the improvement of agriculture as their priority.

In the first parliamentary election of 1991, all the major parties focused on ending the existing dual ownership¹, abolishing feudalistic land reforms, ensuring the rights of the tenants over the land, abolishing the bonded labor² tradition, and providing agricultural facilities like irrigation, seeds, fertilizer, credit services, and scientific land reform.

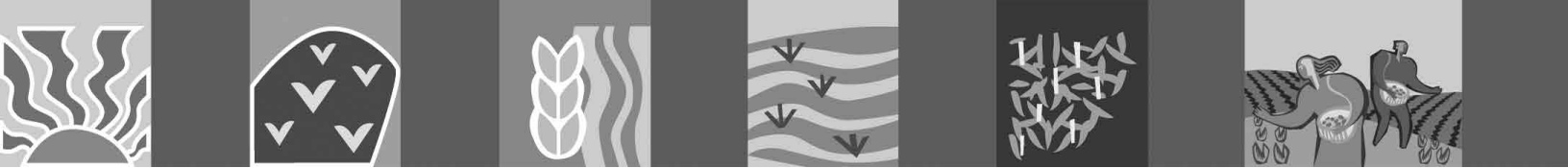
Although women played a vital role in every movement, not one party said a single word on the issue of women's land rights in their manifesto. They only addressed issues such as bonded labor and unmanaged dwellers.

Local authorities

In Nepal, the main actors at the local level are the District Development Committee (DDC) and the Village Development Committee (VDC). VDCs and their staff have supported the campaign for joint land ownership. They have provided recommendation letters on joint land ownership and disseminated information regarding women's right to land and other land rights issues through the notice board, and participated in consultation programs with political parties.

¹ A tenure system where both landowner and holder (tenant) exercise control over land (CSRC, 2012).

² A form of labor where the labor of the person is demanded as a means of repayment for a loan (Anti-slavery International, nd).



Civil society and social movements

That women in Nepal today have an increased awareness of their rights to land can be attributed to the groundwork being done by civil society and NGOs. They are tirelessly working to help women find their voice within the household and to clamor for access and control over vital resources such as land.

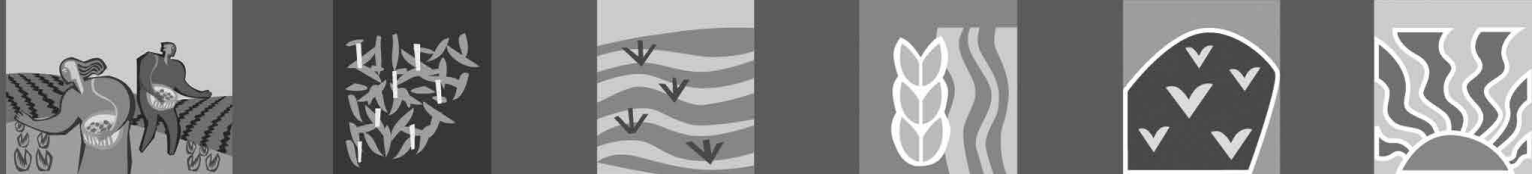
At the local level, for example, the Community Self Reliance Centre (CSRC) and its collaborating partners Abhiyan Nepal, Janachetana Dalit Sangam (JDS), Society Welfare Action Nepal

(SWAN), the Rural Development Society (RDS), the Community Development and Environment Conservation Forum (CDECF), and the Centre for Social Development and Research (CSDR) and along with the National Land Rights Forum (NLRF), the District Land Rights Forum (DLRF), and the Village Land Rights Forum (VLRN), are providing training and orientation on land rights.

They have also conducted land encampments at the local and district levels. For example, a total of 91 land encampments have been held in 53 districts, leading to the education and empowerment of 6,832 landless and tenant



National Conference on Women Farmers in Chitwan District, 2013.
Photo by CSRC



farmers including 3,581 females, 3,530 Dalits, and 2,529 *janajatis* (indigenous peoples). Through land encampment, the landless and women have been able to raise their voices on land rights issues.

CSRC and its collaborating partners NLRF, DLRF and VLRF are also raising awareness on joint land ownership at the local level. Through this campaign, a total of 484 families have acquired joint land ownership covering an area of 118.80 ha of land (CSRC, 2013). Apart from these, Rastriya Mahila Adhikar Manch (MAM) also supports each campaign regarding women's rights to land.

At the national level, CSOs (CSRC, Abhiyan Nepal, JDS, SWAN, RDS, CDECF, CSDR) and people's organizations (NLRF, DLRF, and VLRF) have conducted different campaigns, training, and interaction programs. CSRC also organized a series of policy discussions with intellectuals, parliamentarians, political leaders, and civil society actors regarding the provision in the new Constitution that would protect the equal land rights of women.

Likewise, at the international level, concerned CSOs and people's organizations have participated in consultation workshops, exposure visits, and training. Besides that, the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) and Land Watch Asia are doing policy advocacy, capacity building, networking, and information sharing to help improve the poor's access to land.

Media

The media, meanwhile, play a vital role in increasing awareness of land rights issues through various platforms such as radio, television, and

print or electronic media. For example, Nepal FM 91.8 (Kathmandu), Sungava FM 107 (Mahottari), Shuklaphata FM 99.4, and Krishnasar FM 94 (Kanchanpur) have been broadcasting land rights programs which have helped raise land issues and linked policy discussions at the VDC and DDC level.

Apart from these land rights programs, Public Sanitizations Advertisement (PSA) has also been broadcasting on joint land ownership through FM radio. National newspapers like *Kantipur*, *Nagarik*, and *Annapurna Post* are likewise doing their part to raise awareness of joint land ownership.

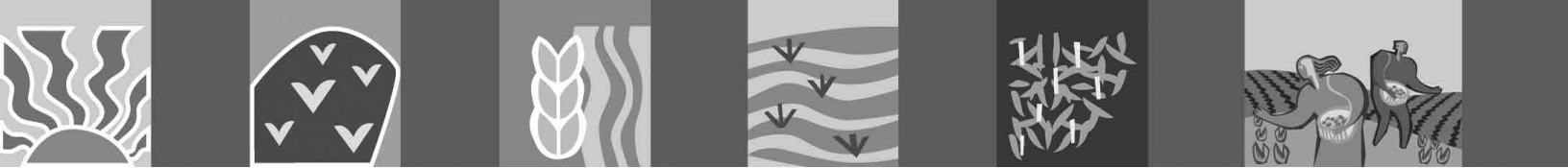
Key opportunities and strategies to advance women's land rights

Strategic interventions

The government allocates a budget to implement major programs like women's development, gender mainstreaming, and empowerment in every periodic plan. However, it has not allocated a specific budget concerning women's land rights. This can be brought to the government's attention.

The Nepalese government launched policies in favor of women's access to land, like joint land ownership, but the implementing guidelines are insufficient to implement the policy on a wide scale. Thus, campaigns can focus on this aspect.

In a patriarchal society, it is inevitable that most of the government officers are male. Their patriarchal mindset still needs to change. Thus it is essential to give gender-sensitivity training to government officials. Without their support, the movement championing women's land rights will not come to fruition.



CSOs are doing media advocacy through different channels like newspapers, radio, and electronic media. However, programs on women's land rights and ownership are limited to only certain stations. This exposure should be widened to cover all 75 districts to create awareness about joint land ownership and women's access to land.

There is also very little research on women's land rights issues. Studies should therefore be done to determine the real situation of women's land right issues. For example, government reforms such as joint land ownership have helped increase the number of women owning land. However, studies need to be conducted to assess if the program is truly benefiting women or has just led to an increase in families' landholdings by using women as a means to circumvent land ownership ceilings.

CSOs and government should work together to campaign for women's rights. It is important to collect gender-disaggregated information on land ownership and use, as well as promote community-based activities on legal empowerment like legal awareness and literacy.

Best practices

After the announcement of joint land ownership certificates in the government's Budget Speech of 2011-2012, CSOs and people's organizations embarked on a massive campaign to build awareness on this program. Through their efforts, the number of women landowners has increased in 53 districts of the country. By mobilizing more frontline leaders and people's organizations, the campaign can be spread throughout the 75 districts.

The government should also be commended for offering a discount on land ownership to benefit

“The Nepalese government launched policies in favor of women's access to land, like joint land ownership, but the implementing guidelines are insufficient to implement the policy on a wide scale.”

the women, but awareness of this should be scaled up to benefit more women.

Community-led land reform is one of the best practices for promoting women's land rights, and should be supported as it is a means for women to discuss matters such as land rights issues, and how to acquire land certificates and do context mapping.

Strategic linkages with institutions or people

Land policy continues to be reformulated and enhanced, presenting an opportunity for CSOs to participate and have their issues reflected in the land policy. People's organizations like NLRP play a vital role in the land rights movement, so it is essential that these groups increase their participation.

Opportunities for civil society

Land rights for women are an emerging issue in Nepal. Donors work in different development sectors but they are gradually realizing that land rights, poverty, and the right to food are all linked to human rights. Therefore, they are becoming more interested in financially supporting



campaigns around the issue of women's land rights.

The advocacy network also has to be strengthened to mobilize frontline leaders and people's organizations and to step up the land rights movement throughout Nepal.

Recommendations

Government

The government should allocate a specific budget to advance women's rights over land. Without such funding support, it is difficult to implement any program for women's land rights movements. The government should also improve the monitoring of the status of women's land ownership through an update of its data. It is also vital that gender-sensitivity training be given to government officers for them to be more receptive to the specific needs of women.

Civil society

When it comes to women's land rights, there is very little existing research and the little that is available tends to be superficial. CSOs should thus invest in in-depth research efforts.

Awareness campaigns must also be targeted not just to the grassroots but to political parties and local government officials as well, since they are in a position to make a difference in the lives of women.

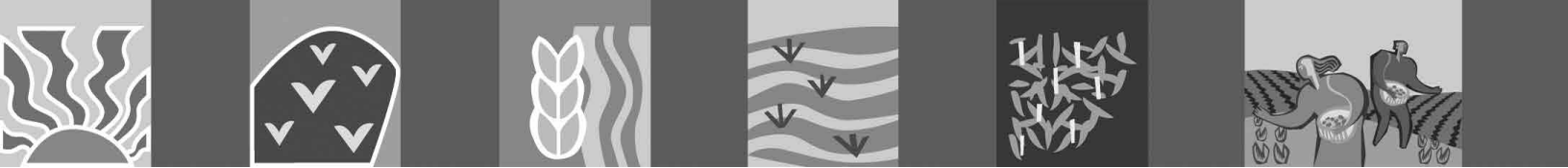
It is also recommended that civil society develop learning centers where women can discuss their land-related issues, do context mapping, and have access to legal education.

Donors

To help broaden the campaign for women's land rights, international donors should work more closely with CSOs that are advancing the fight on the ground. And given their considerable influence, they can also lobby with government regarding improving policy and implementation of existing reforms that can benefit women. They are also urged to consider increasing their investment in land rights issues. ■

References:

- Anti-slavery International. (nd). *Bonded labour*. Retrieved from http://www.antislavery.org/english/slavery_today/bonded_labour.aspx.
- Central Bureau of Statistics. (2011). *National population housing census. National Report*. Kathmandu: Central Bureau of Statistics.
- Central Bureau of Statistics–National Planning Commission Secretariat. (2011). *Nepal living standards survey 2010/11*. Statistical report vol. 2. Nepal: CBS.
- Commission on the Status of Women (CSW). (2012). *The rights of indigenous women in Nepal*. Retrieved from <http://www.forestpeoples.org/sites/fpp/files/publication/2012/01/csw-fpp-niwf-lahurnip-2.pdf>.
- Community Self Reliance Centre (CSRC). 2012.
- Development of CSO land reform monitoring indicators, Nepal. In Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). (2012). *Securing the right to land: An overview on access to land*. 2nd ed. Quezon City: ANGOC. p. 148.
- Community Self Reliance Centre (CSRC). (2013). *Land and Agrarian Rights Campaign*. Annual Progressive Report 2012-2013. Kathmandu: CSRC.



DENUNCIA. (2011, November 22). *Stop land-grabbing now!* [Blog Post]. Retrieved from <http://ewwaunel.wordpress.com/tag/nepal/>.

Equal Rights Trust. (2010). *National Code (Muluki Ain) 2020 (1963)*. Retrieved from <http://www.equalrightstrust.org/view-subdocument/index.htm?id=786>.

Ghale, Y. (2009). *Relations between land rights and women's empowerment*. Nepal News. Retrieved from <http://www.nepalnews.com/index.php/guest-column/684-relations-between-land-rights-and-womens-empowerment>.

Ministry of Agriculture and Cooperatives (MOAC). (2009). *Selected indicators of Nepalese agriculture and population*. Kathmandu: MOAC.

National Planning Commission. (1998). *The Ninth Five-Year Plan (1998-2002)*. Nepal: National Planning Commission.
Sujata, T. nd. *Feminization of Agriculture*. [Unpublished].

For the complete list of references, please contact the author of this study as indicated at the beginning of the article.