

Mainstreaming Land Rights as Human Rights in South Asia

Condensed from *Mainstreaming Land Rights as Human Rights in South Asia: An Approach Paper* by Prof. Laya Prasad Uprety (Ph.D), Head, Central Department of Anthropology, Tribhuvan University, Kathmandu, Nepal

Human rights are the rights that humans have and are entitled to simply by virtue of being human. They are inherent and inalienable rights that human beings require to live a dignified life (PWESCR, 2015). Collectively, they are comprehensive and holistic statements (PWESCR, 2015) elaborated and codified in the United Nations (UN) Declaration of Human Rights (as adopted and proclaimed by the General Assembly resolution 217 A-111 on 10 December, 1948) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified by General Assembly Resolution 2200A (XXI) on 16 December, 1966 and has been in enforcement since 3 January 1976.

The preamble of the resolution of the UN Declaration of Human Rights clearly states, “the recognition of dignity and of equal and

inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. Of the 30 Articles pertaining to civil and political rights, Article 17 is exclusive on right to property (under which people must not be arbitrarily deprived of it). Article 25 is on right to a standard of living (under which the well-being of the family includes food) (UN General Assembly, 1948).

Economic, social and cultural (ESC) rights mainly include the right to self-determination, equality, non-discrimination, gainful work, just conditions at work, social security, health, education, food, water and sanitation, housing and cultural rights—all essential for one to live a life both with dignity and freedom. People have the freedom to dispose their wealth and resources. They cannot be deprived of their means of subsistence



under no circumstance and the state parties are required to promote the realization of the right of self-determination. Efforts to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights have been prioritized (UN General Assembly, 1948).

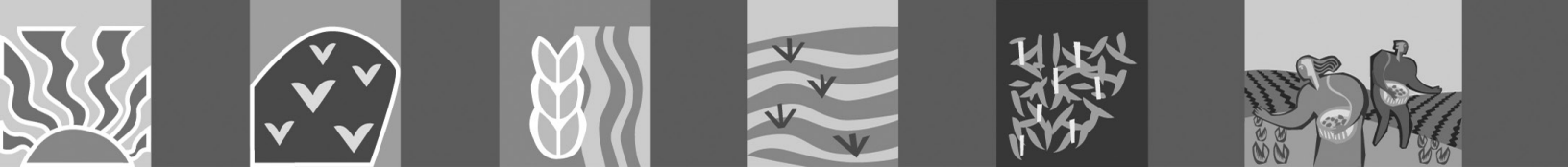
Access to land is important for development and poverty reduction, but also often necessary for access to numerous economic, social and cultural rights, and as a gateway for many civil and political rights. However, there is no right to land codified in international human rights law. Land is a cross-cutting issue, and is not simply a resource for one human right in the international legal framework (Wickeri, and Kalhan, 2010).

Land rights can be seen from human rights perspective by analyzing their relationships. Land rights are the significant factors to respect, promote, and promote the human rights.

Various legal frameworks and international agreements and conventions have mentioned the importance of protection, maintenance, and respect to people's land rights in order to achieve sustainability and prosperity of the people, both at local and global levels. Experts, including the Special Rapporteurs of the UN Commission on Human Rights, pointed out that "land rights is a gate to maintain certain human rights such as the right to water, the right to adequate housing, the right to health, the right to adequate standard of living, the right to food, and other rights."

The Right to Land within the Main Human Rights Standard Mechanisms

Given the fact that the right to land cannot be examined and analyzed in isolation, there is the need to consider it in the context of UN enforcement mechanisms of Economic, Social and Cultural Rights (ESCR). Contextually, literature



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shows that there are basically four main human rights standard mechanisms responsible for the enforcement of ESCR: (i) Committee on Economic, Social and Cultural Rights (CESCR); (ii) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR); (iii) Special Procedures (SPs), and (iii) Civil Society Monitors (CSMs).

The CESCR is the body of experts that monitors the implementation of ICESCR by State parties. These state parties are expected to submit regular reports to the Committee on the implementation of ESC rights domestically. They have to report initially within two years of ratifying the Covenant and thereafter every five years. The Committee examines the reports and addresses its concerns and recommendations to the state party in the ‘form of concluding observations’.

The OP-ICESCR was ratified on 5 May 2013 and allows the CESCR to receive and consider communications from individuals or groups who are victims of violations of any ESC rights of ICESCR under the jurisdiction of state party to the covenant. The Committee will only consider a communication after all domestic remedies have been exhausted, unless domestic remedies are unreasonably prolonged.

Under SPs, the Human Rights Council appoints Special Rapporteurs, or independent experts, to

address specific country situations or thematic issues. There are several thematic mandates which focus on ESC rights such as right to food, adequate standard of living, non-discrimination, access to resources, etc.

UN Special Rapporteurs’ Highlights on Land Rights

The Special Rapporteur is an independent expert appointed by the Human Rights Council to examine and report back on a country situation or a specific human rights theme. This position is honorary and the expert is not a staff of the United Nations nor paid for his/her work. Since 1979, special mechanisms have been created by the United Nations to examine specific country situations or themes from a human rights perspective. The United Nations Commission on Human Rights, replaced by the Human Rights Council in June 2006, has mandated experts to study particular human rights issues. These experts constitute what are known as the United Nations human rights mechanisms or mandates, or the system of special procedures (www.org/EN/Issues/Food/Pages/FoodIndex.aspx downloaded on 7/27/2016).

Literature search from early 2000 shows that instead of directly dwelling on land rights, UN Special Rapporteurs have been appointed on ‘housing’ (including adequate housing), ‘right to food’ and ‘rights of indigenous peoples’ (which have direct implications on land because of their inextricable link to land rights).

Land Rights Problems in South Asia

A limited number of efforts have been made in the past to analyze the land rights problems in South Asia region as a whole. Contextually, ANGOCC seems to be in the lead in this regard since 2008.



Assessing the land issues in South Asia in the context of the role of South Asian Association for Regional Cooperation (SAARC), it notes:

“SAARC’s policy documents are replete with pronouncements on poverty alleviation, improving agricultural production and attaining food security. Poverty has been put at the centre and pro-poor strategies have been adopted pursuant to the call of independent South Asian Commission on Poverty Alleviation. In particular, SAARC’s regional goal on livelihood.... defines the distribution of land to the landless in the region. SAARC’s development goal on livelihood aimed to reduce by half the number of poor people by 2010. Two of the indicators under this target were the following: (i) proportion of population below the calorie-based food plus non-food poverty line, and (ii) distribution of state land to the landless tenants...” (ANGOC, 2008:1).

However, ANGOC has critically assessed that this regional organizational mechanism fell short of providing the benchmarks and targets for land distribution. While suggestions were made by the technical group working on livelihood to create assets for sustainable livelihood including natural capital (land and water), there is ambiguity in SAARC’s position on the importance of land rights, as well as to the absence of an official declaration on land rights and issues as they relate to the farmers in the region. Critically speaking, SAARC has not recognized the interrelatedness of poverty alleviation, agricultural production, food security and land rights/access to land even at the minimum (ibid,2).

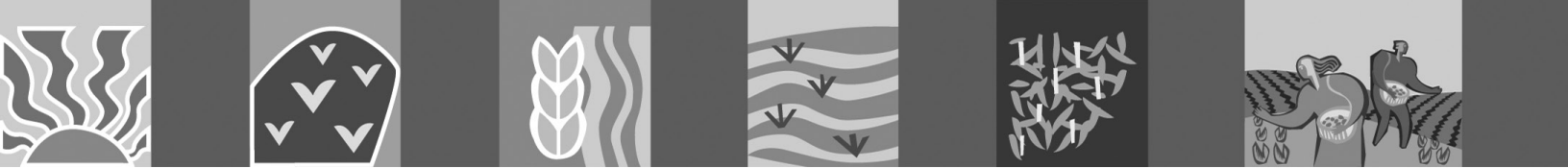
SAARC’s social charter has failed to include the land rights issues confronted by a generality of poor rural farmers. Apparently, SAARC seems to consider the rationale of land distribution to the sheer size of the landless people in the region

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with an embedded objective of accomplishing its development goal on livelihood (despite the recognition of fact that there is the continual decline in the availability of land).

However, food security has been mentioned in the SAARC’s charter. The issue of food security can be linked to the land rights issues and ANGOC believes that this may serve as a powerful tool for advocacy on land rights and issues. There has been an awareness of land as a basic problem in South Asia but ambiguity reigns in this regard. Hence, ANGOC asks four fundamental questions: (i) whether access to land and land rights per se are considered as main issue by the SAARC and its members?; (ii) how SAARC defines or perceives land issues?; (iii) what priority is given by the SAARC officials to the land issues?; and (iv) whether SAARC officials view land rights as an interrelated or separate issue, inter alia (ibid,3). It is also conspicuous from the SAARC charter that the countries of the region are concerned with the poor without explicitly mentioning the poor farmers or land-based rural workers.

Conclusively, realization of equitable economic growth is impossible without the institutional



effort for facilitating and ensuring that land-poor farmers have access to land and have tenurial security. Couched in other words, the SAARC goal of distributing land as poverty-alleviation target, and addressing food security remains unaccomplished.

Land Rights Movements in South Asia: A Brief Analysis

The Land rights movements of Nepal, Bangladesh and India are largely led by CSOs, with the participation of land-poor farmers. CSOs have organized land-poor farmers, built their own community-based organizations (CBOs), trained the activists, developed the leadership capacities, and provided the overall leadership for the movements in the mobilization of land-poor farmers and lobbying, as well as influencing the policy-making and implementing processes at the macro, meso and micro levels.

Land rights movement in Nepal: Role of CSRC and NLRF as leading organizations. The Community Self-Reliance Centre (CSRC), a membership-based non-governmental organization (NGO), was founded in 1993 through the registration at the District Administration Office of Sindupalanchowk in central Nepal. It was initiated by the collective effort of a group of young and energetic school teachers with unwavering commitment of changing the existing pattern of elite-dominated and inequitable power relationships through the organization and mobilization of marginalized groups of people, especially tenants and landless farmers. It has been engaged in conscientizing and organizing land-poor farmers (agricultural laborers, tenants and marginalized farmers) who are deprived of their basic rights to land so that they can claim and exercise their rights over land resources in a peaceful way. The CSRC has

adopted the human rights-based approach of development and its vision is ‘a Nepali society where people have self-reliance and dignity’. Its mission is ‘to enhance the power of land-poor farmers for leading land and agrarian reforms’. Its goal is ‘to ensure land for land-poor farmers and their secure livelihood’.

The strategic objective of the CSRC for July 2014-June 2019 as outlined in the strategy reads as follows, “The land and agrarian rights movement will strive to enable land-poor farmers (agricultural laborers, tenants, and marginalized farmers) to effectively use existing assets; maximize their potential; expand their opportunities to participate in decision-making that affects them; overcome isolating, discriminating or marginalizing; and work together to secure their land and agrarian rights”. The CSRC has been achieving this strategic objective through a slew of strategies which include: (i) strengthening organizational capacity of the National Land Rights Forum (NLRF) and its local bodies/partners/units; (ii) enhancing food security and livelihood needs of land-poor farmers; (iii) promotion of non-violent and people-led campaigns; (iv) launching focused and coordinated movements complemented by concerted advocacy efforts; (v) strengthening collaborative alliances with CSOs promoting human rights and facilitating movements for social justice; (vi) working with policy think-tanks and academicians; (vii) enhancing women’s leadership; (viii) developing women-led cooperatives and enterprises; (ix) expanding women’s land ownership campaigns with different stakeholders; (x) diversifying funds for mobilization and partnerships; (xi) standardizing policies, systems and compliance, and (xii) generating, documenting and disseminating lessons.



Consequently, a number of achievements have already been made in the past as follows: (i) strengthening the power of land-poor farmers' organization—the village land rights forums (VLRFs); (ii) policy reform ('scientific land reform' has been a major agenda of the state as incorporated in the recently promulgated constitution); (iii) government policy pronouncement for enhancing women's equal access to land (as guaranteed by the new constitution); (iv) community-led land reform; (v) promoting livelihood initiatives of rights through agriculture co-operatives, and (vi) strengthening collaborative actions through alliances and coalitions (Uprety, 2015).

NLRF is a decade-old institution of land rights holders in Nepal and an aftermath of incessant CSRC's institutional support for its strengthening. It is operational in 53 districts and has now begun functioning independently for land rights policy advocacy and campaigns.

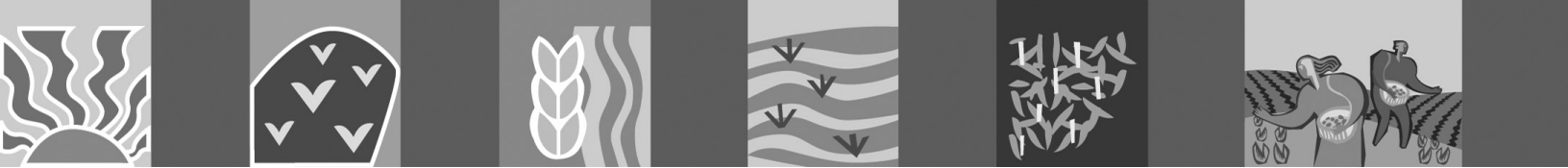
Land rights movement in Bangladesh. The Association for Land Reform and Development (ALRD), is the federating body of 273 NGOs, peasant and landless organizations in Bangladesh. ALRD is at the forefront of the struggle to establish land rights, rights to food, rights to livelihood, and rights of the indigenous people of minorities. It is currently the main organization in Bangladesh working exclusively on land reform issues. ALRD envisions a Bangladesh where upholding the rights of the citizen is the cornerstone of the state and where the state is pro-actively pursuing the promotion and strengthening of the rights of poor and the marginalized, including the most vulnerable of the society; landless peasants, indigenous peoples, women and religious and other minority communities. ALRD further aspires for the Bangladesh that adopts secularism as key guiding principle and gender equity and

social justice are considered as key objectives of all its undertakings (www.landcoalition.org/en/regions/asia/member/alrd, downloaded on 7-29-2016).

Land rights movement in India. India has a long history of land rights movements. The birth of the Bhoodan Movement (land donation movement) has been associated with Vinobha Bhave, an Indian eminent social activist, in 1951 when he announced the goal of collecting 50 million acres of land for the land poor. Later, the Telengana movement engaged in armed struggle to claim land from violent and exploitative landowners.

The history of modern India is filled with the land struggles of the poor and dispossessed: from the peasant revolts of Avadh during 1919-1922 which resulted in organizing independent *kisan sabhas* (peasants' associations), to the 1967 Naxalbari movement of West Bengal. At its height, the Telengana movement succeeded in shutting down the administrative machinery of the Nizam in 4,000 villages, and in establishing *gram rajya*, or village self-rule. The institution of *vetti*, or compulsory, forced labor was abolished, and 10-12 lakh acres of land was redistributed. The Telengana movement was also notable for the widespread participation of women, though they did not receive any of the redistributed land in their names unless they were widows (Visweswaran, 2007: 5-6).

Of late, the Ekta Parishad (Unity Forum) has been the leading the movement for land rights in India for last 25 years. In 2007, with the support of several other groups (like National Association of People's Movements), it led 25,000 landless Dalits and Adivasis from twelve different states on a four-week *Padayatra* (foot march) covering 350 kilometers by foot from Gwalior in Madhya Pradesh to the Indian Parliament in Delhi. Their



purpose was to highlight the urgency of land reforms for the poor. The march, called “Janadesh,” or the “People’s Verdict,” took three years to organize and had as its objectives as follows: (i) the creation of a National Land Commission with statutory powers to direct state governments to carry out comprehensive land reforms; (ii) an end to evictions of Adivasis (indigenous) people from forest lands, and (iii) new fast track courts to resolve land disputes quickly.

As a result of the mobilization, the Indian government has set up a National Land Reforms Council headed by the Prime Minister with representation of the Ekta Parishad.

As a “new social movement,” the Ekta Parishad sees itself neither as a trade-union, a political party, or NGO, but as a mass-based social movement that works through allied networks across eight different states, many of them states where the Naxal movement is also strong. The organization is the strongest in Madhya Pradesh with 100,000 members spread out over 2,068 villages in 26 districts (ibid, 6-7).

In 2015, the government led by Prime Minister Narendra Modi introduced a Land Act Ordinance. It proposed to exempt five categories of acquisitions from the procedural requirements of the 2013 Act. These five categories were: defense, industrial corridors, rural infrastructure, affordable housing including housing from the poor, and any infrastructure including social infrastructure in public-private partnership (PPP) mode where the land is owned by the government. Basically, government would fit every acquisition under each of these five categories by annulling the previous Act itself (https://www.reddit.com/r/india/comments/2re3r8/salient_features_of_land_act_ordinance-2015).

In 2015, with the solidarity of Anne Hazare, an eminent anti-corruption crusader, Ekta Parishad in collaboration of other social organizations, launched a Yatra of 5,000 Adivasis, farmers and landless from 12 states (foot march of 60 kilometers by following the Mathura Road toward the parliament street in Delhi) to oppose the land acquisition ordinance. As a result, the government has agreed to reconstitute the National Land Reform Council chaired by the Prime Minister.

Human Rights Institutions and Mechanisms in South Asia

SAARC Charter on Human Rights

Founded in December 1985, SAARC consists of eight countries: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. The objectives of its charter are geared toward promoting the welfare of the people of the region; improving the quality of their life; accelerating economic growth, social progress, and cultural development; providing opportunities to their citizens to lead a life with dignity and to realize their full potential; promoting and strengthening collective self-reliance among the member-countries contributing to mutual trust and understanding among them; promoting active collaboration and assistance in the economic, social, cultural, technical and scientific fields; strengthening cooperation among themselves in international forums on matters of common interests; and cooperating with international and regional organizations with similar aims and purposes.

Indeed, literature demonstrates that there is initial focus on development initiatives. Since 2002, SAARC took steps to address human rights concerns, beginning with the ‘convention on preventing and trafficking in women and children



for prostitution’ and ‘convention on regional arrangements for the promotion of child welfare in South Asia’. There are various human rights commitments in SAARC’s broad objectives (such as providing opportunities to their citizens to lead a life with dignity and to realize their full potential which have the implications of the citizens’ right to health, education, adequate care and adequate standard of living and promoting welfare of the people of the region including improving the quality of their life).

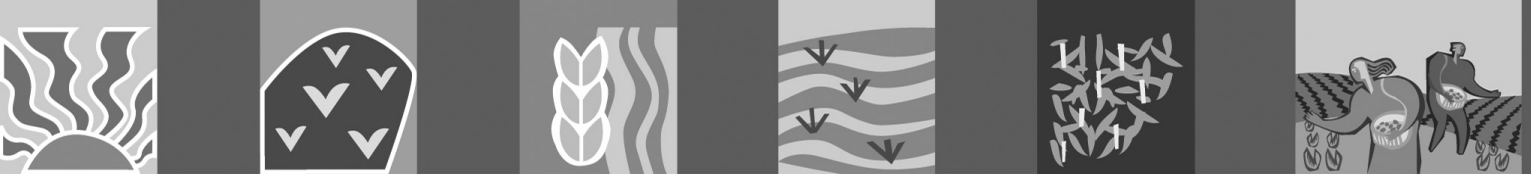
The SAARC charter, in Article 11 states, “SAARC shall not be a substitute for bilateral and multilateral cooperation but shall complement them. SAARC cooperation shall not be inconsistent with bilateral and multilateral obligations.” All the member countries, barring an exception of Bhutan, have ratified the ICESCR, two multilateral treaties at the core of International Bill of Human Rights along with the Universal Declaration of Human Rights.

All the eight countries have agreed to comply with the responsibilities prescribed by the Convention on the Elimination of all Forms of Discrimination Against Women as well as Convention on the Rights of the Child. Contextually, these eight countries have multilateral obligations to reinforce the rights stipulated in these covenants, which are the basic human rights. Definitely, it does not have a human rights body or a treaty for cooperation of its members on issues related to the International Covenant on Civil and Political Rights (ICCPR) and ICESCR (Sattar, Seng and Muzart, 2012:24-25).

In 2004, SAARC’s social charter was signed with focus on ‘poverty eradication, population stabilization, empowerment of women, youth mobilization, human resource development, promotion of health, and protection of children’.

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Its preamble states, “The principal goal of SAARC is to promote the welfare of the peoples of South Asia, to improve the quality of their life, to accelerate economic growth, social progress and cultural developments, and to provide all individuals the opportunity to live all individuals to live in dignity and to realize their full potential”. Analytically speaking, SAARC’s social charter can be interpreted along the wide range of economic, social and cultural rights. One can discern the broad commitment to upholding human rights in South Asia. One of its objectives is to, “promote universal respect for the observance and protection of human rights and fundamental freedoms for all, in particular, the right to development; promote the effective exercise of rights and the discharge of responsibilities in a balanced manner at all levels of society; promote gender equality; promote the welfare of children and youth and promote social integration.” In the context of economic, social and cultural rights, Article 3.4 states, “State Parties agree that access to basic education, adequate housing, safe access to drinking water, and sanitation, and primary health care should be guaranteed in legislation, executive and administrative provision, addition to ensuring of adequate standard of living, including



adequate shelter, food and clothing”. Article 3.5 states about the imperative for providing a better habitat to the people of South Asia as part of addressing the problems of homeless. Indeed, the charter is the potential foundational tool for regional human rights initiatives. There is also mention of the ‘food security’, and establishment of ‘food bank’ in 2007 for tackling the food shortages through the ‘regional food security reserve’ and provisioning of ‘regional support to national food security efforts’ and fostering ‘inter-country partnership’ to tackle regional food shortages through the collective effort (SAARC Social Charter, 2004 and Sattar, Seng and Muzart, 2012: 36-37).

SAARC and Land rights

Policies of SAARC have underscored the issues of poverty alleviation, improvement of agricultural production and attainment of food security. In 2008, ANGOCC took an initiative to assess the land issues in South Asia in its ‘Land Watch Asia’. A concise analysis is presented underneath on the land issues of the region through the examination of its findings.

Given the fact that poverty has been put at the centre and pro-poor strategies have been adopted as per the recommendation of the Independent South Asian Commission on Poverty Alleviation, SAARC’s development goal on livelihood had also made recommendation for the distribution of land to the landless in the region. Indeed, the ambitious goal was to halve the number of poor people until 2010. Two targets were set to realize this goal which included: (i) proportion of population below the calorie based food plus non-food poverty line, and (ii) distribution of state land to landless tenants. Indeed, the possibility of realizing the target of land distribution has been

a mere ‘lip service’ in the absence of any reliable benchmarks as indicated earlier on.

The SAARC group on livelihood had underscored that targeting would require macro-economic and sectoral approaches for poor people’s sustainable livelihood which does include natural capital (such as land and water). On the one hand, there is ambiguity of SAARC’s position on the importance of land rights and absence of official declaration from SAARC on land rights and issues pertaining to the farmers in the region, and on the other hand, SAARC’s social charter ignores land issues (despite the fact that majority of the region’s citizens are rural poor farmers).

Nonetheless, SAARC appears to recognize the significance of land distribution in the context of the large number of landless people in the region for meeting its development goal on livelihood. There has been the realization among the member countries about the continuing decline in the availability of land, a critical resource for agricultural development. Indeed, the mention of the provision on food security in SAARC’s charter can indeed be linked to land issues (given the fact food security and nutritional security can be possible with the availability of land).

ANGOC’s paper shows that the dominance of growth-oriented framework fails to clarify the following issues: (i) does SAARC put a premium on land rights and issues raised by farmers when it says that it aims to “improve the quality of life in South Asia”?, and (ii) does SAARC believe that South Asia can proceed with tackling other development projects without first resolving land issues? It is also not clear on its plan of action of poverty alleviation whether SAARC regards land as one of the resources to which the poor have no access. In other words, there is no elaboration of land rights/issues in its program



in poverty alleviation. There appears a lack of awareness of land as a basic problem. This could embody a number of questions as follows: (i) whether access to land and land rights per se are considered as main issue by the SAARC?; (ii) how SAARC defines or perceives land issues?; (iii) what priority is given by the SAARC officials to land issues?, and (iv) whether they view land rights as an interrelated or separate issue, inter alia? There is no mechanism for CSO participation in such discussion in the discussion on the primacy of agricultural development and the need to ensure food security (ANGOC, 2008 :1-4).

The realization of equitable economic development is contingent only when access of landless/land-poor to land and land tenurial security is ensured (as the organization has set the goal of distributing land as a poverty alleviation target which has the potential of addressing the food security also but it suffers from the mere 'lip service').

Some Initiatives of SAARC Country Members

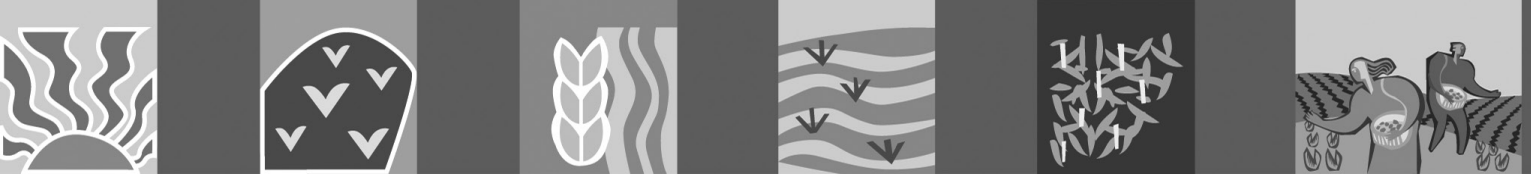
Special Rapporteurs on Agrarian Issues and National Inquiries on Indigenous People's Rights.

Literature shows that to date there has been no collective initiatives of SAARC country members through the appointment of Special Rapporteurs on agrarian issues and national inquiries on rights of indigenous peoples who constitute a sizable population in South Asia. For instance, indigenous peoples comprise 37 percent in Nepal, 15 percent in Pakistan, 8.6 percent in India, and 1-2 percent in Bangladesh. For these peoples as elsewhere, land is as culture and survival who have been disenfranchised by the national expansionist and colonial governments in the past. Then, the state-sponsored assimilation and state-led migration had also negative bearing on the customary practices of land use among the indigenous

peoples (i.e disappearance of such practices over time). Gradually, the national governments framed discriminatory state policies and promoted practices to implement them. Of late, there has been 'new colonialism' protected by the state policies for the extractive industries and plantations and national development activities (Quizon, 2015) which have negative bearing on the land and natural resources of indigenous peoples.

Contextually, the review of SAARC documents also shows that the Technical Committee on Agricultural and Rural Development (TCARD) does not have the clear stance of the organization on the panoply of land-related issues. Therefore, with the appointment of Special Rapporteur for agrarian issues and the national inquiries on the rights of indigenous peoples vis-à-vis land issues, a concerted institutional effort may be made in future to focus on the following: land rights, agrarian reform (redistributive policies), program of access to productive resources such as land, tenurial rights, sustainable use and management of common property resources (such as forests, water, genetic resources, biodiversity and land), resettlement and relocation, access to legal instruments for land disputes, women's rights to land, customary rights of indigenous peoples, stakeholder participation in formulating agrarian reform policies, ILO 169 agreement, agrarian reform in places of conflict/war, etc (ANGOC, 2008).

In the context of South Asia, UN human rights instruments such as ICESCR provide the foundation for the recognition of customary land of the indigenous peoples. And under such condition, there is the need to undertake the common agenda and action for protecting indigenous people's rights, providing and fulfilling the regional level UN Declaration on



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the Rights of Indigenous Peoples through the initiation of dialogues among the CSOs in the region to address the land and agrarian issues through concerted policy advocacy, learning and exchanging on policy development (through sharing experiences and best practices), learning from specific country experiences, working for holistic reforms on land and resource governance and recognizing the indigenous peoples as key to our collective future for conserving ecosystemic resources, maintaining biodiversity and promoting indigenous knowledge systems (Quizon, 2015).

Bringing Land Rights in HR Mechanisms in South Asia

While dwelling on the issues to bring land rights in human rights (HR) mechanisms in South Asia, it is essential to shed light on the condition of CSOs and their human rights mechanisms in the region. Indeed, sociologically speaking, there has been a proliferation of CSOs in the last 30 years. While there exists an institutional culture of collaboration between the governments and CSOs on a panoply of development issues, government authorities and human rights activists are at

loggerheads because the latter are found to be raising the issues of human rights violations and atrocities committed by the government authorities against the people clamoring for the protection of rights (be they political, civil, social, cultural, and economic).

As a corollary of that, human rights activists/defenders have been the targets of harassment, intimidation, arbitrary detention, torture, and even extra-judicial killings. Thus, the SAARC countries have a relatively weak record of human rights promotion. However, CSOs have been seamlessly found to be involved in their activities for defending human rights. They have also the SAARC as a regional platform to make their voices heard (Sattar, Seng and Muzart, 2012).

SAARC social charter has also the regard for civil society because it reaffirms the need to develop, beyond national plan of action, a regional dimension of co-operation in the social sector. It also espouses principles that members of the civil society uphold, such as equity and social justice; respect for and protection of fundamental rights; respect for diverse cultures and people-centered development. But the official documents are silent on accreditation of CSOs (SAARC Social Charter, 2004 and ANGOC, 2008).

Since early 1990s, a number of human rights organizations have come into existence. For instance, South Asians for Human Rights (SAHR) is a membership-based regional organization working for the protection of human rights, peace building and democratic progress. Generally, human rights activists/defenders of South Asia work in the region.

There is another organization called South Asian Forum for Human Rights (SAFHR) which works as a forum for dialogue between regional and



local human rights organizations. In 1994, a new regional entity came into being called ‘People’s SAARC’— a collective movement of South Asian civil societies since 1994. It discusses ways to foster cooperation at the ‘people-to-people’ level in South Asia when the official SAARC process fails to address the issues (ibid).

The process of People’s SAARC has firmly established and a tacit consensus on its significance and collective ownership built among the South Asian activists. The changing name of the event – People’s SAARC, South Asian People’s Summit, People’s Assembly – is an indication of its organic, spontaneous and inclusive nature (PSAARC India, 2013). The first People’s SAARC meeting was held as a parallel event to the 8th SAARC summit in New Delhi in 1995 to lobby SAARC on the issue of trafficking, which led to the 9th SAARC recognizing trafficking as a grave issue in 2002 (in the form of convention).

Since then, People’s SAARC has been functioning to lobby SAARC officials on regional concerns. The 10th SAARC resolved to establish the South Asia Forum to serve as a platform for debate and exchange of ideas at the regional level between government representatives and stakeholders. In 2010, an organized institutional effort was made to establish a Working Group on South Asia Human Rights Mechanism in Kathmandu as an outcome of the regional gathering of human rights activists sponsored and organized by Forum Asia and Informal Sector Service Centre (INSEC). It produced the Kathmandu Declaration calling for the establishment of “an independent, effective and accountable human rights mechanism with an explicit mandate of promoting, protecting, and fulfilling human rights through a process of wide consultation with NGOs and people’s movements at national and regional levels.” In 2011, a working group has been established. On

“Violation of land rights of people leads to the violation of human rights (be they civil and political or social, economic and cultural).”

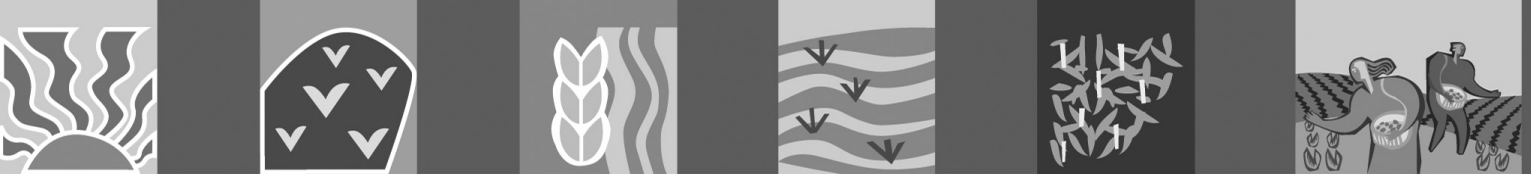
the whole, SAARC seems to be in the inchoative stage for the enforcement of human rights (Sattar, Seng and Muzart, op.cit). Nonetheless, land rights issues can be brought in these People’s SAARC, South Asia Forum and Working Group on South Asia Human Rights Mechanism for debates and discussions and the findings can be communicated to the SAARC governments through the SAARC Secretariat.

Major Conclusions

Based on the analysis presented in the preceding sections, three broad conclusions have been drawn as follows:

(i) From the rights-based perspective, civil, political, economic, social and cultural rights of human beings are recognized as universal, inherent, inalienable, indivisible and interdependent body of rights. Politically, people have to have the right to self-determination, which allows them to make their own independent decisions for the free pursuit of their economic, social and cultural development. There can be no deprivation of means of subsistence for the people under any circumstance.

Institutionally, the promotion of the realization of the right of self-determination is the responsibility of the state. Therefore, there can be the progressive realization of the rights



through the adoption of legislative measures for their enjoyment without discrimination. Efforts to undertake to ensure the equality for men and women to the enjoyment of all economic, social and cultural rights must universally be the priority of the state.

Recognition of the rights by state parties to citizens' adequate standard of living (subsuming adequate food, clothing, housing and to the continuous improvement of living conditions), fundamental right of freedom from hunger and cultural rights is of paramount importance. Thus, there is the indivisibility of human rights and land rights which can be considered an 'accessory right' to the realization of other human rights.

Violation of land rights of people leads to the violation of human rights (be they civil and political or social, economic and cultural). For instance in Nepal, enjoyment of government services is contingent upon the land rights (e.g water, electricity, banking services, and citizenship certificates which are vital for the enjoyment of voting rights and also serve as the gate to acquiring passports for gainful foreign employment).

(ii) The realization of equitable economic development is contingent only when the access of landless/land-poor people to land is ensured. The interconnectedness of land rights, poverty alleviation, agricultural development and food security cannot be denied. The ambivalence of the SAARC's policy on land issues, lack of clear regional strategy for enhancing the land-poor people's access to land and other productive natural resources, culture of patriarchy and colonial and national government's discriminatory policies towards the exploitation of indigenous people's resources have triggered the perpetuation of resource inequity in the SAARC region.

(iii) Given the fact that the land issue has not been collectively addressed by member states of SAARC, through the formulation of a common regional strategy, "social justice on land" is still a far-fetched dream. Contextually, they now have state obligations, both in the capacity of members of 'community of nations' and individual independent states, to respect and protect the rights of land-poor farmers (landless and marginalized including women and indigenous peoples) on land (including homestead land) and fulfill such obligations by changing the state policies/laws for ensuring the "equitable land distribution" and implementing them responsibly (including preventing and remedying land grabbing) as specified under 'people-centered land governance' of International Land Coalition (ILC) for translating the goals of social justice into realities in foreseeable future.

Recommendations

Based on the analysis furnished above, a litany of recommendations has been made as follows:

- Bringing land rights issues to the People's SAARC (South Asian People's Summit, People's Assembly), South Asia Forum and Working Group on South Asia Human Rights Mechanism for debates and discussions and communicating the findings to the SAARC governments through the SAARC Secretariat would be appropriate.
- Creation of permanent inter-governmental human rights mechanisms such as the Regional Committee on the Issues of Land Rights and Special Rapporteur on Agrarian Issues and Land Rights of Indigenous Peoples, for lessening the gross violation of land rights in the region and ensuring the enjoyment of civic, political, economic, social and cultural rights of the people would be equally



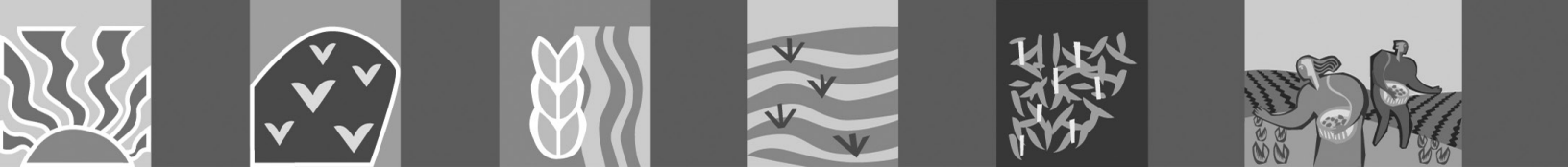
important (SAARC as a provider of enabling environment for the well-being of the land-poor people such as landless, marginalized women farmers and indigenous peoples).

- Playing of a proactive role by the regional network of CSOs to engage the Technical Committee on Agriculture and Rural Development (TCARD) created in 2006, to address the challenges for ensuring the food and nutritional security at the level of agricultural ministers in the SAARC on land-related issues.
- Collaboration between universities and national human rights organizations working on land rights in each country for conducting empirical research for: (i) national evidence-based robust advocacy, and (ii) then forming a regional entity for collaboration between these institutions to give feedback to the SAARC secretariat/governments.
- Contributions have to be made by governments, CSOs and academic institutions of the SAARC region for enabling land-poor people to ensure their land rights (as human rights) by linking their national and regional programs on land resources for the accomplishment of sustainable development goals (SDGs) such as “No poverty” (goal 1), “Zero hunger”, (goal 2), “Achieving gender equality” (goal 5), and “Life on land” (goal 15).
- Enhancement of collaborative efforts of national governments, CSOs, community-based organizations (CBOs) and research organizations in the SAARC region for “achieving gender equity” for land rights through women awareness creation and empowerment programs, holding policy dialogues with key stakeholders (responsible for decision-making) for formulating pro-women land policies/laws, conducting gender-sensitive researches vis-à-vis women’s land

rights and ensuring the policy implementation through lobbying and monitoring is also highly recommended. ■

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