

Asserting Freedom from Central Control

NEPAL Country Paper
Land Watch Asia





Acknowledgments

This paper is an abridged version of the Nepal Land Watch Country paper for Land Watch Asia on the status of Access to Land and opportunities and strategies for Civil Society advocacy. This is a collective effort of more than 37 individuals and civil society organizations (CSOs) in Nepal

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We dedicate this work and our collective commitment to Asia's rural poor and their pursuit for equitable access to land and resources for their sustained development.

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Acronyms

ADB	Asian Development Bank
APP	Agriculture Perspective Plan
APPROSC	Agriculture Project Support Centre
BS	Bikram Sambat (Nepali calendar year)
CAS	Country Assistance Strategy
CBO	Community Based Organization
CBS	Census of Bureau of Statistics
CPA	Comprehensive Peace Accord
CPN	Communist Party of Nepal
CSRC	Community Self-Reliance Centre
Danida	Danish International Development Assistance
DDC	District Development Committee
DFID	Department for International Development
DLRO	District Land Reform Office
FAO	Food and Agriculture Organization
FDI	Foreign Direct Investment
FECOFUN	Federation of Community Forest Users Nepal
HDI	Human Development Index
HLCLR	High Level Commission on Land Reform
HRC	Human Rights Committee
HUGOU	Human Rights and Good Governance Advisory Unit
ICCPR	International Covenant on Civil and Political Rights
ICEARD	International Convention on Elimination of All forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IIDS	International Institute for Development Studies
ILO	International Labour Organisation
IMF	International Monetary Fund
LDC	Least Developed Countries
LWA	Land Watch Asia
MNC	Multinational Company
NC	Nepali Congress (a political party)
NLRCG	National Land Rights Concern Group
NLRF	National Land Rights Forum
NMKP	Nepal Majdur Kinsan Party (a political party)
NPC	National Planning Commission
NPR	Nepali Rupees
NSCA	National Sample Census of Agriculture
NSP	Nepal Sadbhawana Party (a political party)
PRSP	Poverty Reduction Strategy Paper
RPP	Rastriya Prajantra Party (a political party)
SAP	South Asia Partnership
SDC	Swiss Development Cooperation

SJN	Samyukta Janamorcha Nepal (a political party)
UDHR	Universal Declaration of Human Rights
UML	United Marxist and Leninist
UNDP	United Nations Development Programme
USAID	United States Assistance for International Development
VDC	Village Development Committee
WB	World Bank
WTO	World Trade Organization

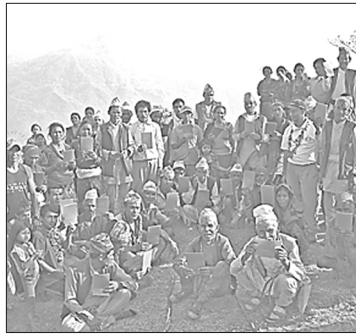
Glossary

Aputali	No heirs for property.
Bhumi	Land.
Bigha	A unit of land measurement used in Terai, comprising 1.6 acres or 0.67 hectare. A <i>Bigha</i> is divided into 20 <i>Katthas</i> .
Bijan	A system under which land taxes on un-irrigated lands in the hills are assessed on the basis of the estimated quantity of seed maize needed for sowing.
Birta	Land grants made by the state to individuals in the form of reward or gift usually on an inheritable and tax-exempt basis, which was abolished in 1969.
Birtawal	Person owning <i>Birta</i> land.
Brahmin	Highest caste in Nepali caste hierarchy.
Charuwa	Cattle herder.
Chepang	An indigenous community of Nepal (still this is highly marginalized).
Chhetri	Second highest caste of the caste system.
Chut Guthi	Endowment land administered by temple or monastery that was not surveyed.
Dalit	A group of caste discriminated as so called 'untouchables' or 'impure'.
Deuki	A traditional system practiced in some society where a girl child is offered to the god and kept in the temple. The child is not allowed to enjoy human freedoms until the age of 14.
Gothala	A permanent labor system where these people are kept in the landlord's house for the purpose of cattle grazing and other manual labor.



Guthi	An endowment of land made for any religious or philanthropic purposes.	Land Holding	An agricultural land holding economic unit of agricultural production. The holding includes all land operated by a holder whether rented or owned. A holder is the person who exercises management control over the operations of the land and may or may not be the same person as the household head (CBS).
Guthi Tainathi	Certain categories of <i>Guthi</i> lands where the <i>Guthi</i> Corporation has been cultivating itself, or else may appoint tenants on a permanent basis to do so.	Limbu	Ethnic and indigenous nationalities in Nepal.
Haruwa	Plough man (a kind of bonded system mostly practiced in Terai).	Majhiyas	A feudal leader or landlord of community.
Jagir	Arable lands assigned to government employees and functionaries in lieu of their emoluments, which was abolished in 1952.	Mukhiya	A village head appointed by the government to settle dispute in the hill regions.
Jagirdar	The government employees who were paid their emolument with allotment of land for their service.	Munda	A kind of indigenous community of Nepal.
Jamindar	Landlord.	Muri	Unit of quantity of grain used in local communities.
Janajati	Ethnic and indigenous nationalities in Nepal.	Mushahar	A caste of Terai falls under <i>Dalit</i> group who are discriminated and humiliated.
Jhangahd	An indigenous community of Nepal.	Panchayat	The autocratic regime where the King exercised absolute state powers for the period 1960 to 1990.
Jhoda	Name of a place where the land rights movement was started in the name of <i>Jhoda</i> farmers' struggle.	Raikar	Lands on which taxes are collected from individual landowners; traditionally regarded as state-owned.
Jimidar	An individual responsible for land tax collection at the village level in Terai region who was responsible for autocratic regime before 1951.	Raj Guthi	Endowments of the lands under the control or management of the Trust Corporation.
Jimidari	A <i>Jimidar's</i> administration or exercising his powers (all <i>Jimidars</i> were men).	Rakam	Unpaid and compulsory labor services due to the government from peasants cultivating <i>Raikar</i> , <i>Kipat</i> , and <i>Raj Guthi</i> lands; abolished in 1963.
Jimuwal	An individual responsible for land tax collection at the village level in hill region who was responsible for autocratic regime before 1950.	Rana	Surname of group of elite people who ruled Nepal from 1846 to 1950.
Jirayat	A plot of taxable land attached to the <i>Jimidar's</i> emoluments	Ropani	A unit of land measurement used in hill districts, comprising an area of 5,476 square feet.
Kamaiya	A bonded labor system widely prevalent in the five district in the Mid and Far Western development region of Nepal.	Talukdar	A village-level revenue-collection functionary in the hill region.
Kattha	A unit of land measurement used in Terai comprising slightly over 300 square meters.	Tenant	Tillers of landlord's land.
Kipat	A system of communal land ownership prevalent among the <i>Limbus</i> and other Mongoloid communities in the hill regions.	Terai	The plain land of the southern part of the country.
Kut	A system of sharecropping under which the landowner appropriated a specific quantity of the produce or a stated sum in cash as rent.		

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QUICK FACTS

- Nepal's total land area is 147,181 square kilometers. Only 20% of this is cultivable.
- According to the 2001–2002 agricultural census:
 - ▷ 94.1% of holdings is agricultural land, covering 24.98 million hectares. The remaining land (156,400 hectares) is non-agricultural;
 - ▷ Forested/woodland areas have been reduced from 108.8 thousand hectares in 1991–1992 to 37,200 hectares in 2001–2002—a decrease of 71,600 hectares, or 66%, during the 10-year period.
 - ▷ Some 20–25% of cultivable land is left fallow because of land ownership disputes.

Overview of Access to Land

Land Tenure System

The system of land tenure in Nepal has evolved into various forms and phases over the years. Historically, state ownership was the traditional form of land tenure in Nepal. The land belonged to the State and its rulers. After 1946, six major types of land tenure were recognized; these are *Raikar*, *Birta*, *Jagir*, *Rakam*, *Kipat* and *Guthi* (Tuladhar, 2005). Today, however, only two types of tenure prevail: *Raikar* and *Guthi*.

Raikar

The term *Raikar* is probably derived from the Sanskrit words *Rajya* (state) and *Kara* (tax), thus denoting land on which the state levies taxes. This is what distinguishes *Raikar* from other forms of land tenure, such as *Birta*, *Guthi*, and *Kipat*, where the occupant does not necessarily pay taxes and is generally not listed in official records.

Under this tenure system, the tenants have to pay a yearly land tax to the Government for cultivating the land. The tax used to be paid through local agents (called *Jimidar*, *Talukdar*,

Jimwal, or *Mukhiya*) of government. The agents also used to perform the task of land administration—and, in fact, acted as landlords—for which they retained a certain percentage of the collected land tax as their fee/salary. Numerous cases of exploitation of tenants were reported during the administration of these local agents. The system of collecting land tax by appointing local agents was abolished by the Land Act 2020 (1964).

The *Raikar* system was adopted at a time when the supply of land in the country far exceeded the demand for it. In fact, the law (the Nepal Muluki Ain) which instituted the *Raikar* system visualized land as a free commodity to be distributed among the local inhabitants on the basis of their need and on the availability of land.

Rights to *Raikar* land are limited to occupancy rights vis-à-vis the state. These rights can be freely sold or transferred to any person; in practice, it is almost like ownership. The term used for *Raikar* transactions is "*Rajinama*," literally "resignation," or giving up the right to land.

Ninety-eight (98) percent of Nepali farmland currently operates under the *Raikar* tenure system.



Birta

The term "*Birta*" was probably derived from the Sanskrit word *Britti*, which means livelihood. Hence, *Birta* refers to land granted to individuals to enable them to make a living. *Birta* land is awarded to individuals by the state, tax-free, for their bravery or loyalty (Chapagain, 2001). The *Birta* owner has tenants working the land, from whom he—rather than the State—collects land tax. The *Birta* owner retained an agreed portion of the collected tax as his income and remitted the rest to the Government.

There were two types of *Birta*: non-inheritable *Birta* and inheritable *Birta*. Ownership of non-inheritable *Birta* land lasts only during the recipient's lifetime, while inheritable *Birta* could be sold or transferred to another person. In many cases, however, non-inheritable *Birta* was transferred to the heir/s after the death of the *Birta* owner (HLRC, 1995). *Birta* was not only the source of income of the *Birta* owner but was also an indication of high social and economic status (Regmi, 1977). More than one-third (36.3%) of the country's farmland was under this tenure type before the 1950s (Regmi, 1977).

Birta tenancy was officially abolished with the promulgation of the *Birta* Land Abolition Act 2016 (1957), which required all *Birtas* to be converted into Raikar. However, the abolition of *Birta* took effect only after the formation of the Nepali Congress government in 1959.

Jagir, Rajya and Rakam

Jagir refers to the system wherein the government authorized civil servants to collect land tax (in cash or kind) and to use it for a certain period of time in lieu of a salary. In this system, the civil servant could not sell or transfer his right to his heir/s, nor to any other persons. However, the owner or tenant of *Jagir* land could do so (HLRC, 1995). This tenure system was abolished in 1951 with the end of the Rana Regime in Nepal as most of the *Jagir* assignees were Ranas. The abolition of the *Birta* and *Jagir* tenure systems signaled the disappearance of feudal lords from the agrarian scene in Nepal (Regmi, 1977).

Rajya is another type of land tenure which came into effect after the unification of the country by Prithivi Narayan Shah, King of Nepal from 1723 to 1775. The unification abolished the small fragmented kingdoms in the country. However, even after unification, the former kings (chiefs of certain territories) were authorized to collect land tax from certain lands and could use the money freely. In some circumstances, they had to pay a

certain portion of the collected land tax to the State. This authority was assumed by heirs of the kings. However, they had no authority to sell or reallocate land to different tenants. This right was vested in the tenants or landowners. This type of tenure was abolished in 1971 (HLRC, 1995).

Rakam originated from the assignment of land as compensation for the performance of specific functions, mostly of a manual nature. *Rakam* lands were assigned to carpenters, bricklayers, mail carriers, wind-pipe players, caretakers of religious places, and similar categories of manual workers. This system was limited to the hill region of Nepal, particularly Kathmandu Valley (Regmi, 1977). *Rakam* was a temporary assignment and ended upon the death or termination of service of the assignee. The *Rakam* system was abolished in 1955, and *Rakam* lands were converted into *Raikar* lands.

About 7.7% of the country's farmland is estimated to have been under *Jagir*, *Rajya* and *Rakam* prior to abolition (Regmi, 1977). None of these tenurial systems is currently practiced.

Kipat

Kipat is land collectively owned and cultivated by the Limbu community in the hills of eastern Nepal for their own purpose. *Kipat* land could be sold, or rights to it transferred to members of the same community but not outside it. *Kipat* landowners had to pay tax to the State for the portion of the land used as homestead. Paddy lands were exempted from tax (Regmi, 1977). About 4% of the nation's farmland was under this tenure system. It was abolished in 1961 by a government decree that converted *Kipat* land into *Raikar* following a survey of the land (Regmi, 1977). All *Kipat* lands have since been converted into *Raikar* (HLRC, 1995).

Guthi

The term *Guthi* was probably derived from the Sanskrit *Gosti*, or council. *Guthi* refers to land allocated for the purpose of covering the expenses of certain religious, charitable, cultural, or social functions. *Guthi* lands were registered to religious/cultural institutions by the State. However, individuals could also offer their land as *Guthi*. *Guthi* land is exempted from taxes.

The tenure right of tenants cultivating *Guthi* land is transferable to other tenants and is inheritable. At present, *Guthi* lands are administered by *Guthi Sansthan* (*Guthi* Corporation). About 2% of the nation's farmland belongs to this tenure type. How-

ever, the Government has initiated the process of converting most *Guthi* into *Raika* land.

Before the 1950s, the country's cultivable land was divided as follows:

<i>Raika</i>	963,500 hectares
<i>Birta</i>	700,080 hectares
<i>Guthi</i>	40,000 hectares
<i>Kipat</i>	77,090 hectares
<i>Rajya, Jagir, Rakam and others</i>	146,3336 hectares

(Evaluation of land reform in Nepal—1973, M.A. Zaman FAO)

While *Guthi* and *Raika* tenure systems are the only officially recorded systems in Nepal, an informal land tenure system exists alongside these. This type of land tenure system is mostly found in urban and semi-urban areas of Nepal, but it has also been observed in remote areas. Government and public lands are occupied by landless people, conflict victims, bonded laborers and rebel groups. (Paudel, 2006).

Dual Ownership of Land

The tenancy based tenure system is the kind which gives rise to "dual ownership," as both land owner and holder (tenant) exercise control over the land.

Dual ownership tends to discourage long-term agricultural investments because of the insecurity of tenancy and the unequal apportionment of benefits. Moreover, due to fear of eviction, the tenant is often forced to accept onerous rental conditions of the landowner, leading to severe exploitation in certain cases.

Dual ownership of land was abolished by the fourth amendment (1996) of the 1964 Land Act. However, about 13% of farm holders are still operating under rented tenure arrangements on about 8.7% of the country's land. This means that as much as 13% of landholdings and 8.7% of all farmlands still remain under dual ownership. Of lands operating under rented tenure arrangements, about 6% are run under the "share of produce" rental arrangement. Given that landowners are not inclined to report this kind of arrangement, and tenants fear reprisals from their landlord, the incidence of dual ownership of land is likely to be far higher than has been officially reported.

The process of putting an end to dual ownership is also hampered by the fact that 85% of tenants are unable to present the docu-

ments necessary to establish their rights to the land: (1) the contract with the landlord; and (2) a receipt of grain payment.

Insecurity of Land Tenure

To be considered a tenant, a farmer must have tilled or worked on another person's land for livelihood for at least two crops in a row. Tenancy rights conferred ownership rights on half of the land being tilled.

In 1964, when the government formulated the first Land Act and in so doing established tenancy rights, 1,818,975 tillers applied for tenancy rights; of this number, 1,546,734 got provisional certificates. However, only 318,596 of these were actually registered as tenants. Another round of registration was called pursuant to the fourth amendment of the Land Act, promulgated in 1996, and those who did not register had their tenancy rights cancelled. Because many of the tenants were illiterate and unaware of this law, as many as 560,000 of them failed to register, and lost their tenancy rights in the process. Today, more than 40% of peasants have no tenancy rights.

Even those with tenancy rights are not that secure of their land tenure. At least one tenant is evicted by a landlord in Nepal every day (CSRC, 2005). The Land Act 1964 has given the landlord all sorts of excuses to do this.

Feudal and Exploitative Practices: *Haliya/Haruwa*

Literally, *Haliya/Haruwa* is a male who ploughs his master's field for very low wages. Such a ploughman is called *Haliya* in the hills, and *Haruwa* in the plains. *Haliya/Haruwa* also refers to a kind of bonded labor—debt bondage in particular. The *Haliya/Haruwa* ploughs the landlord's farm on an annual contract, but since he cannot make enough money to pay off the principal, he tills the land to pay off the interest. Since he is not free to do work for anyone else, he has little chance of earning enough to repay his loan. Since it is in the interest of the landlord to keep the *Haliya/Haruwa* in his debt, he plays all sorts of tricks, such as making the *Haliya/Haruwa* sign for a loan much more than what he actually received (e.g. having the *Haliya/Haruwa* sign for a 5,000 rupee loan, then surreptitiously adding another "0" to the amount in the signed document). Even when *Haliyas* go to pay back the principal, the landlord makes up one excuse or another not to accept it. And when the loan interest is compounded from year to year, the whole family is bound to repay the loan.



There are an estimated 60,000 *Haliya* families in the hills of the Mid and Far Western regions, and 300,000 in the western, central and eastern Terai districts in the country. These *Haliya/Haruwa* are mostly *Dalits*. Likewise, there are over 30,000 former bonded laborers in five Terai districts of the Mid and Far Western regions of Nepal who have been living miserably for ages.

Figure 1. Land-based Hierarchy in Terai

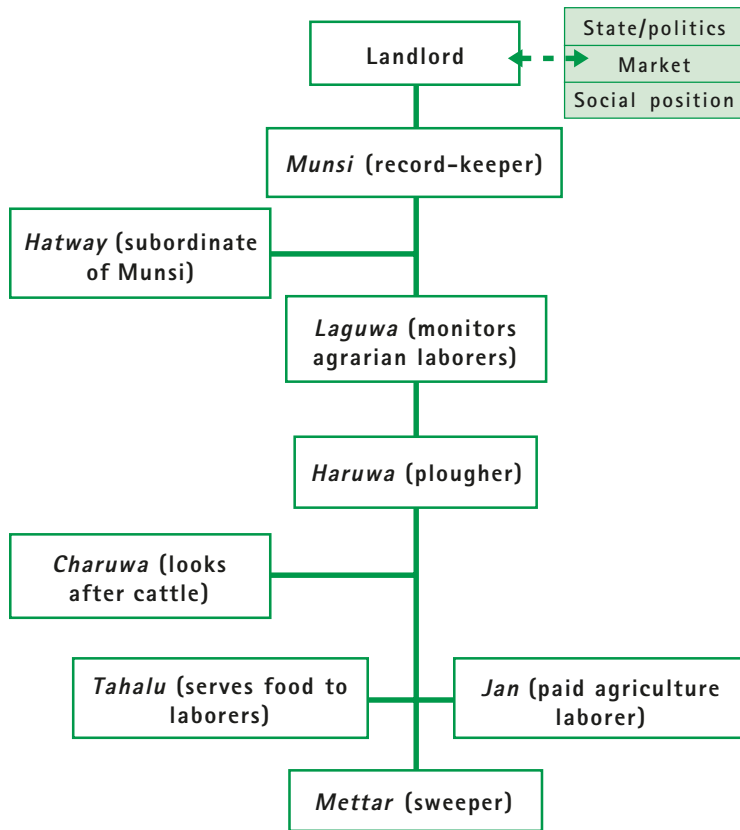


Figure 1 illustrates the land-based social hierarchy in Nepal, especially in the Terai region. This hierarchy supports some of the most exploitative feudal practices. The landlord hires many groups of workers to plough his land, look after his cattle, work on the farm, take care of the animals and sweep the grounds.

The figure also shows how the land-based bonded system is organized, particularly in the household as a production unit. The landlord continuously maintains his relationship with state, local or national political organizations, to secure power and authority. It is often the case that most elected representatives are themselves landlords or close kin to them. At the same time, a landlord also has to maintain linkages with the market to buy and sell products required for production. The market favors landlords because of their connection with state or political authorities. Further, in one way

or another they can ensure the continuous flow of commodities demanded in the market. They also maintain a social persona, by performing some kind of social work (e.g., as chair of a school management committee), by being benevolent to the poor, regularly performing religious rituals, and giving donations to charity organizations (such as for the construction of a temple), etc.

Land Ownership and Distribution

Landlessness

- According to the 2001 census, out of a total of 4.2 million households, 1.3 million households (or 25% of the populations) are landless (CBS, 2001).
- According to the Human Development Report of 2004:
 - > In rural areas, almost 29% of households, or over 5.5 million rural-based Nepalese (given that the average household size of Nepal, according to the 2001 census, is 5.45), do not own any farmland.
 - > The marginalized groups include freed bonded laborers (about 26,000 families); landless peasants; squatter settlers; indigenous peoples; *Haliya* (300,000 persons); *Haruwa/Charuwa*; *Dalit* (22%); *Badi/Badini* (4,442 persons); and most indigenous and minority groups such as *Chepang* (52,237 persons); *Mushahar* (172,434 persons); *Santhal*, *Jhangadh*, *Munda* and many internally displaced people, *Deukis* (virgin girls offered for the service of a temple) and so on.
- Over 70% of peasants own less than a hectare of arable land (Nepal National Planning Commission, 1998).
- There is a huge gender disparity in the number of male and female landholders. Only 8.1% holders are female, though the proportion is gradually improving (CBS, 2004). The lower proportion of female holders is directly related to the lower proportion of female household heads. Also, only 10.8% of women own land (Nepal National Planning Commission, 1998).
- Some 217,000 families do not have enough land on which to build a house. These are considered the agricultural landless. Landlessness is highest in the Terai districts.

Size of Holdings and Distribution

Landholdings less than a hectare in size make up close to 75% of the country's farmlands, yet, together, they account for less than 40% of the total farm area. On the other hand, big farm-lands (5 hectares and over) comprise less than 1% of all holdings, but cover more than 7% of the total farm area.

A regional analysis of land distribution indicates that the proportion of landless holdings is higher in the Terai, compared to the hills and mountains. Sixty (60) percent of holdings in the hills and mountains comprise less than half of the country's total land area whereas 41% of the holdings in the Terai make up little more than half of the total land.

Other facts on landholdings:

- Average size all over the country: 0.8 hectare
- In the Terai: 0.94 hectare
- In the mountain region: 0.73 hectare
- In the hills: 0.66 hectare (the smallest)
- Female-owned or operated holdings are 35% smaller than those of males (CBS, 2004).
- Less than 1% of landowners hold 5 hectares and more.

Prior to the implementation of the Land Act of 1964:

- Sixty five (65) percent of poor peasants had access to just 15% of the land; while a miniscule number of rich landlords (3.7% of the population) owned 39.7% of the land (CBS, 1962)

- Distribution of farmland: 75% of landholders own less than 40% of farmlands, while 25% of landholders own 60% of farmlands.

Issues Affecting Access to Land

Centralized Land Governance

In Nepal, land management is centralized. All decisions related to land management are made at the Ministry level. Thus, people living in remote areas either have to travel to the capital, Kathmandu, to bring their case before the government, or wait for the Ministry's decision to be handed down to the district offices. Because the poor cannot afford the cost of traveling to the capital, they usually take their concerns to local government agencies, which usually do not have authority to settle issues and which are frequently biased against the poor. Land administration is procedurally complex and poor people cannot deal with the formalities it requires.

Table 1. Size of Holdings in Nepal

Size of Holdings	Holdings		Area		Average Land Size
	Number	Percent	Hectares	Percent	
Holdings without Land	26,700	0.79	118.2*	0.0	0.00
Holdings with Land	3,337,439	99.21	2,653,918.9	100.0	0.80
< 0.1 ha	260,547	7.74	13,241.6	0.5	0.05
0.1 ha and < 0.2 ha	346,113	10.29	49,864.2	1.9	0.14
0.2 ha and < 0.5 ha	972,259	28.90	327,060.8	12.3	0.34
0.5 ha and < 1 ha	915,674	27.22	641,659.3	24.2	0.70
1 ha and < 2 ha	588,649	17.50	791,965	29.8	1.35
2 ha and < 3 ha	157,026	4.67	371,223	14.0	2.36
3 ha and < 4 ha	51,573	1.53	175,690.5	6.6	3.41
4 ha and < 5 ha	20,241	0.60	89,257.5	3.4	4.41
5 ha and < 10 ha	21,575	0.64	139,750.2	5.3	6.48
≥ 10 ha	3,783	0.11	54,206.7	2.0	14.33
Total (Nepal)	3,364,139	100	2,654,037.1	100	0.79

Source: CBS, National Sample Census of Agriculture 2001/02

* Holdings without land refer to holders living on encroached public land.



Abolition of Collective Rights

Indigenous and ethnic groups are rapidly being displaced from their native land. This is the result of state-supported activities on indigenous peoples' lands that bring in big revenues, such as oil exploitation, mining, dam building, logging, monoculture of cash crops, cattle ranches, and the establishment of national parks, nature reservations and tourism.

Legal and Policy Framework for Access to Land

Laws

Land Reform Act of 1964

- Fixed a ceiling on the size of landholdings;
- Sought to protect the rights of tenants by including their names in the owner's land title;
- Fixed the rent on agricultural land and reduced interest on rural loans;
- Allowed tenants to apply for tenancy rights at the District Land Reform Office (DLRO) provided that they had tilled the land the previous year and could present proof of this fact, such as a grain payment receipt;
- Has been amended 6 times, the most important being:

Fourth Amendment (1996)

- > Provided that the land being cultivated by the tenant be divided equally between landlord and tenant, to ensure that tenants would become landowners themselves
- > A credit facility would also be made available to the tenant who wished to buy the landlord's half;
- > Sought to abolish dual ownership of land.

Fifth Amendment [failed to be implemented in 2001]

- > Attempted to reduce the ceiling on the size of landholdings.

- Problems in implementation:
 - > Despite the law's intent to abolish the practice of dual ownership of land, as much as 13% of landholdings and

8.7% of all farmlands remain under this arrangement. The likelihood that the incidence of dual ownership of land could even be higher than officially reported due to landowners withholding information or tenants' fear of reprisals.

- > Gave landlords unrestricted rights to evict tenants who fail or refuse to pay higher rents; thus, tenants had no secure tenancy rights, and were subject to arbitrary rent increases.
- > To get around the law, landlords evicted the tenants from their land. Thus, there has been a marked decline in the number of tenants and the area under tenancy from 1961 to 2001 (*refer to Table 2*).
- > According to the Badal Commission for Land Reform (1995), more than 450,000 tenant families were not yet registered, and that even those that have been registered have not been able to avail of their rights. In 2000–2001 a survey conducted by the Department of Land Reform and Management showed 266,261 registered tenants in 35 districts that were eligible land claimants but had not been able to avail of their tenancy rights. About a million poor households (majority of whom are Dalits) have been deprived of their rights to land.
- > A 1973 study showed that close to 10 years after the enactment of the Land Act of 1964, only 32,331 hectares of land had been acquired out of the 50,580 hectares (owned by 9,136 landlords) that had been identified for distribution, and of this only 64% had been distributed. Moreover, 31.2% of farmers were still tenants (Zaman, 1973). Another study found that 9.9% of landlords owned 60.8% of the land after 8 years of implementing the Land Act, thus leaving the pattern of land distribution basically unchanged (Regmi, 1976). More recent studies showed that after 20 to 30 years of implementing the Land Act, 28% of households were still unregistered tenants, especially in the Terai region (IDS, 1986 and Khanal, 1994).

Table 2. Tenants and Tenancy, 1961–2001

Description	1961	1971	1981	1991	2001
Total tenant households	40.4	19.0	9.5	15.9	12.2
Area under tenancy (in mill ha.)	25.5	15.9	6.2	8.5	8.7

Source: Ministry of Land Reform and Management (2006)

Interim Constitution of 2007

- Committed to “pursue [a] policy of adopting scientific land reform programs by gradually ending capitalistic land ownership practices.” (Part 4, Article 33 [f]);
- Mandates the State to pursue a policy of providing adequate land and livelihood to freed bonded laborers (Part 4, Article 35 [15]).

Programs and Policies

Interim Plan for 2007–2008

- Declares its objective of improving farmers' standard of living and contributing to the national economy through implementation of “scientific land reform.”
- Sets the specific goal of ascertaining the land rights of landless slum dwellers, freed bonded laborers and tenants, to ensure their food security, address poverty, and make the land more productive;
- Outlines an implementation strategy that includes the formulation of appropriate laws and setting up of mechanisms to distribute land to landless groups;
- Aims to form a high-level Commission to resolve problems concerning landless groups.

Programs and Policies for Fiscal Year 2007–08

The government's annual program and budget includes the following land-related policies and plans:

- Government-owned, unused and barren land would be made available for commercial and cooperative farming under long-term lease, giving priority to the landless;
- The foundation for implementing scientific land reform to put an end to the feudal system of land ownership will be prepared. A system of issuing one certificate—recording all land owned by one person wherever the land may be situated in the country—will be commenced. Activities remaining to end dual land ownership (landlord and tenant) will be completed. Necessary amendments will be made to increase the participation of the landless in the land. The rehabilitation program with freed bonded laborers will be continued.

Tenth Periodic Development Plan (2002–07)

- Declares that the long-term policy of the Land Reform and Management Sector is to “bring about social justice and good governance and contribute in achieving the national goals of poverty alleviation through the development of an effective, trustworthy, and qualitative land utilization and management system in the country”.

- States the objectives of the Land Reform and Management Sector as follows:
 - > To strive for an efficient, service oriented and informative land administration system based on modern technology.
 - > To increase access to land by actual farm workers (those whose skills and labor are directly linked to farming) and thereby contribute towards poverty reduction by establishing and rehabilitating target groups.

In order to achieve these sectoral objectives, several strategies and policy actions have been proposed with respect to each of the objectives. Similarly, sectoral quantitative targets have also been set. The strategies and policy/action plans as stated in the Tenth Plan are as follows:

1. Preparing land use and national land policies
Under this strategy the following policy actions will be carried out:
 - > Formulation of a National Land Policy to govern all activities related to land and formulation of an integrated law related to land and its implementation.
 - > Implementation of a land utilization action plan to discourage non-agricultural use of fertile land.
2. Developing the desired legal framework for contract and cooperative farming with due respect to the rights of land owners, and aiming to reduce the trend of leaving large landholdings fallow or unproductive;
3. Strengthening the land information system, which aims to secure and update land records, develop a geographical information system for the smooth flow of information, and maintain records of land entitlements disaggregated by gender;
4. Updating topographical maps and developing the required manpower for land management;
5. Discouraging land fragmentation, specifically fixing and implementing a minimum size of land eligible for registration and discouraging land fragmentation beyond a certain minimum size;
6. Efficient management of the settlement of *Kamaiya* and improving their livelihoods—with efforts directed toward proper management of the settlements of landless and freed *Kamaiya*, provision of skills training to improve capabilities for income generation, and distribution of land that is available after imposition of new land ceilings to the landless and economically marginalized sections of society;

7. Seeking ways to implement and manage the new provision of land ceiling and preparing grounds for the formulation of a progressive taxation system in order to discourage unproductive land holding;
8. Mobilizing peoples' participation in the management of *Guthi* land and updating *Guthi* records.

Several programs and their quantitative targets have also been set corresponding to the above objectives, strategies and policy action plans. The programs seem to be highly progressive. Yet, while the period of the Tenth Development Plan has already elapsed, many of these proposed initiatives have yet to be implemented.

Agriculture Perspective Plan (APP) (1996–2010)

- Main thrusts are enhancement of the productivity of land; commercialization of agriculture; diversification of products, and focusing on products in which Nepal has a comparative advantage;
- Identifies dual ownership of land and land fragmentation as major constraints to agricultural development and recommends taking actions toward terminating dual land ownership and initiating land consolidation based on the recommendations of the High Level Commission on Land Reform (HLCLR) 1995. It is further mentioned in the Plan that dual land ownership discourages investment on land development activities. Further, initiation of land reform programs and land consolidation programs have been identified as the basis for the selection of pocket areas in the Terai region;
- Problems in implementation: no action is being taken in pursuit of land reform and/or against land consolidation.

National Agriculture Policy of 2004

- Emphasizes the need to increase access to land by landless and marginal farmers for the general development of the agriculture sector and improvement of farm productivity;
- Recommends the following measures:
 1. Implementation and monitoring of compliance with land ceilings, the imposition of a progressive taxation policy, and formulation of contract rules for hiring farm land;
 2. Establishment of a Land Bank to enable landless groups to purchase farm land for agricultural production. Information services would be made available to the buyer and sellers of the land through involvement of local

authorities (bodies);

3. Provision of free technical assistance and seed grants to the *Dalit*, marginal, landless agricultural laborers contracting and operating farms, ponds or other water bodies for the purpose of producing agricultural commodities;
4. Lease of marginal public lands, grazing lands, degraded forest areas, and unutilized public lands to targeted community members.

Unwritten Practices Related to Customary Land

- Tradition dictates that where a person has tilled and sown the seeds for a crop, he/she cannot be evicted; and where a person has built and roofed a house on land that is not his/her own, the house cannot be demolished;
- Unfortunately, the legal system does not support any kind of ownership of cultivable land that is based on customary law.

Actors Facilitating or Impeding Access to Land

Rights-Holders/Tenants and Landless Groups

Successive farmers' movements have been undertaken by tenants and peasants since the 1950s. The following provides a summary of organized, farmer-led movements and revolts, from the 1950s to date:

Civil Society Organizations

The Community Self Reliance Centre (CSRC) is one of the NGOs at the forefront of advocacy for poor people's land rights. Starting with two Village Development Committees (VDCs) in Sindhupalchok District, CSRC has expanded its work to 42 of the country's 75 districts.

CSRC began by providing non-formal education classes. It took some time to establish land rights as a crux for the struggle against poverty and other forms of injustice and discrimination. It started organizing the farmers and advocating for a pro-tenant farmer policy framework. Within a couple of years, CSRC's initiatives evolved into a campaign that reached beyond Sindhupalchok. Development organizations (both national and international) began to recognize land rights as an important aspect of protecting human rights, building peace, and addressing poverty and discriminations, and joined hands in supporting the land rights work.

Table 3. People's Movements for Land Rights, 1950–2007

YEAR	NAME OF MOVEMENT/PLACE OF ORIGIN	CAUSE/AIM	RESULT
1950 to 1960			
1950	Somlingtar, Bhaktpur District	Tenants' refusal to pay land rent in the form of grain payments	Set off a movement against share-cropping in Rajapur, Bardiya District; the Jamindar Birodhi Andolan (Movement against landlords) in Lumbini; the Dharmabhakari Andolan, in Bara and Rautahat Districts; led to an organized and focused movement against the <i>Birta</i> tenure system, and the <i>Jamindari</i> system, and in support of tenancy rights; inspired the formation of an agricultural union parallel to the Akhil Nepal Kishan Singh (All Nepal Farmer Association);
After 1950	Western Nepal, specifically in Dadheldhura and Baitadi Districts	Widespread disaffection from the Ranas, an autocratic regime that ruled Nepal for 104 years and was put down by the Revolution of 1950; Led by Bhim Dutta Panta, whose main goal was to abolish the <i>Haliya</i> and <i>Kamaiya</i> (another bonded-labor system); Panta's rallying cry was "[T]ill the land, or leave"—a challenge directed toward the feudal lords.	Panta's revolt spilled over to the Kailali and Kanchanpur Districts
October 1954	Kathmandu and Bhaktpur District	Six demands issued to the government, including the abolition of the landlord system	Various demonstrations against the government, which led to the arrest of 19 demonstrators; led the way to the second phase of the revolt in March 1957, following which 55 farmers were imprisoned; inspired a movement for farmers' land rights which persisted until the 1980s: led by Nepal Majdur Kisan Party
1956–1957	Ji Kaho, No Re Kaho (Address us respectfully) Revolution/ Rautahat and Bara Districts	Revolt against feudal lords and their misdeeds	Evolved into a movement for dignity and self-respect, especially in the face of maltreatment of poor landless people by landlords; led to demands for and establishment of a grain bank by the union, and to which farmers as well as the feudal lords contributed grains and money; Police authorities, acting on behalf of the feudal lords, attempted to suppress the revolt by arresting its leaders but were defeated by the farmers.

Table 3. *con't.*

YEAR	NAME OF MOVEMENT/PLACE OF ORIGIN	CAUSE/AIM	RESULT
March 1954	Ratamata Bijayanagar, Pyuthan District	Started as political education and physical training; trainees who were called in to help the people in Narikot who complained about being oppressed were attacked by Thakuries, whom they defeated.	Warrants of arrest were issued against the trainees, who were forced to go underground.
1953–1955	All Terai Districts	Agitation among farmer youth against domination and exploitation and formation of the Socialist Farmers Party	Mass reprisals against farmers movements in 1960 led to the banning of the Farmers Union, which re-grouped as the Farmers Organization under the Panchayat System.
1960	Dang Deokhuri District	Eviction of farmers	Farmers united against the combined forces of the landlord and the local police. Fighting ensued, during which farmer leaders were shot at. One of them died.
1960 to 1990			
1970–1974	Jhapa	Oppression by feudal lords	Recruited youth supporters, who engaged in violent encounters with government; the killing of a number of youth supporters in 1973 paved the way for a higher form of revolt.
1978–1979	Chintang Revolution/ Dhankuta District	Widespread famine prompted starving poor people to break into the grain stores of the <i>majhayas</i> , or landlords. The <i>majhayas</i> owned all the fertile lands, while the poor farmers had to eke out a living from marginal lands, apart from paying land rent. They were also forced to work in the fields or in the <i>majhaya's</i> home for two weeks every year without compensation. In Dashain, the poor had to offer the <i>majhaya</i> gifts such as cocks, hens, alcohol, wooden pots, and sometimes, money. Poverty led to the insurgency.	As the <i>majhaya</i> stores were heavily guarded, the starving people failed in their attempt to break in.

Table 3. *con't.*

YEAR	NAME OF MOVEMENT/PLACE OF ORIGIN	CAUSE/AIM	RESULT
1978-1983	Piskar Movement/ Sindhupalchok District	Looting of paddy by the feudal lords of Piskar, called Pandeys.	Organized attempt by the farmers (Thami community) to take back the rice that had been stolen from them; after the leader of the Pandeys sent in the police, a number of the farmers fled, while the rest were arrested.
1990 to 2007			
1993	Kanara Movement/ Bardiya District	Demand for land rights by the Tharu community; government oppression	
1995	Rasuwa District	Tenants' refusal to pay grain payments to the fake owner of land under the <i>birta</i> tenure system, which has been abolished.	
1996	Sindhupalchok District	Filing of 42 cases at the District Land Reform Office for the grant of tenancy rights	Led to the formation of the National Land Rights Forum
1997	Bagdari Movement/ Bardiya District;	Landless people demanding land rights	
	Pitmari Movement/ Banke District	Education of the <i>Kamaiya</i> laborers concerning their rights	
1998	Banke District	Landless people taking over a piece of land owned by a private company	
2000	Kamaiya Movement	Liberation of the <i>Kamaiyas</i>	Expansion of the <i>Kamaiya</i> Movement into 5 districts
	Sindhupalchok District	Protest action at all the land offices to resolve the land problem in Sindhupalchok	Forced the government to form a committee to address the problem related to <i>Guthi</i> land in Sindhupalchok; regarded as a historic event in the struggle for land rights in Sindhupalchok.
2004	Nationwide	73,000 cases filed with the land registration committee's offices in regard to pending applications for tenancy rights	
	Rajbiraj City, in Saptari District	2-day hunger strike demanding land rights and citizenship cards	

Table 3. *con't.*

YEAR	NAME OF MOVEMENT/PLACE OF ORIGIN	CAUSE/AIM	RESULT
2004–2006	Several districts	21,000 cases filed by tenants to claim their right to 50% of tenanted land	
2006	Sunsari District	Relay hunger strike in front of the land reform office	Support extended to the hunger strikers by the Indian Land Rights Movement's leader PV Rajagopal
	Dang, Banke, Bardiya, Sunsari, Sindhupalchok, Sapatari, Siraha, Mahottari, and other districts	Advocacy for land rights	Padlocking of district land revenue offices to force the government to decide on pending cases
2007	Kathmandu	Sit-in strike at the Prime Minister's residence and at the offices of the major political parties	
	Singh Durbar, Kathmandu	Demonstration started by Badi women for land rights and security of livelihood, which lasted for 2 months	Government promised to form a high-level land commission, but this has not materialized yet

Since land reform is a complex political issue, the idea of forming a broader civil society alliance around this issue was conceived. Thus, the National Land Rights Concern Group (NLRCG) was established. Its members consist of media groups, human rights advocates, and social activists, among others. The alliance adopted the strategy of enhancing the capacity of the tillers and landless farmers to undertake and lead rights claiming initiatives themselves. By the end of 2007, the NLRCG had been able to reach 1.6 million tenants and landless farmers, develop 996 local activists among the tillers, and strengthen tiller's organizations to launch rights claiming movements on their own.

The tiller's organization, the National Land Rights Forum (NLRF), is a membership-based national people's organization (PO) formed in 2004. Its members, which currently number over a million, consist of land deprived people, such as squatter settlers, slum dwellers, tenants, trust land tenants and landless

farmers, former bonded laborers, landless farmers, *Dalits*, women, and other excluded and marginalized groups. As of March 2008, the NLRF operates in 42 districts of Nepal.

It has 28 district-level and 1,211 village-level organizations, along with 48,133 members (one person per family), including 19,098 women and 23,531 *Dalits*. NLRF is led by 4,718 community leaders, of whom 7,067 (48%) are women and 8,251 (56%) *Dalits*. NLRF has been leading the land rights movement throughout the country and advocating for pro-people land reform. NLRF has a democratic set-up with leaders elected from members of the primary organizations. The NLRF aims to:

- Establish an organization from the community to national level, and develop leaders for and among land deprived people;
- Make tenants and landless farmers aware of their land rights and encourage them to fight for the establishment of their land rights;

- Generate public awareness of land rights as an important factor in ensuring social justice, eliminating poverty, and promoting progress;
- Conduct powerful agitation programs from the community to the national level in order to abolish discrimination in terms of class, caste, gender, etc.;
- Participate in all kinds of non-violent agitation programs related to the formation of a democratic government and the establishment of human rights and social justice; and
- Manage land in a productive and systematic manner.

The movement has adopted a democratic, participatory approach, and adheres to transparent and responsive processes at all levels of decision-making and organizational operations. It strives toward democratic leadership and building consensus in making decisions. It is not aligned to any political party.

The State/Government

After restoration of democracy in 1990, the Parliament has been a little more active and has taken up the issues of poor tillers and peasants. For example, the Parliament declared the abolition of the bonded labor system in Nepal in July 2002. They have called attention to the continued practice of bonded labor, particularly *Haliya*, and a number of specific cases of land displacement resulting from development projects.

There are two main government agencies instrumental in directing and guiding land access and tenure issues in Nepal. The National Planning Commission (NPC) has overall responsibility for setting up development policy and strategies. The Land Reform and Management Ministry implements the agreed policies and strategies on the ground. NPC is the advisory body for formulating development plans and policies of the country



under the directives of the National Development Council. It explores and allocates resources for economic development and works as a central agency for the monitoring and evaluation of development plans, policies and programs and facilitates their implementation. Moreover, it provides a platform for the exchange of ideas, discussion and consultation pertaining to the economic development of the country. The NPC serves as an institution for analyzing and finding solutions to the problems of civil society and NGOs, and the private sector in the country.

The Supreme Court and the lower courts rule on petitions filed by the people. So far, the Supreme Court has issued two major rulings on the rehabilitation of former bonded laborers, including *Haliyas*, and on directing government to pass laws to protect the rights of such victims.

Political Parties

All the eight major political parties have acknowledged that agriculture is the backbone of the Nepalese economy, and proposed multi-dimensional programs to develop it. Based on their declarations, the political parties—whether rightist, leftist, or centrist seem to share the opinion that development of the agriculture sector is possible if all the issues related to it, including tenancy rights, are addressed simultaneously and with equal vigor.

Since 1990, three parliamentary elections (1991, 1996, and 1999) have been held in Nepal. In their electoral manifestos, the parties have all raised the issues of land management, tenancy and agriculture. Most of them appear to be sympathetic to the concerns of squatters, landless peasants, freed bonded laborers, indigenous/disadvantaged people, tenants and other similar groups of landless people. They are also worried about accelerated land fragmentation and have debated issues, such as the commercialization or privatization of agriculture, and proposed 'revolutionary' or 'scientific' land reforms.

The following are the common points in the electoral manifestos of the eight major political parties:

- Land reform is a priority concern.
- Land reform is a vital aspect of overall agricultural development, and not only in regard to the management of land ownership.
- Dual ownership of land should be abolished.
- The establishment of a fertilizer factory is an urgent goal.

All parties across the full spectrum of Nepali political ideology have equally realized the need for land reform. Because there are few conceptual differences among them, the possibility of reform built on consensus is, in theory, very high.

International Institutions/Agencies

International institutions and agencies are key actors in setting up the policy framework for development in Nepal. Nepal is heavily dependent on international communities and donors for its national development. In this context, international communities and agencies exert a strong influence on national policy formulation.

There are a number of international agencies that have shown an interest in a certain type of land reform and have been trying to steer the government in that direction. However, Nepali land rights advocates are debating the pros and cons of such approaches. In the recent times, there is growing realization among the international actors that pro-people land reform is one of the key interventions to ensure justice that would pave the way toward sustainable peace and to overcome extreme poverty in Nepal.

However, there are only a few international agencies present in Nepal that support the land rights movement by the tillers and peasants and CSOs. These are ActionAid International, Danida, HUGOU, Canadian Cooperation Office, MS Nepal, and Care Nepal, among others.

Opportunities, Challenges and Strategies to Advance Access to Land and Tenurial Security

Accomplishments to Date

1. State's Declared Intent to Implement Land Reform

The Interim Constitution of 2007 is committed to "pursue [a] policy of adopting scientific land reform programs by gradually ending capitalistic land ownership practices." It mandates the State to pursue a policy of providing adequate land and livelihood to freed bonded laborers. Likewise, the Three-Year Interim Plan (2007–2010) has clearly set policy and specific objectives for land reform.

2. Politically Aware Citizenry

With democratic space and intensive education, the people



have increasingly become aware of their rights, social justice, and the pathways to it. This has created tremendous pressure on political actors to fulfill their promise of delivering pro-people land reform. The disadvantaged people have become organized, speaking and acting as one. Consequently, they have reaped the dividends of a democratic government.

3. Proactive Civil Society

Nepal's experience of democracy in the last 10 years has helped nurture Nepali civil society and establish its importance. Civil society has been organized into several specialized segments, such as human rights activism, democratic advocacy, community empowerment, poverty eradication and human development, among others. All these practices have made Nepali civil society a key partner for national development, social transformation and peace and democracy in the country.

4. Technical Skills Enhancement

The Nepali social movement, especially the land rights movement, has taught lessons and promoted critical awareness of national laws and procedures. Tillers and peasants who used to be ignorant of their rights under existing laws are now aware of the provisions in the Interim Constitution of 2007 and other legal documents which concern them. They have developed the capacity to analyze these laws, especially whether or not these would work in their favor. Moreover, people have also learned to mobilize themselves to bring their agenda to the attention of political actors and state mechanisms. People have organized into issue-based networks and alliances.

Conditions for Success

Land reform is a complex political matter. It is deeply rooted in the country's socio-cultural system, values, and norms. It is

hindered by a vicious cycle that is difficult but not impossible to break. The following are the conditions or prerequisites for the successful implementation of land reform in the country:

1. Democratic space.

People can claim their rights only in a democratic system. Democracy based on social justice provides enormous space to the people and civil society to pursue their agenda. Political will is another important aspect of this precondition.

2. Critical mass and political clout.

People need to be organized and increase their influence among political actors and state mechanisms in order to get a proper hearing for the problems of victimized people. A critical and supportive civil society, pro-people state mechanisms, supportive donors, and other international actors are some of other important conditions for effective land reform in Nepal.

3. Access to land-related information.

Both the land rights victims and CSOs should have in-depth knowledge of the causes and symptoms of poverty, injustice, and violation of human rights. Based on these facts, civil society and ordinary people could make a convincing case to the political actors such that they are forced to take appropriate actions to respond to the issues. Civil society and human rights organizations can also publicize information widely enough, such as exposés of corruption and injustice, to draw the attention of concerned duty bearers. Another important factor for the success of a land rights movement is increasing and productivity. A concentrated effort should be made in this regard.

4. Building multi-stakeholder cooperation and partnerships.

Land reform and ensuring social justice for the poor is no easy task. It is linked with the political economy, with all its complexities. Thus, there should be a collective effort by as many stakeholders as possible, such as the State, the private sector, civil society, and farmers. In particular, to decentralize land management at the local level, enhancing farmers' capacity to produce surplus, and simplifying land governance, and legal and institutional mechanisms are key areas of intervention.

5. Shared commitment to land reform.

The shared appreciation for the urgency of land reform among the political actors, and the provisions in the Interim

Constitution of 2007 promoting scientific land reform should support advocacy efforts.

Opportunities

Nepal is going through political transition. Despite ups and downs, people in general are confident about making changes. The landless and people without tenancy rights are aware and are getting organized. The present government was formed through people's popular power. Thus, politicians are anxious to bring about changes not just to improve conditions in the country but also to keep themselves in power.

The current legislation (e.g., the Interim Constitution of 2007; the Three-Year Interim Plan) already provides a road map toward the goal of land reform. Civil society and the development sector have come to understand the importance of land reform as an effective means to address poverty and to enable landless people to claim their rights. Institutions such as the NLRF and NLRG have emerged, and NGOs such as CSRC are supporting them in every way possible. Their skills in dealing with land issues have improved significantly.

Risks and Challenges

As much as land reform is important, it is undeniably challenging. History has shown that land is the source of socio-economic and political power. The small elite class will not readily relinquish such power, and is likely to oppose or create obstacles to the implementation of land reform.

The leaders of political parties come from the same elite class. Hence, it is likely that they would pay lip service to the scientific land reform prescribed in the Interim Constitution of 2007, but oppose it in practice.

Globalization poses another challenge. A market-based economy, which globalization espouses, regards land as a commodity whose value needs to be maximized, rather than as an entitlement of the landless. Donors, such as the World Bank and Asian Development Bank, among others, have been pursuing a market-based approach to land reform, which might not work in the interests of poor tillers and peasants. This needs to be analyzed and studied critically and carefully.

Strategies

Since Nepal is undergoing socio-economic restructuring of the State, the following actions should be prioritized. A number of



subsidiary interventions should be made, but only the primary ones are presented as follows.

1. Inclusive Policy Formulation and Implementation

Current land-related acts and policies need to be repealed and new ones formulated on behalf of landless, poor tenant farmers. Most important of all, the Constitution should guarantee implementation of land reform. The success of land reform in West Bengal, India was due to the implementation of progressive land policies as dictated by the country's constitution.

2. Restructuring of Land Administration

In Nepal, land management is highly centralized. Although the Ministry of Land Reform and Management has extended units across the country, these do not have power to settle issues concerning land at the local level. All decisions related to land management are made at the Ministry level. Unfortunately, poor people cannot afford even the cost of travelling to the Ministry. Besides, land administration is marred by procedural complexities and duplicities, which the poor are unable to deal with. Thus, there is an urgent need to simplify and decentralize land administration. The authority over land reform and administration should be delegated to District Development Committees (DDCs) and Village Development Committees (VDCs), with the District Land Reform Office (DLRO) serving as secretariat to these units. A separate land court at the VDC and DDC levels should be established to expedite the settlement of land issues concerning poor people. The court at the district level should be given as much authority as the Appellate Court, in regard to resolving land disputes.

3. Establishment of a High-Level Land Authority

A high-level authority needs to be created to look into the claims and data of the state, real life problems facing the people in relation to land, and ways to address problems. Such an authority should be independent of vested interests, with experts in the field and representatives of the poor and marginalized, including women, *Dalits*, *Madeshis*, *Haliyas* and *Haruwas*. The authority should have its offices expanded from the central down to VDC levels, with a clear, written mandate at each level. The central committee of this high-level body should concern itself only with technical and advisory matters, while the VDC and district level committees should have the power to recommend concrete actions. The success of land reform in Japan, Taiwan and

South Korea depended on the power and authority of local level committees.

4. Educating and Organizing Landless and Poor People

No changes occur at the high level without constant pressure from below. This is as true in Nepal as everywhere else. As long as the poor remain unorganized, the elite will continue to keep them under feudal, semi-feudal, bondage and exploitative systems. The victims should therefore be organized, made aware of their situation, and mobilized against their ongoing deprivation and oppression. The oppressed and exploited should be made aware that they have the right to peaceful resistance against suffering and oppression. Awareness gives them the power to fight oppression. Organization makes the fight constructive and logical. There is therefore a need to invest in organizing and educating the landless and the poor.



5. Budget Allocation for Comprehensive Land Reform and Agriculture Sector

The Government of Nepal collects billion of rupees as tax from land transactions, yet hardly 10% of the revenues from land taxes is invested in land management issues. There are hardly any efforts to enhance land productivity. As a result, land productivity is decreasing as is the contribution of agriculture to the country's Gross Domestic Product (GDP). However, efforts to enhance agricultural productivity should follow, not precede, a progressive land reform program. The additional budget allocation for agriculture would be meaningful only after the issue of inequitable land ownership has been properly addressed.

6. Making Land Reform a Common Concern

Among certain groups, land reform or land redistribution smacks of revolution, or at the very least, implies punitive action against rich landlords and even those who have been able to acquire land through hard work. It is therefore important to transform the national perception of land reform: to help the public understand that it is in the interest of the national economy and even the industrialists to correct the imbalance in land ownership. Unless genuine land reform is implemented, there will be few if any incentives to invest on productivity-enhancing agricultural technology; productivity will plummet; and land fragmentation will worsen. Land reform is needed in order to upgrade Nepali farmers from subsistence farmers to surplus producers.

Higher agricultural productivity creates employment, and provides the raw material for industries. The reduction of social unrest is not the sole objective of land reform. A broader alliance among political parties from all sides, the private sector, and civil society needs to come up with a mutually acceptable position on this issue.

Points of Intervention

- **Party Leaders**

All the political parties agree in principle on the need for land reform. However, when it comes to actually making provisions for land rights, one or another excuse is made. The parties must be held accountable for the promises they made in their electoral manifestos.

There are a number of ways in which this could be done: (1) make the leaders aware of the situation, and show them the benefits of land reform in practice; and (2) impress on them the consequences of their failure to provide land to the landless. The Fifth Amendment of the Land Act of 1964 was nullified by the Supreme Court because it imposed a new land ceiling than what was provided for in the Constitution of 1990. However, this amendment was not incorporated in the Interim Constitution of 2007. Land rights advocates should ensure that the upcoming constitution would not prove to be a hindrance to a pro-tenant and pro-landless land reform in Nepal. It is high time to educate and influence the leaders of political parties.

- **The Bureaucracy**

Land is a complex form of property. It involves a number of agencies. One agency points to another to settle a case. It involves VDCs or Municipalities, and the Land Revenue,

Land Reform and Land Survey Offices at the district level, the Department of Land Reform, and the Ministry. If the disputes are not settled by these line agencies, one has to go through a legal process starting at the district courts, up to the Appellate Courts, and eventually at the Supreme Court.

Over 70% of court cases are related to disputes over land. Common folk, especially tenants and landless people, who are often illiterate, are unable to understand the existing provisions concerning land dispute resolution. It is important therefore that the bureaucracy supports the land reform process at the outset and does not create problems. Training and orienting them on issues of land is necessary so that they do not become a hindrance to land reform.

The setting up of a Land Court at the local level is necessary so that disputes over land are settled. One study has shown that the Land Revenue Office is the most corrupt sector in the bureaucracy.

- **The Rights-Holders/Tenants and Landless Farmers**

Neither political parties nor the bureaucracy can be expected to be benevolent overnight without genuine pressure from the rights holders—the landless and the tenants. These communities need to become organized and aware of the legal provisions for and against their claims, so that they can demand their due rights. It is easier to get instructions from the government on how to prepare a hydration solution than it is to get land-related information, which is a matter of life and death to the average Nepali household. No radio program tells farmers to keep the receipts of their grain payments to the landlord, or to go and get their tenancy registered at the district land revenue office.

Many tenants still do not understand that since they earn their livelihood from farming, they are entitled to own the land. They also do not have a notion of tenancy rights. Even after a number of years, when dual ownership had been abolished, the owner is frequently unaware of this change.

- **The Donors**

Few if any donors invest on land reform in Nepal. Many of them prioritize increasing agricultural production but overlook landlessness or tenancy. Donors are most likely oblivious to these issues. It is necessary to draw their attention to such issues and to educate the donors that are unaware of these. In view of donors' influence on the government, it is imperative that they are helped to get their priorities right.



- **Civil Society and the NGOs**

Civil society and the NGOs are also not that focused on land reform. Many institutions advocate for human rights but few raise the issue of tenancy and land rights. Many poverty-focused NGOs are content to distribute seeds and to give away a couple of goats "to improve nutritional status or generate income," but overlook the more important element of the poor's coping strategy: growing grain or working for a landlord. Civil society and NGOs need to be educated and informed of this reality and challenged to expand their understanding of the situation of the landless and the poor. It is necessary to make use of the connections and expertise of these institutions so that they could expand their activities all over the country and in the right direction.

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