

# Evictions Continue: The Reality of Landless and Informal Settlers

## 2020 Nepal Land Conflict Monitoring Report

*Binod Gautam*

*Community Self Reliance Centre (CSRC)*

### ***Rationale of the study***

Ownership of land is associated with power and wealth. Not only do those who control land control its produce but also the many people who are dependent on it. Thus, the social stratification that emerged put landowners as elite rulers of society (Parlevliet, 2009). Those who have land ownership rights can exercise other rights as well, such as the right to housing, the right to education, the right to health, and the right to live a dignified life (Kaplan, 1995).

Land issues have always been among the contentious issues in Nepal (Dhakal, 2011). “Land conflicts in the country have multiple dimensions, the most common form of land conflicts includes inheritance conflicts among family members, boundary conflicts between neighbors, conflict between landless people and government authorities or local communities, and conflict between land owners and tenants, among others” (IOM, 2016). The government’s development projects also affect the lives of landless and land-poor farmers with the threat of displacement from their place of origin. For instance, on 30 August 2019, the Social Welfare Council, the arm of the government that monitors national and international non-government organizations, decided to list the “game changer” projects of Nepal (Shrestha, 2019). Similarly, the National Planning Commission (NPC) has also listed some mega projects such as the Kathmandu-Tarai fast track, the East-West electric railway, some hydropower projects, etc. as the game changer projects. The main objective of these projects is to uplift Nepal as a developing country from a least developed country. However, there is another grim story behind these projects, which has been shadowed in the name of development. No institutions have been formed to analyze the effect of such projects and their long-term impact on the lives of thousands of landless and land-poor farmers in Nepal.

These game changer projects have directly affected the lives of thousands of landless and land-poor farmers through displacement from their place of origin. The government’s

authorities are claiming that their projects will fulfill the aim of the government for a “Happy Nepali and Prosperous Nepal.” However, the incidence of conflict between government and the affected family members is increasing as the government demolishes the houses of landless and informal settlers, evicting them from unregistered land where they have been living for decades.



**An old woman weeps when security personnel demolished her hut in Banke district**

In Nepal, the development agenda and projects are always set by the government’s authorities or development partners without consulting with local people. These authorities and development partners are largely unaware of the relation of land with the people’s daily lives. Only compensation in the form of money is offered, which does not respect the culture, values, and heritage of the local people. Thus, the people sometimes oppose the development agendas or projects set by the government. In this study report, the Community Self Reliance Centre (CSRC) has tried to analyze the nature of land conflict in Nepal, the driver forces behind it, the total number of cases monitored, and recommendations to the government and civil society organizations (CSOs) for the mitigation of land conflict in Nepal.

### ***Objectives of the study***

The main objective of this study is to document major conflict-related cases, analyze them based on their nature and issues, and recommend how the concerned authorities should take necessary actions to mitigate such conflict. Specifically, the study has the following objectives:

- to describe the *prevalence and types* of land and natural resource conflicts in Nepal;
- to discuss the *impacts and outcomes* of land and natural resource conflicts on communities, as well as on land rights defenders;
- to analyze major legal frameworks to safeguard the rights of people in order to minimize land conflict in Nepal; and,
- to draw up *recommendations* based on the study findings and consultations with victims and government stakeholders in Nepal.

### ***Concepts and definitions used in the study***

**Conflict:** Disagreements, public complaints, and protests involving arguments, physical assault, violence, and lawsuits. These are often caused by feelings of unfairness, injustice, suspicion, anger, emotion, and mistrust regarding control over resources or differences in ideology (Martinelli and Almeida, 1998, as cited in Upreti, 2004). Conflict —

whether “manifest” meaning visible or “latent” meaning invisible – “occurs because of difference in values, beliefs and interests, ambiguity over responsibility and authority, poor communication, and unwillingness to respond to social, political, cultural, technological, economic, and social changes” (Buckles, 1999; Walker and Daniels, 1997, as cited in Upreti, 2004).

In the case of Nepal, social and resource conflicts emerge due to the failure to meet social, political, and economic needs, scarcity of resources, corruption, bad governance, poverty, and inequality (Upreti, 2002 as cited in Upreti, 2004). Other causes of conflict are contradictions and inconsistencies in the application of formal legal procedures and customary practices, differences in local norms and beliefs, as well as management differences (Oli, 1998, as cited in Upreti, 2004). In addition, corruption, abuse of authority, misuse of power, illegal forms of pressure, lack of transparency, and deviation from public duties also trigger conflict (Upreti 2002; Panday 2001, as cited in Upreti, 2004).

**Aggressor:** A stakeholder whose claim over the land under contestation is not inherent to their survival and identity

**Arbitrator:** A third party facilitator authorized to study the context and the interests of stakeholders to make a decision on the conflict

**Land Rights Holder:** A stakeholder whose rights to and relationship with the land under contestation is held under law, tenure reforms or custom, and inherent to their survival and identity

**Land Rights Defenders:** Stakeholders who may be Land Rights Holders or support groups assisting Land Rights Holders to defend their land rights

**Mediator:** A person or institution designated to de-escalate conflict and to set rules of engagement in managing/resolving the conflict

**Mega Project:** Projects involving large-scale investment and the acquisition of large areas of land; with multiple persons (more than two) involved as contractors.

### ***Methodology and data sources***

CSRC collected land conflict data from 13 different districts: Surkhet, Siraha, Sarlahi, Makawanpur, Mahottari, Lalitpur, Banke, Bardiya, Chitwan, Kailali, Kathmandu, Jhapa, and Parsa in consultation with its District Land Rights Forum (DLRF) members. Prior to the selection of land conflict related cases, a simple database system was developed and sent to the DLRFs to collate land conflict related data. The data reported by the DLRF members showed that these six districts (namely Parsa, Siraha, Bardiya, Surkhet, Kathmandu and Lalitpur) have a high rate of land conflict related cases (more than 50 in 2020). In addition, the following data collection tools were used to conduct the study:

**Media Monitoring:** Four national newspapers — *Kantipur*, *Nagarik*, *Naya Patrika*, and *Kathmandu Post* — are the main sources of case collection. In the same way, three online portals — *setopati.com*, *onlinekhabar.com*, and *nepalpress.com* — were also visited to obtain necessary secondary data especially the news of land conflict focusing on the above 13 districts of Nepal.

**Information Collection from DLRFs:** Some primary information of the affected population, such as names of victims, ages, types of violence, perpetrators, and causes of conflict, were collected from the members of DLRFs and Village Land Rights Forums (VLRFs) that have been working in these areas.

**Key Informant Interview (KII):** To gather information in relation to reported conflicts, five land rights activists were interviewed, as well as the chairperson of the National Land Rights Forum (NLRF), six family members of victims, and two representatives of local governments who are responsible for the settlement of land-related disputes.

**Document Review:** A range of published and unpublished study reports produced by various government and non-government organizations and agencies were reviewed to extract relevant information. The representative cases of land conflict were also validated from these reports and publications.

**Field Visits:** A team of CSRC visited the affected areas two times to observe the situation, and to collect quantitative and qualitative information on land conflict cases. The members of affected households, representatives of local governments, and representatives of land rights forums were consulted during these field visits.

**Report Validation Workshop:** A validation workshop with government line agencies, UN agencies, and civil society organizations was conducted on 19 July 2021, to validate the findings and solidify or refine the recommendations included in this report. The recommendations, suggestions, and comments resulting from the validation workshop were also incorporated in this report.

The collected data were recorded in a standard database system developed in consultation with a team from the Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). The details of the information in the database were then analyzed and presented in bar chart, pivot table, and other data presentation formats of Microsoft Excel.

### **Scope and limitations of the study**

This study has been conducted to prepare a concise Land Conflict Monitoring Report based on the guidelines developed by ANGOC in consultation with Land Watch Asia (LWA) and, therefore, it has been guided by more secondary information. The land conflict related cases from 1 January 2020 to 31 December 2020 have been monitored and

analyzed to accomplish this study. Out of two types of conflicts, this study has covered the cases of manifest (visible) conflict and not latent (invisible) conflict. Media sources, affected persons, and other stakeholders were interviewed to further elaborate on the information of the cases.

### ***Brief overview of the country context and legal framework***

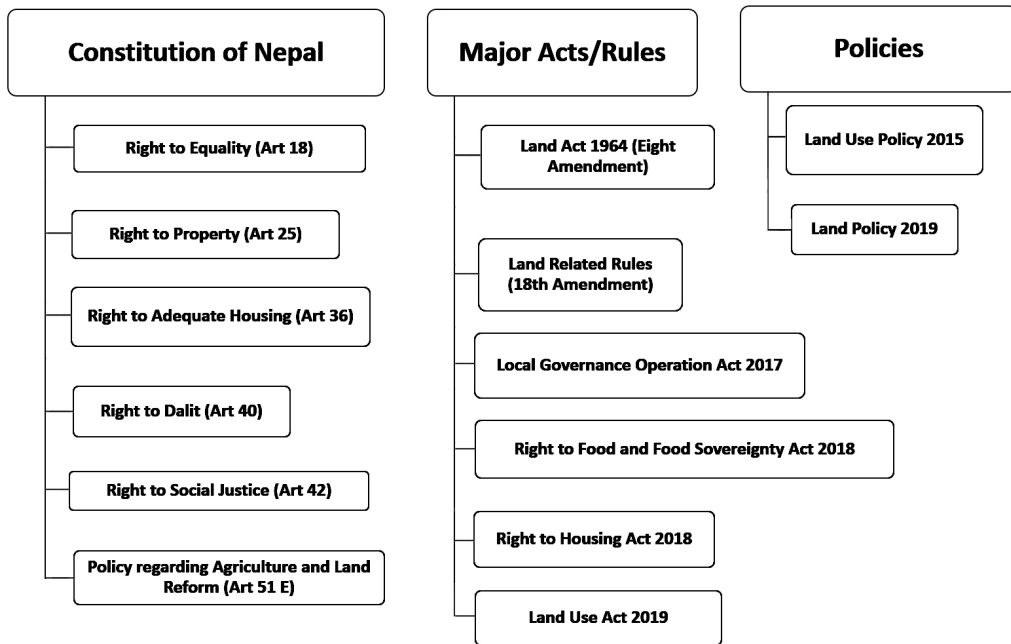
Up to 25 percent of Nepal's population is estimated to be landless or near-landless. The bottom 47 percent of agricultural households control only 15 percent of agricultural land, while the top five percent control more than 37 percent. There is a human rights consequence to such landlessness which has far-reaching impacts. Among these are exploitative labor conditions for tenant farmers and near bonded-labor conditions for bonded laborers; often violent evictions; lack of access to traditional resources (e.g., fisheries and forests) for tribal and indigenous groups. Further consequences are the lack of access to water and food resources; limited access to the police and the judiciary; and, discrimination against women, *Dalits*, ethnic and religious minorities, and tribal groups who are a large proportion of Nepal's landless people (Wickeri, 2011).

The Constitution of Nepal has guaranteed fundamental rights to protect, respect, and remedy of land rights of all people. The Right to Equality (Article 18) clearly states that all citizens shall be equal before the law and all people are to be treated equally. In the same way, the Right to Property (Art 25) outlines that the State shall not, except in the public interest, acquire, requisition or create any encumbrance on the property of any person. The Right to Women (Article 38) guarantees that both spouses shall have equal rights in property and family affairs. Finally, the Right to Dalit (Article 40) obliges the government to provide land to the landless Dalit as per the law. The fundamental rights enshrined in the Constitution are guaranteed equally to all citizens regardless of their caste, ethnicity, and access to natural resources. Similarly, the Constitution has a Policy Regarding Agriculture and Land Reform in Article 51 (E), providing for scientific land reform abolishing dual land ownership, as well as ensuring tenure security of landless and land poor families.

Similarly, the Constitution and the Local Government Operation Act have guaranteed 22 different rights of agricultural workers, and have ensured autonomy of local governments to devise their own rules and regulations related to governance, protection, and utilization of land, forest, and water resources under their jurisdiction. They are also empowered to prepare long-term development plans, formulate policies and implement them. However, since Nepal has only recently transitioned to federalism, most of the local government units — among 753 local units in total — are still unaware of available resources, such as land, water, forest, and so on, and their potential for growth within their boundaries and the revenue they can generate. Local governments also have the right to resolve land-related disputes but lacks trained human resources for this at the local government level.

Besides constitutional provisions, there are other laws that safeguard the people's rights over land. The Government of Nepal formulated a Land Use Policy in 2015 with the aim of

Figure 1. Summarized Land Laws in figure by the author.



protecting land and land resources, ensuring optimum use and effective management. The Land Use Policy reads that “in the context of Nepal, on account of fast-growing population, internal migration, unmanaged and rapid urbanization, among others, encroachment over arable lands, forests, government and public lands, various natural resources is rampant these days, and the protection thereof has posed a challenge now. Disaster-risks such as: soil erosion, floods, and landslides are escalating by the impact of geographical and geological conditions and/or ecological changes” (MoLRM, 2015).

In the same way, the Members of Parliament have amended the Land Act 1964 (eight times) and included provisions to giving land to the landless and informal settlers who have been living in public places for more than 10 years. This Act has paved the way for the granting of land certificates in areas where landless and informal settlers have been living for long periods. The Land Related Rules (18th Amendment) is also concerned with securing land rights of landless and informal settlers (those who are living in unregistered land). The rules clearly state that informal settlers who are living in vulnerable locations such as disaster-prone areas, forests, near roads and other vulnerable areas should be relocated to safe zones. The Right to Food and Food Sovereignty Act 2018 and the Right to Housing Act 2018 are also concerned with ensuring land to the landless and land poor families.

In the same way, a ruling by the Supreme Court is also recognized as a formal legal directive for High and District Courts. Deciding on a case of forceful eviction, the Supreme

Court on 30 July 2020 directed all tiers of government not to resort to forceful eviction of people from their settlements, no matter where they are living. In effect, government must respect the order of the Supreme Court.

### ***Major Factors that Fuel Land Conflicts in Nepal***

Land has been taken as one of the fundamental natural resources for living, an economic asset for production, a legal entity with multiple rights over it and, above all, a societal factor for self-actualization. Therefore, ownership of land has multi-faceted understandings in different parts of the world. For a developing country like Nepal, having diverse societal arrangements, the land tenure system plays an important role in the economic, social, and political structure. However, thousands of people are deprived of the right to land ownership as well as denied equitable justice. “In Nepal, the most common forms of land-related conflicts include forceful eviction, conflict over boundaries and land demarcation, conflict between tenants and landlords, encroachment of public land, control of *Guthi* land (land allocated for religious purposes) and its revenues, land registration and cancellation and conflict over inheritance” (Sharma et al., 2014, as cited in IOM, 2016). Some of the factors that fuel land conflict in Nepal are summarized in the following sections.

#### ***Historical Factors***

In Nepal, ownership of land has been associated with wealth and power for centuries, with landowners being the elite, ruling class. This phenomenon can be traced back to when Prithvi Narayan Shah used land as a political tool to maintain authority by granting land ownership titles to his supporters. This feudal system was further exacerbated all through the Rana regime where highly corrupt structures — such as the *Jimidari*, *Birta*, *Jagir*, *Kipat*, and *Rakam* systems — flourished in favor of the aristocrats who exploited poor peasants. The Land Reform Act 1964, introduced during King Mahendra’s rule, put an end to such systems. However, corruption persisted in the *panchayats* and land seizing at the expense of the landless ensued. Years of rising resentment against discriminatory, exploitative land practices — even following the shift to multiparty democracy — led to a decade-long armed conflict where Maoists forcefully seized and redistributed land. Although the signing of the Comprehensive Peace Accord in 2006 brought renewed commitments of proper scientific reform, progress has been limited and land remains a critical issue in the country.

#### ***Non-Implementation of Laws***

Land ownership patterns continue to determine the economic prosperity, social status, and political power of Nepalese individuals and families. Throughout the country’s history, the political process favored a certain social class, and the poor performance of the State’s land reform initiatives led to grossly unequal land distribution, further institutionalizing the inequalities among the citizens (Dhakal, 2011). Several laws have sought to address the pertinent issues of land and agrarian issues in Nepal. However, the



local authorities are reluctant to implement such laws. In fact, it has been shown that the District Administration Office, local governments, and other local agencies are themselves involved in the expulsion of people from their place of origin (CSRC's data source). Such government practices run counter to the prevailing laws and regulations in Nepal – a number of which have been partially implemented, such as the constitutional provisions on fundamental rights (including the right to housing), and provisions of the Land Policy and Land Use Act. In addition, the Supreme Court of Nepal has issued stern orders for compliance with due process (providing compensation, alternative measures, etc.) before implementation of any development projects. However, the government appears not to be serious about implementing the Court's order and other existing laws.

### ***Politics and Power***

Land has become a major source of revenue in Nepal. Some companies are involved in land speculation and selling at exorbitant prices. Furthermore, the practice of expelling the landless and informal settlers who are living in public areas is increasing. Some representative cases reveal that powerful individuals and entities – through the illegal exercise of power – influence and involve government agencies to expel settlers from their places, and then they register the land in their name for plotting. At the same time, government also gains revenue from such plotting companies or individuals (Punthoki, 2019). Political biasness is another cause of land conflict in Nepal. Local representatives who win a local election without the voter support of the majority of the landless and informal settlers in their area then threaten these people with expulsion in the name of preservation of government land. Out of 19 recorded cases, five reported that conflict ensue due to political biasness.

### ***Tenure Security***

About 25 percent (337,370) (Land Issues Resolving Commission, n.d.) of Nepal's people are landless. They are living in slum areas or other public properties and spend their lives working on farms owned by others. In the same way, 18 percent (232,040) (Land Issues Resolving Commission, n.d.) are living in informal settlements. The government often evicts such landless and informal settlers in the name of constructing government projects. However, they do not follow due process, i.e., free, prior and informed consent (FPIC), provision of alternative housing and livelihood (THRDA, 2020).

### ***Prevalence of land conflict in the country***

#### ***Number, distribution, size of land conflicts***

Since the beginning of 2020, CSRC reported 19 cases of land conflict based on media sources. A total of 940 households (HHs) were directly affected by these conflicts in 13 districts. The total contested land area was 113.29 hectares.



## Land Conflict Incident in the National Park in Bardiya

Source: CSRC

In 2006, a human settlement was established in the open space of the buffer zone at Jharniya National Park in Bardiya district, with initially 105 households. Some of these households were those of elite families, who had registered land in other areas. The real landless, who did not have any registered land, demonstrated against the elite group. Eventually, the well-off families left the area, leaving only 45 landless households who have no other option except to live in the public land.

The landless people started cultivating the unused land by dividing three *Katta* (approximately 1,014 square meters) for each household. The land was suitable for paddy and vegetable plantation, and the produce provided livelihood opportunities for the landless and poor families who had settled there – in fact allowing them to survive for six months. When the elite families left the area, individual landless families started cultivation of seven *Katta* of land. “We were planting corn without any obstruction for seven months,” some reported. They protected the areas nearby their settlement, and even nabbed intruders two times.



As a result, the elite families in the neighboring community spied on the community members in the National Park area, confronted the settlers, and lobbied for the area to be cleared. They exerted pressure for the open spaces to be used for cultivation rather than human settlement. The resulting confrontation between the two sides turned violent.

The authorities of the National Park deployed army and police personnel at midnight of 13 February 2009, and the office of the National Park had the human settlement set ablaze and many people were arrested without any reason.

Mostly children, women, and senior citizens were affected by this brutal incident at the National Park, as they did not have options to migrate to other areas. The Park authorities continued to arrest the people in the area, with almost all – except children, senior citizens, and other dependents – being arrested several times. Twenty people, including seven women, were arrested. The men were released after 25 days, whereas the women were released after seven days.

The Army continued to guard the human settlement and to arrest people for no reason. When the poor people cooked meat in their houses, the Army personnel would check whether it was obtained by poaching wild life animals. They would threaten the settlers to leave the place, but the landless poor had no other option except to continue living in that place. Therefore, they did simply remained in hiding inside their households.

The indigenous *Tharu* people also faced severe brutality while in custody in the National Park. The Park administration provided them with mats and quilts for sleeping and lower-quality rice for them to cook for themselves while in custody. Initially, the National Park authorities threatened to confine the *Tharu* inside the jail forever. They were eventually released on bail for one or two years. However, they were required to pay a fine for “encroaching on the land of National Park.” As a result, they were compelled to make loans with interest rates of up to 36 percent.

Thus, the 45-settler households in the National Park continued to live under threat. The people from neighboring villages were happy when the indigenous *Tharu* were arrested from their homes. Meanwhile, the Park authorities destroyed the houses of the landless people and planted trees in the area in 2014 – while threatening to arrest anyone who destroyed the trees. Finally, the indigenous *Tharu* people migrated to other areas and again constructed huts on public land. However, they are deprived of the right to use the land where they have planted seeds and constructed houses.

In instances where aggressors harassed or community members, the main perpetrators were the police, involved in 79 percent of the 19 cases; followed by the army/military, involved in 11 percent of the cases. Similarly powerful perpetrators, such as an ex-minister, landlords, and political cadres, were involved in the remaining 10 percent of the cases. Table 1 presents the case data according to the district, the agency involved, the number of affected households, and the cited justification of the projects.

### **Nature and causes of land conflict**

There are several dimensions to the nature of land conflict in Nepal. The most common is conflict between landless peasants and government authorities in the course of setting development agenda. There are also conflict which ensue in the transfer of household property from one person or party to another, especially from parents to their sons/daughters. Boundary issues between communities create another contentious issue in Nepal, posing a challenge to settlement due to the lack of proper legal mechanisms at the local level.

Finally, conflicts between landlords and tenants have existed for decades in Nepal, denying the land rights of tenant farmers. Data from the Ministry of Land Management Cooperatives and Poverty Alleviation (MoLMCPA) reveals that, of the total 275,431 tenant farmers in the country, 140,153 have lodged applications demanding their ownership of land. However, only 76,375 cases have been settled and 63,758 remain pending at the district revenue office. Thus, tenant farmers who had tilled their landlords' property for years are still deprived of receiving the land ownership due them. The resulting land conflicts are due to ignorance of the rights of landless and land poor peasants, misunderstanding, disputes, non-implementation of laws, political bias by authorities such as government agencies.

The data reveals that the most common form of conflict within the 13 districts covered by this study was forceful eviction of landless and peasant squatters who were living on public land, due to the lack of their formal tenure security such as formal land certificates. Altogether, 940 households of the total study area of 13 districts were affected in 13 different cases of land conflict. Among these, the State and its agencies were the main actors in the creation of conflict, while the primary cause of the conflicts was the construction of development projects in the name of progress. Out of the 940 households, 508 were directly affected by government development projects, 53 landless and land-poor people were threatened with death, 49 of them were threatened with displacement,

**Table 1. Affected HHs and involved agencies in land conflicts**

District	Agency	Affected HHs	Project Justification
Surkhet	Local Government	59	Road expansion
Siraha	Powerful individual	165	Land plotting
Makawanpur	District Administration Office	43	Protection of public land

Mahottari	Army camp	30	Expansion of Army camp
Lalitpur	Police	55	Construction of road
Bardiya	District Administration Office	141	Protection of National Park
Chitwan	National Park	10	Protection of National Park
Banke	Powerful individual	19	Land plotting
Kailali	Local Government	10	Construction of Municipal building
Sarlahi	Local Government/DAO	47	Protection of forest land
Kathmandu	Powerful individual	57	Protection of own land for road expansion
Jhapa	Local Government	7	Protection of public land
Parsa	Government of Nepal	297	Development of dry port
<b>TOTAL</b>		<b>940</b>	

and 13 individuals were harassed. Among the 117 individual victims directly affected in the conflicts – most of whom were threatened with eviction – 80 were male and 37 were female.

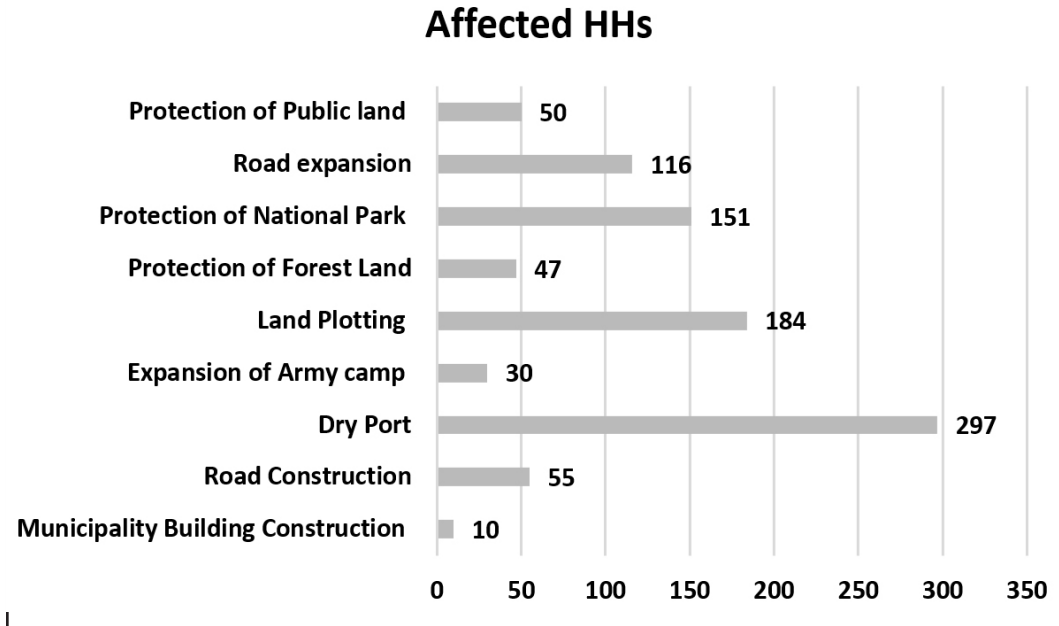
In the total 13 cases of 13 districts covered in this study, the State and its agencies, such as the District Administration Office (DAO), the District Forest Office (DFO), and the Department of National Parks and Wildlife Conservation, were involved in the forceful eviction of landless and informal squatters. In almost all cases, powerful individuals such as political leaders and the wealthy easily influenced the government authorities to misuse their power for the forceful eviction of landless, informal settlers, and tenant farmers from public land. The major causes of the resulting conflicts were identified through key informant interviews (KII) and consultations, and have been summarized in the succeeding sections.

### ***Landlessness***

The primary cause of land conflict in Nepal is landlessness and government's refusal to accept informal tenure, thereby giving justification to the forceful eviction of squatters from public and forestland, and destroying their houses. At the same time, corrupt politicians convince the landless squatters to vote for them during the elections. Then, once they are in office, they send letters to the landless families to leave the public places they are occupying. Without formal land certificates, these landless squatters cannot exercise their rights of tenure over the settlement area.

### ***Dual Ownership***

Despite being formally abolished in 1996, dual land ownership continues to exist in Nepal.

**Figure 2. Affected HHs and project justification**

The Department of Land Management (DoLM) attributes the persistence of dual ownership to absent claimers, unpaid dues by landowners, and unidentified owners. This situation not only diminishes agricultural productivity but also creates disputes among tenants, landlords, and government officials. Tenants continue to be evicted by landlords for fear of losing 50 percent of their land because of this continuing practice of dual ownership.

### ***Structural Barriers***

In addition, there are deeper causes of land conflicts that surpass the formal institutional structures. Land conflicts are exacerbated by the self-centered attitude of a multitude of actors, who engage in land grabbing, use public and private land illegally, manipulate the land market to their advantage owing to their power and position, and engage in nepotism and corruption. It should also be noted that land conflicts are often a reflection of deep-rooted societal conflicts born out of inequality or unfair distribution of wealth, discrimination of women or ethnic minorities, as well as marginalized groups' lack of voice and power. Such structural barriers increase the likelihood of land-related conflicts in Nepal.

### ***Traditional Land Registration System***

The Land Revenue Office, survey offices, and other land related government offices of Nepal are still using a traditional, paper-based system for land registration. This old form of management and documentation system does not provide necessary information to

**BHATARAM THARU**, 59 of Barbardiya Municipality – 7 Banphanda of Bardiya district was living in public land for 31 years. The land belonged to Bardiya National Park. According to him, the Department of National Parks and Wildlife Conservation deployed Nepali Army several times to demolish the houses of 46 indigenous *Tharu* people using elephants and bulldozers. They reconstructed their houses in the same place. However, the Department of National Parks and Wildlife Conservation demanded them to leave their place several times. The landless indigenous *Tharu* does not have any alternative except to live in that place because they have been cultivating the land. Lohani Tharu, 70, chairperson of Village Land Rights Forum, said, “We are always in trauma. The government did nothing to us. We afraid when we see army personnel on the road. They accused us we had land in other places. If we have land in other places why should we stay under threat in this place?”

the landowners or government agencies, making it difficult to determine who are actually landless and who informal settlers are. This system is also far less secure than current electronic forms of documentation. Thus, Nepal’s government agencies are facing major problems in verifying the data on the land-holding population of the country.

### ***Impacts and outcomes of land conflict***

The forceful eviction of landless and informal settlers severely violates the fundamental rights of people in Nepal. In particular, this practice has disrupted their housing rights, food and food sovereignty rights, the right to health, and the right to education. Beyond these, the victims of forced evictions have lost their rights to dignified lives due to the brutal acts of the government and its agencies.

Citing government involvement in the violation of human rights of landless and informal settlers, two human rights activists lodged a complaint at the National Human Rights Commission (NHRC) regarding a brutal incident at a National Park in Bardiya district on 5 June 2020. The NHRC has called the attention of government and shown its serious concern on the involvement of government and its agencies in the violation of human rights by evicting helpless and poor people in this incident.

Article 36 of the Constitution of Nepal on Violation of Housing Rights has guaranteed housing rights as a fundamental right of the people of Nepal (The Constitution of Nepal). In the same way, Clause 4 of the Housing Act 2018 stipulates that it is government’s duty to protect the housing rights of its people. In the same way, Clause 40 of the Food and Food Sovereignty Act 2018 has mentioned that the State can punish the perpetrators involved in the forceful eviction of any people, as such eviction also violates the right to food and food sovereignty of the victims. Bimala Shrestha, District Secretary of the DLRF, Surkhet, said, “The local government has sent letters to the informal settlers to leave the public places within 15 days. The poor, helpless informal settlers do not have any alternatives except living in the side of the road. They have organized in VLRFs and protested the government several times. However, the government’s agencies threaten them to burn down the houses during night. The people are living under mental trauma.”

## **Responses to the conflicts**

### **By the State**

On 18 July 2020, the Supreme Court of Nepal issued a verdict against the government for its decision to evict the landless and informal settlers of Chitwan district, with the office of Chitwan National Park burning down two houses and depriving the settlers of other rights for encroaching on public land within the premises of the National Park.

The ruling of the Supreme Court directed the government not to involve itself in such incidents without presenting alternatives to the landless and informal settlers. However, the government apparently did not take this verdict seriously. For instance, in response to the Court's ruling, the incumbent Minister of Forest and Environment, Shakti Bahadur Basnet, said that the government had not destroyed houses in the National Park in Chitwan. According to him, only two cowsheds were destroyed by the military. However, in reality, a group of military had set ablaze two houses and eight others were destroyed in the incident. After criticism from all stakeholders, the Minister was called to present to a parliamentary committee the government's response to the criticisms. It was expected that the government would apologize and announce the granting of a relief package for the victims, but the government continued to hide the realities and claimed that no houses were destroyed due to land conflict. Out of the 19 cases of land conflicts covered in this study, the government responded positively to only two cases – and only after a third party like a CSO or the National Human Rights Commission (NHRC) pointed out to the government that the eviction of landless and informal settlers is a serious form of human rights violation.

### **By CSOs**

The District Administration Office of Bardiya district, on 16 May 2020, sent a letter addressed to 142 landless people of Barbardiya Municipality Ward-7 of Bardiya who were living in the land of the National Park in the same area. They were being charged with land encroachment. All victims were members of the Village Land Rights Forum (VLRFF), and they came to CSRC requesting to initiate steps for justice. CSRC, in coordination with some lawyers, lodged an application at the NHRC demanding justice for the landless people in this case. As per the demand, the NHRC directed government to ensure the housing rights of landless people, stating that the eviction of people from their place of residence is a serious human rights violation that goes against the Constitution of Nepal.

CSOs have always stood for human rights and social justice in Nepal, with land rights also being taken as human rights. A number of CSOs have formed people's organizations to exert pressure on the government to be more responsible for ensuring people's housing rights in Nepal. If any government agencies decide to evict landless and informal settlers

from public land areas, the members of the different Land Rights Forums (community-based organizations) report this to CSOs, including CSRC, for legal remedy.

CSOs are also raising awareness on the right to land and its relation to human rights, through regular meetings, discussions, and movements. The role of CSOs in community empowerment is important in raising people's awareness to demand their rights. In the same way, CSOs have played crucial roles in championing land-related laws in Nepal. The Government of Nepal formulated a Land Policy in 2019 for ensuring proper access to and management of land and land resources for the sustainable prosperity and development of the country. CSRC served as secretariat in the formulation of this Land Policy upon the request of the then Ministry of Land Reform and Management (MoLRM) in collaboration with the National Land Rights Forum (NLRF), ActionAid, Oxfam, CARE, DANIDA, HUGOU, LWF, International Land Coalition (ILC), and Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC). CSRC has also been collaborating with the Global Land Tool Network (GLTN) and UN-Habitat since 2017 to facilitate the process of finalization of land policy together with the MoLMCPA.

In addition, CSOs played an important role in endorsing Land Act (8th Amendment), Land Use Act 2019 by collecting recommendations from fellow CSOs and other stakeholders. CSOs were also consulted before finalizing the draft versions of Land Use Act 2019, Land Act (8th Amendment) 2019, and Housing Act 2018. As per the amended Land Act, the landless and informal settlers will be provided with land certificates from the Government of Nepal.

### ***By Communities***

In Nepal, the members of communities cannot stand alone against the government's illegal moves. They are powerless, while government authorities can mobilize the police and the military to demolish the community members' houses and other infrastructure. However, the right to housing of every citizen has been constitutionally adopted in Nepal. Anyone can lodge a complaint with the NHRC or file a case in court against the government if they are evicted or ordered to be evicted from their place of origin. Out of 19 cases documented by CSRC for this study, the affected communities demonstrated against the perpetrators of illegal evictions, such as local governments, National Park and Conservation authorities, and powerful individuals in three cases; and lodged a complaint at the NHRC and the Supreme Court in two cases. In one of these cases, as mentioned earlier, the Supreme Court directed the government to reverse its decision to evict the landless and informal settlers from their area.

### ***Recommendations***

The following areas of action are thus forwarded:



- The Government of Nepal should speed up the implementation of the Land Act 1964 (8th Amendment). The Act has clearly stipulated that the government should provide land to the landless and to informal settlers who have been living more than 10 years in unregistered land. As part of the proper implementation of this Act, the government should provide alternatives before evicting the people from their place of living.
- Due to the lack of a Land Use Plan at the local level, the fragmentation of land (both agricultural and public) is increasing in urban areas, resulting in a negative impact on agricultural productivity and food security, while it often also results in conflicts between different groups and communities.
- Government staff, more specifically those working at the district land offices, should be trained on conflict-sensitive approaches, Alternative Dispute Resolution (ADR), and gender sensitivity to enhance their capacity to deal with the growing number of local level land-related disputes or conflicts.
- The political parties should strive to achieve a common understanding around land reform issues. This common understanding among all parties would create a favorable environment and lay the foundation for the implementation of future land reform that considers expectations and views of the vulnerable and affected communities, thereby addressing many of the protracted land conflicts in Nepal.
- The manifestos of most of the political parties have incorporated issues of land reform. However, the promises made in the manifestos remain far from being fulfilled. It is therefore important that the political parties work towards fulfilling those promises, so that grievances among people in relation to land can be addressed.
- Low-cost housing alternatives should be explored through feasible private/public/donor partnerships; and, skills development training should be provided to the landless and informal settlers to improve their economic prospects.
- All existing land data should be updated and digitized, and all offices should be digitally equipped with expert staff before such data is handed over to local governments. Local governments should then immediately work on creating an integrated cadastral record system. ■

#### ACRONYMS

AAN	Action Aid Nepal
ANGOC	Asian NGO Coalition for Agrarian Reform and Rural Development
CSOs	civil society organizations
CSRC	Community Self Reliance Centre
DAO	District Administration Office
DFO	District Forest Office
DLRF	District Land Rights Forum
DoLRM	Department of Land Reform and Management
GoN	Government of Nepal
KII	Key Informant Interview
LWA	Land Watch Asia
LWF	Lutheran World Federation
GLTN	Global Land Tool Network
MoLMCPA	Ministry of Land Management, Cooperatives and Poverty Alleviation
MoLRM	Ministry of Land Reform and Management
NGO	Non-government Organization
NHRC	National Human Rights Commission
NLRF	National Land Rights Forum
NPC	Nepal Planning Commission
SC	Supreme Court

## DEFINITION OF TERMS

Terminology	Definition
Jimidari	The process of tax collection at village level in the Terai region (southern part of Nepal) by a powerful individual called <i>Jamidari</i> (Dhakal, 2011).
Birta	Land grants made by the State to individuals usually on an inheritable and tax-exempt basis; abolished in 1959 (Dhakal, 2011).
Jagir	Raikar land assigned to government employees in lieu of salaries; abolished 1952.
Kipat	Customary rights, including as recognized/granted by Ranas to an indigenous group, recognizing its collective right to the land and right to practice its customary land system (Dhakal, 2011).
Rakam	Unpaid and compulsory labor services due government; abolished 1963 (Dhakal, 2011).
Land conflict	A situation wherein “two or more stakeholders compete for control over land and/or resources, including decision making and truth” (ANGOC, 2019).
Land dispute	A situation wherein two or more stakeholders with presumed equal power compete for land and/or resources, including decision-making and truth (ANGOC, 2019).
Land grabbing	Obtaining, appropriating or seizing of land unscrupulously or forcibly or unfairly by a nation-State, or organization, or an individual and disregarding the tenancy rights of the peasants and the farmers, including customary rights, and debilitating the productivity of land and leading to violation of the right to feeding oneself (CSRC, 2005).
Monitoring	Process of checking the progress (changes) or quality of something over a period of time, especially under systematic review. Monitoring may include observing changes or trends in terms of events, activities, human behavior, or living conditions (ANGOC, 2019).

## REFERENCES

- ANGOC. (2019). *In defense of land rights: A monitoring report on land conflicts in six Asian countries*. ANGOC.
- Basnet, J. (2009, December 7). Comprehensive land reform: Debating the current situation. *The Himalayan Times*. <https://thehimalayantimes.com/opinion/comprehensive-land-reform-debating-the-current-situation>
- Buckles, D. (Ed). (1999). *Cultivating peace: Conflict and collaboration in natural resource management*. International Development Research Centre and World Bank Institute.
- Community Self Reliance Centre (CSRC). (2005). *Land grabbing in Nepal's context: Searching for a politico-economically informed definition of land grabbing in Nepal*. CSRC.
- Community Self Reliance Centre (CSRC). (2018). *Reflections: Land and agrarian rights movement in Nepal*. CSRC.
- Dhakal, S. (2011). *Land tenure and agrarian reforms in Nepal: A study report*. Community Self Reliance Centre (CSRC).
- International Organization for Migration (IOM). (2016). *Microdynamics of land conflict and land conflict resolution in Nepal*. IOM. [https://publications.iom.int/system/files/pdf/microdynamics\\_of\\_land\\_conflict\\_and\\_land\\_conflict\\_resolution\\_in\\_nepal.pdf](https://publications.iom.int/system/files/pdf/microdynamics_of_land_conflict_and_land_conflict_resolution_in_nepal.pdf)
- Joshi, M., and Mason, T. D. (2007). *Land tenure, democracy, and insurgency in Nepal: Peasant support for insurgency versus democracy*. Asian Survey.
- Kaplan, P. (1995). *Nepal community mediation study*. Seminar on Conflict Resolution in Natural Resources. Kathmandu, Nepal. International Centre for Integrated Mountain Development.
- Land Issues Resolving Commission (n.d.). [Website.] <http://www.liirc.gov.npl>
- Ministry of Land Reform and Management (MoLRM). (2015). *Land Use Policy 2015*. MoLRM. [https://molcpa.gov.np/downloadfile/land%20use%20policy\\_\\_2015\\_1505895657\\_1536124080.pdf](https://molcpa.gov.np/downloadfile/land%20use%20policy__2015_1505895657_1536124080.pdf)
- Parlevliet, M. (2009). *Land reform and conflict sensitivity*. Danida HUGOU Head Office, Lazimpat, Kathmandu. [Presentation].
- Punthoki, P. (2019, December 10). Restriction on land plotting hits property deals. *myRepublica*. <https://myrepublica.nagariknetwork.com/news/restriction-on-land-plotting-hits-property-deals/#:~:text=On%20January%2011,%20the%20government,billion%20from%20Rs%201.98%20billion.>
- Shrestha, P. M. (2019, September 1). Government plans to create a bank of 'game-changer' projects. *The Kathmandu Post*. <https://kathmandupost.com/national/2019/09/01/government-plans-to-create-a-bank-of-game-changer-projects>
- Stein, D., and Suykens, B. (2014). *Land disputes and settlement mechanisms in Nepal's Terai*. JSRP Paper 12a – Background Paper.
- Terai Human Rights Defenders Alliance (THRDA). (2020). *Serious concern over eviction of landless people from public lands without following due process*. <https://www.thrda.org/situation-update/serious-concern-over-eviction-of-landless-people-from-public-lands-without-following-due-process/#:~:text=On%20June%2030%2C%202019%2C%20Butwal,for%20the%20last%2050%20years.&text=Following%20that%20the%20landless%20people,decision%20of%20the%20local%20body.>
- The Constitution of Nepal 2015* (in Nepali).
- The Right to Food and Food Sovereignty Act 2018. Act. No. 13 of the year 2075 (2018)* (in Nepali).
- The Right to Housing Act 2018. Act No. 12 of the year 2075 (2018)* (in Nepali).
- Upreti, B. R. (2001). *Conflict management in natural resources: A study of land, water and forest conflict in Nepal*. Wageningen University. [PhD Dissertation].
- Upreti, B. R. (2004). *Resource conflicts and conflict resolution in Nepal*. Mountain Research and Development. [https://www.researchgate.net/profile/Bishnu-Upreti-2/publication/232666726\\_Resource\\_Conflicts\\_and\\_Conflict\\_Resolution\\_in\\_Nepal/links/53ec6f3f0cf250c8947cb0dd/Resource-Conflicts-and-Conflict-Resolution-in-Nepal.pdf](https://www.researchgate.net/profile/Bishnu-Upreti-2/publication/232666726_Resource_Conflicts_and_Conflict_Resolution_in_Nepal/links/53ec6f3f0cf250c8947cb0dd/Resource-Conflicts-and-Conflict-Resolution-in-Nepal.pdf)

- Upreti, B.R., Sharma, S. R., and Basnet, J. (Eds.). (2008). *Land politics and conflicts in Nepal: Realities and potentials for agrarian transformation*. CSRC, NCCR, and HNRSC.
- Walker, G. B., and Daniels, S. E. (1997). Foundations of natural resource conflict: Conflict theory and public policy. In B. Solberg & S. Miina (Eds). *Conflict management and public participation in land management*. European Forest Institute (EFI). Proceedings 14. Joensuu, Finland: EFI, pp 13–36.
- Wickeri, E. (2011). *Land is life, land is power: Landlessness, exclusion, and deprivation in Nepal*. Leitner Center for International Law and Justice, Fordham Law School.

#### ACKNOWLEDGMENTS

Community Self Reliance Center (CSRC) would like to express its gratitude to many institutions and individuals who contributed to accomplish this report. We would like to thank Asian NGO Coalition for Agrarian Reform and Rural Development (ANGOC) for the technical and financial support. We are more than glad and feel privileged to work with the Ministries and the Departments of the Government of Nepal (GoN), especially the Ministry of Land Management, Cooperatives and Poverty Alleviation. Appreciation is extended to the National Land Rights Forums, and their district and village organizations.

We would also like to thank the Land Watch Asia Land Rights as Human Rights Working Group for sharing their ideas, thoughts, and land conflict cases of the respective countries. Furthermore, we are also thankful to different media houses in Nepal, government and non-government organizations, the National Land Rights Forum, the National Human Rights Commission (NHRC), and other CSOs for providing relevant information for the report.

#### DISCLAIMER

This report was made possible with the financial support of the International Land Coalition (ILC). The views expressed in this document do not necessarily reflect those of ILC.

#### Citation

Gautam, B. (2021). *Eviction Continue – The Reality of Landless and Informal Settlers: Nepal Land Conflict Report, 2020*. ANGOC, CSRC and ILC.