CSOs Have Yet to Make Nepal’s Land Agenda SDG-Accountable:
2020 CSO Report on SDG 1.4 - Secure Rights to Land and Resources in Nepal

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Overview of the Study

Land tenure security is a fundamental component to realize the 2030 Agenda for Sustainable Development particularly to reduce the poverty in rural areas and essential element of combining the three dimensions of sustainable development: the economic, social and environmental.

Land rights need to be placed at the center of all the sustainable development efforts in Nepal now and in the future. Land has been the important livelihood resource for 65.5 percent of the country’s population and there are estimates that the percentage of the land-dependent population might have increased in 2020 given the unprecedented impact of COVID-19 pandemic on the existing socio-economic system across the country.

Land is a key economic resource that facilitates the access to, use of, and control over other economic and productive resources that have a direct bearing on the global effort to halve the world’s poverty by 2030. The increasing pressure on land from the growing population, changing climate, and land degradation has led to calls for strengthening tenure security for all. Indicators 1.4.2 and 5.a.1 in the Sustainable Development Goals (SDGs) agenda have indicators on land ownership and rights in the SDG framework. These are aimed at establishing a core set of land indicators that have national application and global comparability to see the progress in securing land tenure.

The SDGs have provided an opportunity for governments, including civil society organizations (CSOs) and other change agents, to routinely generate comparable, gender-disaggregated data to support evidence-based decision making on responsible land governance for sustainable development.

Objectives of the study

This report serves to fulfill the following objectives:

- to contribute in sustaining the reporting processes of the Government of Nepal (GoN) on SDGs, with emphasis on land-related targets;
- to lobby the GoN to use the CSO report as inputs to its Voluntary National Review (VNR) and SDG Country Report; and,
- to pursue the policy work of CSOs on land rights by optimizing the SDGs as a space for dialogue with various stakeholders.

Scope and methodology

The participatory method of research is used in this report. Qualitative study techniques including Focus Group Discussions (FGDs), Key Informant Interviews (KIIIs), and Semi-Structured Interviews (SSIs) were employed to explore the current status and future prospectus of the reporting on the progress on SDGs 1.4.2 and 5.a.1, the key land indicators included in the 2030 agenda of sustainable development. Relevant literature previously published were likewise used as additional reference materials.

The scope of the study is also limited to the key land indicators included in the SDGs, especially the target 1.4 under the Goal 1: Ending poverty in all its
forms everywhere. It also slightly touches upon the target 5.a.1 to see the legal frameworks pertinent to the land rights of women in Nepal.

**Country efforts to pursue SDG Target 1.4**

The Government of Nepal (GoN) demonstrated a strong commitment to the Sustainable Development Goals (SDGs) 2016 to 2030 by launching the national SDG roadmap in the early stage of its implementation and has guaranteed its full commitment to the principle of “leave no one behind” through the remarkable efforts to mainstream SDG targets in its national plans in the last five years. In addition, the GoN presented the second Voluntary National Review in 2020 at a High Level Political Forum (HLPF).

The Government, through its current Constitution (2015), provides a broad policy framework to implement the 2030 Agenda of Sustainable Development. Long-term plans and policies, like the 15th Plan (2019/2020 to 2023/2024), have been formulated based on the gradual progress achieved related to the SDGs. In addition, the county has made a number of political commitments to achieve land-related SDGs through the sectoral strategies, such as the Agriculture Development Strategy (ADS) 2015 to 2035. Nepal is one among the few countries reporting proxy data related to documentation rates (SDG 1.4.2.a) (Joshi et al., 2021).

**SDG 1.4** seeks to ensure that all men and women, in particular the poor and the vulnerable have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.

The GoN has taken a number of specific policy actions to address the land-related SDG targets under SDG 1.4. Equal inheritance and property rights for men and women, housing rights, right to food, and land rights for landless Dalits are enshrined in the Constitution.

Since the adoption of the SDGs in 2015, Nepal enacted a number of key policy provisions such as the Right to Food and Food Sovereignty Act, 2018; the Right to Housing Act, 2018; the National Land Policy, 2015; the Land Use Act, 2019, the 8th Amendment to the Land Related Act, 1964; and, the 18th Amendment to the Land Related Regulation, 1964. Government provided tax rebate on land registration for women, including single women, based on the geographic locations. A Land Issues Resolving Commission (LIRC) was formed in March 2020 with the aim of providing land to the landless people, including Dalits, and facilitate land ownership for informal settlers.

All these provisions seek to increase the ownership of land by all men and women, particularly those from vulnerable communities. According to the Expert Member of LIRC, “Joint Land Ownership (JLO) certificates will be awarded to the landless and informal settlers receiving land from LIRC,” as provided for in the 18th Amendment to the Land Related Regulations, 1964.

In the 15th Plan (2019/2020 to 2023/2024) and the Agricultural Development Strategy (ADS) (2015 to 2035), the GoN has made a number of political commitments to land and land governance. Reducing the proportion of landless farmers to zero in 2030 from 26 percent in 2015 [SDG1], and increasing women’s ownership over property/tangible assets to 40 percent by 2030 from 19.7 in 2015.
[SDGs 1 and 5] are some of the targets set by the Government. Similarly, the percentage of agricultural land owned by women or Joint Ownership will be increased to 50 percent by 2030 from 10 percent in 2010 [SDGs 1 and 5].

The current progress assessment includes data for only 218 (44 percent) indicators as Nepal has not been able to submit data for all 492 indicators proposed for SDG monitoring and evaluation (NPC, 2020). It has also recognized the limitation of the available data related to periodicity, disaggregation, standardization, reliability, and quality assurance. One of the felt needs is to strengthen the database that has been posing significant challenges to the monitoring efforts of the Government. During the focus group discussion (FGD) organized on 24 March 2021 in Kathmandu among high-level government officials, representatives of UN agencies, and CSOs, a representative from the Central Bureau of Statistics (CBS) said, “It is very difficult to have data as exactly as asked by the 1.4.2 of the SDG, because all major data are provided by the CBS through the National Surveys like, national population surveys, living standard surveys and agricultural survey, do not have such questionnaires.”

Nepal’s current five-year plan encompasses several programs in line with the SDGs. The goals and targets set require integrated planning and intervention. Although there is an overlap among goals and targets, goal-specific and crosscutting interventions must be clearly specified, implemented, and monitored. A representative from the Food and Agriculture Organization of the United Nations (FAO) office in Nepal opined that, “National efforts taken on a yearly and periodic basis are the best mediums to feed the data into the dataset to monitor progress, therefore, the national priorities can be redefined in the upcoming plans in such a way that they can contribute to the progress reporting on land-related SDG targets.” The representative from the UNHABITAT in Nepal suggested the Government review its priorities as “it has incorporated unrelated indicators in its plan which are not contributing to the SDGs targets.”

**Land-related SDGs in national policy frameworks**

Land-related SDGs included in the national policy frameworks, especially in the 15th Plan (FY 2019/20 to 2023/24) and the Agriculture Development Strategy (2015 to 2035), are presented in Table 1.

<table>
<thead>
<tr>
<th>Table 1. Land-related SDG targets and commitments of the government</th>
</tr>
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<tbody>
<tr>
<td><strong>SDG Target</strong></td>
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<tr>
<td>1</td>
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<td>1, 5</td>
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<td>5, 1</td>
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</table>
Overview of the Study

Adopted from: “NEPAL: Monitoring progress towards land rights in the SDGs (2021)”

Localization of SDG land targets

Nepal has considered SDGs from the very first year of their adoption in its program planning and resource allocation through the 14th three-year plan (2016/17 to 2018/19). The five strategic priorities for development – infrastructure, social, economic, governance, and crosscutting issues – were broadly aligned to specific SDGs, meanwhile comprehensive and consistent contribution of the proposed programs to SDGs was expected in the 15th Plan. However, the 15th Plan again included very few land-related indicators, while there is a discernible disconnect between national indicators and those accepted at the global level. According to one of the participants in the FGD, “The Government of Nepal has put the indicators in its policy document without associating the implication of one SDG to another, but the government can add well-thought and relevant indicators by removing those that do not reflect the reality.”

Localization of the SDGs at the sub-national level has been critical, considering the weak institutional structures and problems related to data availability as well as quality (NPC, 2020). However, the process of localization and mainstreaming the SDGs at sub-national levels is advancing gradually at all three levels of government, as per the roles and responsibilities specified in the Constitution.

So far, only a few of the provinces are reported to have prepared their baseline report, while the effort to localize the SDGs at the municipal (palika) level has remained very limited. The Voluntary National review (VNR) 2020 notes that provinces have not followed the guideline prepared for localization of SDGs in integrating them in the medium- and long-term plans.

Therefore, taking stock of data requirements for SDG planning and creating the database at the local and provincial levels are highly recommended.

Mechanism for reporting of SDG land targets and indicators

The Government has a mechanism in place to report land-related targets and indicators. “The Ministry of Land Management and Poverty Alleviation (MOLMCPA) has a responsibility to report progress towards land-related SDG targets and indicators to the national authority, the National Planning Commission (NPC),” says a representative from the Central Bureau of Statistics (CBS). NPC is not only designated to monitor and evaluate national projects and initiatives, but also to facilitate the monitoring and evaluation of provincial SDG targets to track progress, identify problems and issues, and help solve the problems of implementation (NPC, 2020).

| 13, 15 | • Increase forest areas under community management from 39 percent to 45 percent |
|        | • Increase protected land to from 23 percent to 25 percent of the total land area |
|        | • Reduce rate of forest loss and desertification to zero in 2030, from 1.9 percent in 2015 |
|        | • Conserve 5,000 watersheds by 2030, up from 3,346 that were under conservation in 2015 |
|        | • Increase the number of conserved lakes, wetlands, and ponds from 1,737 to 5,000 |
|        | • Rivers and rivulets conserved will increase to 10,000 square kilometers in 2030, up from 1,675 square kilometers under conservation in 2015 |

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Meanwhile, the CBS is an apex statistical agency for the collection, standardization, and quality assurance of national data. In addition, there is a provision of the National Development Action Committee (NDAC), chaired by the Prime Minister, to facilitate the coordination and project complexities at the highest levels giving special attention to initiatives that influence achievement of the SDGs. Furthermore, a national strategy is also designed and implemented to address the issues related to data collection, reliability, and standardization of the statistical system.

The Government of Nepal has launched various initiatives and formed a number of institutional structures for effective implementation and management of the SDGs. A Steering Committee for Implementation and Monitoring of the SDGs, led by the Rt. Hon. Prime Minister has been established, which provides policy directives, facilitation for partnerships and manages the financial, human, and technical resources required for the implementation of the SDGs.

The Vice-chair of the NPC directs the SDG Implementation and Monitoring Committee below the Steering Committee, which mainly provides guidance to the federal ministries, province and local levels on how to implement and mainstream the SDGs in their respective development plans and policies. The committee also facilitates inter-ministerial coordination in resource mobilization. It also monitors and evaluates the achievement of SDG targets on an annual basis and prepares the periodic national SDG reports for submission to the Steering Committee.

The Implementation and Monitoring Committee comprises seven thematic committees, each coordinated by a member of the NPC as presented Box 1.

Ideally, these Committees facilitate the preparation of plans, programs, and budgets as well as follow up and monitor SDG activities and programs at more substantive levels. They are expected to provide trimestral reports to the Implementation and Coordination Committee.

Government presented the second Voluntary National Review (VNR) in June 2020. Until now, Nepal has not submitted any data on the key land indicators. However, it has submitted proxy data for SDG 1.4.2.

According to the VNR 2020, households with assets (land and house) in the name of women account for 33.93 percent, much higher than the target of 25.1 for the year 2019 (NPC, 2020). Meanwhile, it does not provide clearly the percentage of women legally owning land only, given the data is incompatible with the requirements of SDG indicator 1.4.2 (Joshi, et al., 2021). The VNR 2020 notes the number of problems related to disaggregation, standardization, reliability, and quality assurance of data (NPC, 2020).
**CSOs efforts related to SDG reporting on land**

Civil society organizations (CSOs), community based organizations (CBOs), non-governmental organizations (NGOs), and international non-governmental organizations (INGOs) have been actively engaged in promoting the SDGs in Nepal. The SDG Forum was also formed to advocate for the proper and timely implementation of the Sustainable Development Agendas. Only the Community Self Reliance Centre (CSRC) in collaboration with the National Engagement Strategy (NES), a national multi-stakeholder platform working on land governance, has been working specifically in monitoring the land-related SDGs with support from the International Land Coalition (ILC) under the Global Land Governance Index (LANDex) initiative.

ILC, in collaboration with NES Nepal and CSRC has prepared a report “NEPAL: Monitoring progress towards land rights in the SDGs” in 2021 based on the rigorous research conducted from September 2018 to December 2020 using the LANDex – an ILC tool for people-centered land monitoring that seeks to make land monitoring inclusive, accessible, and to overcome single-source data dependence, providing substantive information while capturing the complexity of land governance in a diverse context. The scope of the report is to assess a country’s political commitments to the land-related SDGs; review available data for key land indicators, and integrate a broader data ecosystem to contribute to land monitoring in Nepal. This report is solely prepared based on the findings of the LANDex initiative conducted in Nepal, so may not portray the complete picture of land and the SDGs in Nepal. The initial findings may be accessed at https://www.landexglobal.org/en/news/nepal-landex-processes/.

A summary of the key findings of the report indicate that progress towards people-centered land governance in the 10 SDGs has been reported based on the individual scores of corresponding LANDex indicators. Nepal has a land SDGs score of 52.97 on a scale of 100 (Joshi, et al., 2021). The report specifically presents findings on three key land indicators – 1.4.2; 5.a.1, and 5.a.2 – using the SDGs methodology as presented below:

- **1.4.2**: 96 percent of rural men and women have some form of documentation to prove their rights to land (1.4.2.a) while 82 percent of them perceive their land rights secure (1.4.2b);

- **5.a.1**: Data related to the proportion of the total agricultural population with ownership or secure rights over agricultural land by sex; share of women among owners of agricultural land by type of tenure depends on the official data; and, is currently unavailable for Nepal; and,

- **5.a.2**: Indicator 4A provides data on three of the possible six indicators. 5.a.2. proxies for women’s land rights: joint land ownership is compulsory or encouraged, equal inheritance for women and girls is supported, and quotas for women’s participation in land management and administration exist in Nepal.

Since the Government of Nepal has not been closely reporting on the land-related indicators, there is an important opportunity for CSOs to contribute to the monitoring of land-related SDGs; lead the national process to establish an inclusive and accessible land data ecosystem, and contribute to the VNRs of the government. It also presents a rare opportunity for advocacy for the inclusion of the land indicators in the national development plans and policies.
LEGAL FRAMEWORK ON LAND RIGHTS FOR SMALLHOLDERS, INCLUDING POLICIES ON LAND RIGHTS FOR WOMEN AND POLICIES ON SUPPORT SERVICES

In the last six years, Nepal witnessed a paradigm shift in its political, governance, institutional, and legal domains that are of historic importance for smallholders and women in protecting and promoting their land rights. As the overarching legal framework, the 2015 Constitution contains progressive provisions that have a far-reaching impact towards safeguarding and institutionalizing land rights. In addition, the subsequent legal and institutional developments or reforms are key to ensure, protect, and promote land rights for smallholders and women in Nepal.

According to the National Population Census, 2011, out of 5,427,302 households, 76 percent (65.6 percent of the population) rely on agriculture to earn a significant portion of their livelihood resources. Among them, only 74 percent of the agricultural households own land. Land distribution in Nepal has been very unequal and presents a bleak picture for poor and marginalized communities. Around 53 percent of the agricultural households control only 18 percent of the arable land and are operating on less than 0.5 hectare, while 2.13 percent of the households (15,538 households) are completely landless (NPC, 2011) but rely on agriculture to earn life-saving resources.

However, land continues to remain the most reliable source of social security for smallholders and land poor communities mostly in the rural setting of Nepal, given the context where only around 17 percent of the population has access to social protection programs (NPC & UNDP, 2020).

The Constitution, under Article 25, provides “property rights” where every citizen can acquire, enjoy, own, sell, have business profit, and otherwise utilize or dispose their property. In cases when the State acquires an area of land under the principle of eminent domain for public interest, there is a provision for a proper acquisition process and just compensation. Furthermore, equal lineage rights of women with no discrimination are also guaranteed by the Constitution, which allows women claim over parental property including land [Art. 38] (Government of Nepal, 2015).

Under Article 36, the Constitution ensures: 1) rights relating to food; 2) the right to be safe from the state of being in danger of life from the unavailability of food; and, 3) the right to food sovereignty for everyone. In addition, the Constitution provides every citizen the right to proper housing and disallows forced eviction from their residence under Article 37. Food rights and the right to housing are closely linked to secure land rights. Similarly, the Constitution safeguards the land rights of Dalits under Article 40 (5 & 6) that the State shall provide land to the landless Dalits and will arrange settlement for homeless Dalits in accordance with law.

Part 4 (e) of the Constitution includes provisions related to: 1) implementation of scientific land reform protecting interests of the farmers and ending dual land ownership; 2) carrying out land pooling to discourage absentee-land ownership and increase agricultural products and enhance land productivity; and, 3) pursuing land use policies for an enhanced agricultural sector while protecting and promoting the rights and interests of the peasant communities. If implemented properly, these constitutional provisions could promote the land rights of small agricultural households.

However, the Constitution has no explicit commitment to recognize and respect the land rights of indigenous peoples and to provide land to unregistered tenant farmers who have been tilling the land for generations and have no legal ownership over that land. The focus of the law seems to be on providing security to farmers in order to
enhance land productivity. Therefore, the challenge is to make such provisions work in favor of the smallholders, sharecroppers, and marginal farmers in Nepal.

In 2017, the government formulated a procedure for issuing Joint Land Ownership (JLO) Certificates, especially while providing land to tenant farmers, the landless, freed Kamaiya and Haliyas. JLO was actually first introduced by the Government in 2012 to promote women’s land rights in Nepal. Joint land ownership is further promoted by the 18th Amendment to the Land Related Regulation, 1964 enacted in 2020, as it ensures JLO for all the landless and informal settlers receiving land through the Land Issues Resolving Commission (LIRC). According to government estimates, there are 1.4 million landless and informal settlers that will be receiving land within the next three years.

Through the Budget Speech for fiscal year 2020/2021, the GoN announced various programs with an aim to benefit smallholders and women farmers. The GoN committed to issue land certificates for households previously registered under Village Blocks across the country and implement a “Land Bank” program in 100 local levels. The Land Bank program received strong criticism, however, as it seeks to protect the control of landowners over land rather than providing increased access to land with secure land rights to landless or smallholders.

Indigenous peoples and pastoralists are rarely mentioned in the existing policies and legal frameworks, therefore their specific needs related to land resources are largely unaddressed. To safeguard the needs and rights of these groups, the policies need to be further inclusive and formulated in robust participatory ways in future. Some of the key land-related acts and policies of the Government are summarized in Table 2 below:

Table 2. Major land-related legal instruments

<table>
<thead>
<tr>
<th>Act/Law</th>
<th>Year of formulation</th>
<th>Year of latest Amendment</th>
<th>Remarks</th>
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<tbody>
<tr>
<td>Land Related Regulation (18th Amendment)</td>
<td>1964</td>
<td>2020</td>
<td>To implement the 8th Amendment of the Land Related Act, 1964, government has enacted the 18th Amendment to the Land Related Regulation, 1964. It has clearly mentioned the criteria and size of land for distribution and to award the land ownership certificate to landless and informal settlers. According to this Rule, land will be provided for housing purposes only in urban areas while the land for both housing and agricultural purposes will be provided in other areas for free. Meanwhile, informal settlers will have to pay a minimum of eight percent to a maximum of twice the price proposed by the government based on the criteria mentioned in the Rule, which may create a major hurdle if not handled properly while collecting the information of particular households.</td>
</tr>
<tr>
<td>Land Related Act (8th Amendment)</td>
<td>1964</td>
<td>2020</td>
<td>The 8th Amendment to Land Related Act, 1964 is a significant step in the policy reform that sets solid ground to fulfill the constitutional commitments to provide land to landless people including landless Dalits, and to legalize land ownership of informal settlers. To do so, it has a provision to form a Commission, which was formed in 2020 and has already begun its work in all 753 local levels. The amendment also includes a significant provision to facilitate the process to conclude dual land ownership over land in the form of the tenancy system.</td>
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</tbody>
</table>
across the country. However, the provision of exemptions on the land ceiling seems controversial as it enables the elite and rich people to misuse their political connections.

<table>
<thead>
<tr>
<th>Policy</th>
<th>Year (2012-2015)</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use Act</td>
<td>2019</td>
<td>The Land Use Act aims to achieve maximum and long-term benefits through classification that will ensure the proper management and effective utilization of the available land resource. It seeks all local governments to formulate land use maps, and sustainable land use plans based on the “long-term land use plan approach paper.” This also aims to control the haphazard use and rapid fragmentation of agricultural land.</td>
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<tr>
<td>National Land Policy</td>
<td>2019</td>
<td>The National Land Policy directs the State to make proper use and management of land resources so that sustained prosperity could be achieved, while ensuring the easy access to land by marginalized peasant communities through secure tenure and good governance of the land sector – landless people will be provided land for agriculture and housing only once and informal settlers will have their rights over land recorded and recognized legally. It also seeks to strengthen the land record system with provision to keep land-related data at all three levels of government.</td>
</tr>
<tr>
<td>Right to Housing Act</td>
<td>2018</td>
<td>As per the fixed dateline to formulate required legal and policy instruments within the three years of the commencement of the Constitution, the Government has formulated “Right to Housing 2018” along with several other Acts the day before the deadline with minimal consultation among wider stakeholders. This Act aims to fulfill the constitutional commitments expressed in Article 37 on the “right relating to housing” and is also expected to indirectly contribute in implementing the provision of Article 40 (5 and 6), although many loopholes remain which may cause bottlenecks during implementation. The responsibility to implement the right to housing is given to all levels of government [3(3)], without clear and specific roles for the Federal, Provincial, and Local government. This Act seems weak, as it remains silent about how it will acquire land so that the settlement can be established. CSOs and rights advocates are pressuring the government for amendments.</td>
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<tr>
<td>Right to Food Security and Food Sovereignty Act</td>
<td>2018</td>
<td>This Act aims to ensure and maintain food security by providing farmers adequate access to land.</td>
</tr>
<tr>
<td>Land Use Policy</td>
<td>2012 - 2015</td>
<td>This Policy was amended to incorporate diverse needs that emerged after the earthquake in 2015 in terms of safe settlement and land use. The objective is to protect agricultural land by promoting land pooling and cooperative farming. It seeks to promote integrated settlements.</td>
</tr>
</tbody>
</table>
This law aspires to provide land tenure security to all landowners by registering their land and providing land certificates. However, informal and non-formal land tenures along with customary tenure are neither recognized nor recorded by the legal tool.

**HOW DOES GOVERNMENT REPORT ON OR MEASURE INDICATOR 1.4.2?**

The Government reports progress against the SDGs targets based on secondary reviews of the medium- and long-term plans and strategies, Economic Surveys, Sectoral plans, policies and strategies.

The indicators are modified and do not directly report what is exactly required by SDG 1.4.2 globally. The indicators used by the GoN are as presented in Table 3.

<table>
<thead>
<tr>
<th>Target 1.4</th>
<th>By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.4.2</td>
<td>Proportion of total adult population with secure tenure rights to land</td>
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<tr>
<td></td>
<td><strong>Global Indicators</strong></td>
</tr>
<tr>
<td>1</td>
<td>with legally recognized documentation,</td>
</tr>
<tr>
<td>2</td>
<td>who perceive their rights to land as secure, by sex and type of tenure,</td>
</tr>
</tbody>
</table>

As shown in the table, indicator 1.4.2a requires data on “legally recognized documentation.” However, the GoN collects data on the “share of bottom quintile in national consumption (%).” Similarly, indicator 1.4.2b requires data on “who perceive their rights to land as secure by sex and type of tenure,” but the GoN collects data on “households having property/tangible assets in women’s name.” Due to this, the Government’s efforts in collecting the data does not contribute towards creating globally comparable data and therefore does not directly contribute in the SDG monitoring efforts.

Tenure security in Nepal is defined as having the land registered in the name of one or more persons within a family.

**How does Government gather and report information?**

The data is mostly collected from secondary sources including the statistical, survey, and progress reports produced by the Central Bureau of Statistics (CBS), the National Planning Commission (NPC), and the relevant Ministries and Departments.

- **On legally-recognized documentation**

Data related to legally-recognized documentation is collected from the statistics of the CBS. However, there is a problem with the data that is being reported in the VNR, as it is not compatible with the SDG indicators. According to a representative from CBS, “CBS does not have exact data related to the proportion of total adult population...”
with secure tenure rights to land but such data may be available from the database of the Ministry of Land Management, Cooperatives and Poverty Alleviation (MoLMCPA), since all District Land Revenue Offices (DLRO) have started digitizing all the land records.”

- **On disaggregated data by sex and type of tenure**
  
  So far, there is no disaggregated data reported by sex and type of tenure. However, Land Survey Departments and Land Revenue Offices keep records of land registration manually. Thus, these are not systematically stored in a database and are therefore not easily accessible.

- **On perception of tenure security**
  
  Government does not collect data on how people perceive their tenure security. However, a recent report from the ILC shows that 96 percent of rural men and women have some form of documentation to prove land rights (1.4.2.a), while 82 percent of rural men and women felt their land rights were secure (1.4.2.b) (Joshi et al., 2021). This data points to the fact that, merely having high rates of land documentation does not necessarily ensure land tenure security in the field.

**Data Availability**

- **On legally-recognized documentation**

  The GoN has not submitted data required by the key land indicators. As per the Voluntary National Review (VNR) 2020, one of the challenges in reporting the data is the limitation of the baseline established for SDGs in 2015. There have been problems related to disaggregation, standardization, reliability, and quality assurance (NPC, 2020).

  According to VNR 2020, the percentage of households with assets (land and house) in the name of women is 33.93 percent, much higher than the target of 25.1 for the year 2019. Meanwhile, it is not possible to separate the percentage of women owning land only, given that the data is not compatible with the exact requirements of SDG indicator 1.4.2 (Joshi et al., 2021).

  - **On farmers and smallholders**

    Nepal has 65.5 percent of its population practicing subsistence agriculture, and are hardly able to maintain year-round food for their families from their farm. Fifty-three percent of agricultural households have 0.5-hectare land, while 2.13 percent of the households (15,538 HHs) are landless (NPC, 2011) but are heavily dependent on agriculture for their living. Despite poor access to land, these resources remained the most reliable form of social security for majority of the smallholders and land-poor communities in rural Nepal, given the context where only around 17 percent of the population has access to social protection programs (NPC & UNDP, 2020).

  - **On indigenous peoples**

    Indigenous peoples constitute more than 35 percent of Nepal's population, but the national legal framework and land administration does not recognize their land tenure practices.

  - **On women (Indicator 5.a.1)**

    In the last seven years, Nepal has made significant progress in advancing the legal framework that ensures equal land rights for women through promoting joint land ownership, mandatory quotas to ensure participation of women in land management, and providing equal property and inheritance rights for women and
Almost 34 percent of women have land and properties in their name as of 2019, but it is still not clear how many women own how much agricultural land and whether they are able to exercise their full rights over that land.

The decision-making power of women seems very limited. Figures of land and asset ownership do not capture the status of women’s empowerment. To capture this dimension, there should be proper reporting regarding the advancement of the women’s agency.

Despite these progressive provisions, Nepal has yet to make advances in land administration, particularly towards establishing a robust database that provides clear figures of the proportion of women among agricultural landowners by tenure types (Joshi et al., 2021).

**On pastoralists, water-users, forest dwellers**

Furthermore, there is no data available for pastoralists, water users, and forest dwellers despite these groups constituting a significant portion of the national population. They are scattered across the country, with their main concentration in the hill and Himalayan districts of Nepal. Most of the land rights of pastoralists and forest dwellers have no special policy attention as Nepal has no adequate policy focus to protect rangelands and promote pastoralism, although these would have direct bearing on the livelihoods of people living in the mountainous areas, on biodiversity, and on climate change. Instead, almost all of the related policies, strategies, and legislations concerned with the issue of bio-diversity conservation focus on expanding the areas of national parks.

The inability of the State to recognize the importance of rangelands and their contribution to the livelihoods of pastoralists and ecosystem services — in light of the latest introduction of conservation practices — has undermined pastoralists’ land and resource rights, tenure security, and traditional land use rights. There is very little or no understanding systematically documented regarding pastoralists and forest dwellers in Nepal.

**On perception on tenure security**

Given the sound legal frameworks and higher rates of some form of land documentation, more than 80 percent of Nepal’s people feel land tenure security and live without the fear of sudden and forced eviction (Joshi et al., 2021).

In an initiative of the CSO, according to the LANDex data, 96 percent of rural men and women have documents as evidence for their right to that land. Perception of tenure security seems good but rural women feel less secure (79 percent) compared to their male counterparts. Meanwhile, the perception of secure tenure among the residents of community lands is at 86 percent (Joshi et al., 2021).

The Government does not report land data under SDG Target 1.4, so there appears to be a need for immediate action from the relevant government authorities to modify the associated indicators. Regarding the report produced by the ILC under its LANDex initiative, it largely assembles the existing data from CSOs and Government, so they are also not adequate to present the actual situation on the ground.

**Data Quality**

**On legally-recognized documentation and perception of tenure security**

Higher rates of legal documentation of land rights alone does not guarantee tenure security for all in the rural setting, as many factors such as social status, sex, economic and political power often have direct or indirect implications. As a result, women
and settlers in community land feel comparatively less secure in comparison to men. Similarly, smallholders and poor agricultural households sharing boundaries with powerful neighbors have a sense of insecurity that they might have to leave that land or may lose part of that land. Therefore, a strong monitoring system for law enforcement needs to be in place.

Regarding government data, there is a huge gap as the reported data do not exactly support the indicators as per the requirements of SDG Target 1.4. Alternatively, CSOs can include in their reporting the indicators that are in line with the target in order to contribute to the SDG monitoring initiative.

**HOW DO WE ENSURE THAT THE METHODOLOGIES AND DATA COLLECTED FOR SDG 1.4.2 TRULY REFLECT TENURE ISSUES?**

**Informal and customary recognition of land rights:**

- Tenure security over land for marginalized peasant communities, including the landless, small holders, agricultural workers, such as ex-Haliyas, ex-Kamaiyas, Harawa, and Charawas, has been of paramount importance as it is the most reliable form of social security that they can use in times of difficulties and the resource that provides them with their food and other daily needs. However the control over and ownership of the productive land of such group is very weak or non-existent. Informal and customary tenure systems are not safeguarded or protected by the legal frameworks. Therefore, people operating under such tenure arrangements live with the constant fear of forced eviction without their free, prior, and informed consent.

- In Nepal, only formal land rights have legal protection. Informal and customary rights to land may or may not have sustained security as it depends on the specific social context of a particular area. Therefore, the Government should take informal and customary rights to land into consideration to ensure tenure security for all, which will also uphold the constitutional commitment. Among the many ways in which the Government can recognize such tenure practices includes the implementation of international guidelines such as the Voluntary Guidelines of Tenures of Land, Forests, and Fisheries in the context of National Food Security (VGGTs) and employing the fit-for-purpose land administration approaches.

**Women’s tenure security**

- There is an increasing trend to register land, mainly housing plots, in urban areas in the name of women to qualify for a discount in the government tax. With regard to how the joint land ownership (JLO) and other progressive legal provisions are contributing to the tenure security of rural as well as urban women, especially those engaged in the agricultural sector, remains little known in the case of Nepal. Therefore, it is recommended that a comprehensive impact study be conducted on the pro-poor and pro-gender land policies in Nepal.

**Land conflicts and land rights defenders**

- According to the Land Conflict Monitoring Report prepared by the CSRC in 2020, the most common form of conflict in the study area (six districts) is forceful eviction of landless and informal settlers with no legal land titles living in squatter areas
or any other public lands. Altogether 1,110 households in these six districts were affected by 14 cases of forceful evictions. Among these, 12 cases had the direct involvement of Government and its agencies. Landlessness, marginalization, and use of land by people or government entities are the major causes of land conflict (Gautam, 2020).

- Land conflicts are increasing day by day as the land is being rapidly commodified and the market value is much higher compared to its use value. Land conflicts are seen in many different forms, ranging from boundary issues to ownership-related disputes. In this context, it is recommended that land records be kept accurately in the latest land administration system at the local, provincial, and national level.

Transparency and enforceability of land governance

Transparency and enforceability of land governance in Nepal has been improving but very slowly. This is further evident in the summary of the study entitled “When One Private Firm Reigns Supreme over the Many: State of Land Grabbing in Nepal” by CSRC. In principle, land leases or purchases should be fully transparent, and the revenues should be used by the State for the benefit of the public. However, in practice, there are several examples of land deals done secretly in which the land is leased at very low rental fees, sold below market prices, or even given away to powerful people, business owners, and the corporate sector with vague promises of employment creation or transfers of technology. This is in violation of the provision of the Declaration on the Right to Development (UNGA resolution 41/128 of 4 December 1986) that the State should “formulate appropriate national development policies to improve the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom” (Art. 2.3).

This requires that States ensure the adequate participation of the local communities affected by land leases or purchases, and that the decision-making process is fully transparent (Art. 6.3 and8.2). After the abolition of the monarchial system in Nepal, private investors and foreign governments have shown a growing interest in the acquisition or long-term lease of large portions of land acquired from the Royal Family. The Government is not transparent in issuing notice and conducting the competitive bidding process, and has in fact awarded public land to the same company several times.

For example, Yeti Holdings, having strong political ties, is the largest travel and tourism group of Nepal established in 1995 by two Sherpa brothers — Ang-Tshering and Sonam Sherpa — for the promotion of tourism and travel. Now Yeti has multiple business companies, including Thmserku Trekking. This group received 142.09 hectares of public land on lease for 30 years through the decision of the Council of Ministers on 9 December 2019. Thamserku Trekking, one of the sister companies of Yeti Holdings, has been awarded another huge land plot in the capital city of the federal government, also for 30 years. As per a lease agreement with the Nepal Trust, the land will be used for a commercial building.

The Government has likewise been accused of misusing its power to lease out former royal property to Yeti Holdings. It had reshuffled the Nepal Trust Committee (NTC) and revised the Trust Act to open the way for the Gokarna Forest Resort lease. Going against the general practice, the Trust extended the lease for this resort for another 25 years even before the existing lease has expired.

In addition, private investors accumulate land for construction of housing and related infrastructures. Big investors acquire land for commercial purposes (intentionally
holding the land for some years to sell it at higher prices and/or for building infrastructure), buying or leasing hundreds of hectares of land.

Government agencies provide land to the private sector on lease by not following the true essence of the objectives of the existing laws using loopholes in related laws and policies.

Land in Nepal is highly commodified and is being marketed massively in an informal market. Corporate control over valuable land and forest resources is increasing by influencing the political and administrative leadership of the Government. High-level government officials and political leaders are being accused of land fraud. The corporate sector and powerful business families, including land mafias, are influencing the policy makers to formulate regressive policies that allow them to protect their vested interests. Therefore, it is recommended to strictly implement the existing progressive policy tools to safeguard the rights of agriculture-dependent families and strengthen land governance in the country.

**RECOMMENDATIONS**

COVID-19 continues to intensify its attack on the land sector and it has attracted the interest of stakeholders worldwide towards agriculture and food security, which also broadly relates to land governance in Nepal.

Land reform in its real essence has not truly happened in Nepal for the last 70 years. In the last 12 months, a huge number of people who lost their jobs because of the pandemic, either domestically or abroad, have moved into the rural areas but are not really part of the agriculture sector. Meanwhile, both pristine and unused lands in the rural areas are increasingly being taken over by the corporate sector through land leasing, as the Government has introduced the Land Bank and opened Foreign Direct Investments in the primary agricultural sector. This has made it even more difficult for smallholder farmers, agricultural workers, indigenous peoples, *Dalit*, and pastoralist communities to maintain the usual control over and access to productive land.

In order to protect land rights and promote tenure security of land-poor peasants, family farmers, informal settlers, IPs, and rural men and women, the Government of Nepal should implement people-centered provisions – a number of which are already included in the Constitution, policies, and laws related to land and agrarian reform.

Given the huge data gap, the Government does not have data to rely on for robust prediction that could help in alternative planning amidst the ever-changing crisis. There has not been any study to show actual land use patterns. There is no recent data on how much arable land the country has. Local governments should start working on gathering such evidence before initiating any ad-hoc steps in the name of enhancing production and utilizing fallow land.

There are still an estimated 1.4 million people who remain landless — for whom the LIRC has started working to formalize their land titles. Furthermore, the Government needs to plan for land restoration, as the land in the mid-hills and Tarai region is being rapidly degraded. Government should also address the current situation where management and governance responsibility and authorities related to land resources are distributed among different ministries of the government.

Despite the above priorities, the GoN has been introducing regressive policy measures like Land Bank programs and the opening of Foreign Direct Investment on Primary Agriculture Sector by amending the Foreign Investment and Technology Transfer Act,
2019 amidst the COVID-19 pandemic. Such types of policy moves need to be corrected and countered with pro-poor policies.

**Reflections on how CSOs can sustain the land agenda through the SDGs**

CSOs play a very important role not only to sustain but also to promote the land agenda through the SDGs. This can be done by regularly producing alternative reports, in case governments are not reporting properly, to advocate for the inclusion of the SDGs’ land-related targets in the national policy and plans, and to ensure their robust implementation and monitoring.

In addition to that, NES Members in Nepal have often been engaged with the CBS and the NPC to include questionnaires related to land rights, tenure security, and land ownership in the national level surveys, i.e., the National Population Survey, 2021 (currently on hold due to the COVID-19 situation) and the Agricultural Census that will be conducted in 2022. A few modifications were made in the land-related questions, but not all the questions could be included as expected due to many technicalities. Nevertheless, the relevance of the land data to be collected for SDG reporting has been very well communicated to the relevant authorities and so they were open to partnering with the CSOs through initiatives like LANDex.

Collective efforts of the CSOs at the national, regional, and global level need to be further strengthened to keep the land agenda visible, which may in turn facilitate increased efforts as well among diverse change makers in the land sector.

Governments, especially in the less-developed and developing economies like Nepal, tend to accept the advice of their international development partners. Given this situation, CSOs need to influence international donor communities to include country-specific land agendas in their development programs.

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**Acronyms**

- **ADS**: Agriculture Development Strategy
- **ANGOC**: Asian NGO Coalition for Agrarian Reform and Rural Development
- **CBI**: Commitment Based Initiatives
- **CBS**: Central Bureau of Statistics
- **CSO**: Civil Society Organization
- **CSRC**: Community Self Reliance Centre
- **DLRO**: District Land Revenue Office
- **FAO**: Food and Agriculture Organization of the United Nations
- **FGD**: Focus Group Discussion
- **GoN**: Government of Nepal
- **HLPF**: High Level Political Forum
- **ILC**: International Land Coalition
- **JLO**: Joint Land Ownership
- **KII**: Key Informant Interview
- **LANDex**: Global Land Governance Index
- **LIRC**: Land Issues Resolving Commission
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