

***A Dalit* community fights eviction through NGO-facilitated land dispute resolution process**

By Santosh K.C., Community Self-Reliance Centre (CSRC)

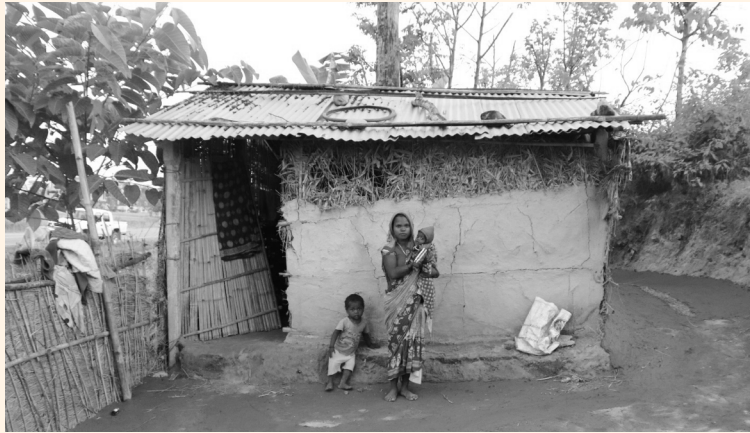
Background of the case

On 21 September 2022, the Government of Nepal and the Nepal Office of the Japan International Cooperation Agency (JICA) signed an agreement to rehabilitate the Chandra Nahar Irrigation System, the oldest irrigation system in the country. In November 2022, the Koshi Pump Chandra Canal Irrigation Management Office began posting eviction notices in affected communities, namely Wards¹ 1, 2, and 4 of the Saptakoshi Municipality, where the Chandra Nahar irrigation system is located. The Saptakoshi Municipality is found in Saptari District, in Province 2 of Nepal.

Among the communities threatened with eviction, the Musahar (Dalit) community living in Ward 4 (Balardaha Tulasi Chowk) of the municipality were the most vulnerable because they were landless and had no other place to go. The community, consisting of 22 families or 108 persons, had been residing in Ward 4 for 35 years. Some of them had moved to the area after being evicted from private lands in other wards, while others had migrated to Saptakoshi following the loss of their homes to the Koshi flood of August 2008, which affected the eastern lowlands of Nepal.

The Chandra Canal Irrigation Management Office attempted several times to evict the Musahar but failed. To force the community out of Ward 4, the Chandra Canal Irrigation Management Office cut down all of the bamboo bushes that the community had planted to supplement their income, and destroyed their small kitchen gardens and pig pens.

¹ A ward is the smallest unit of local government in Nepal.



Jamuna Devi Sada, one of the residents living in the Musahari Community. Credit: ©CSRC, Nepal

They offered no compensation nor relocation opportunities to the community. This was the root cause of the conflict.

Luchai Sada, 55, is a member of the Musahar community. He says: *"The staff of the Chandra Nahar office comes regularly to try and evict us from this area by threatening to destroy our huts. We had nowhere to go as we do not own any land. Although we had cleared this land, which used to be overgrown with bushes, and lived here for a long time, they are trying to evict us without providing any alternatives. For many generations, our only source of income has been our labor. We work as agricultural laborers on paddy and wheat farms. At other times, we go to Fathepur market and other cities to work as wage workers."*

Luchai adds: *"Our community lies only 200 meters south of Saptakoshi municipality, yet we do not get the attention we need. The political leaders came during the election period, and assured us that we would get land in some other place. They never returned after winning the elections."*

The Community Self-Reliance Centre (CSRC)² had been working with the local government of Saptakoshi municipality under the Durable Solutions III program, an initiative which aims "to develop and pilot a model for supporting local governments and landless communities in the systemic inclusion of landless households into local governance solutions." It was at this time that CSRC became aware of, and began to document, the dispute between the Musahar community and the Chandra Canal Irrigation Management Office.

CSRC identified the major stakeholders (Saptakoshi Municipality, local political parties, *Bhumi Adhikar Manch/Land Rights Forums* of Saptakoshi/Saptari, Land Service Centre of Saptakoshi and started a dialogue among them, as well as with the conflicting parties separately, and jointly.

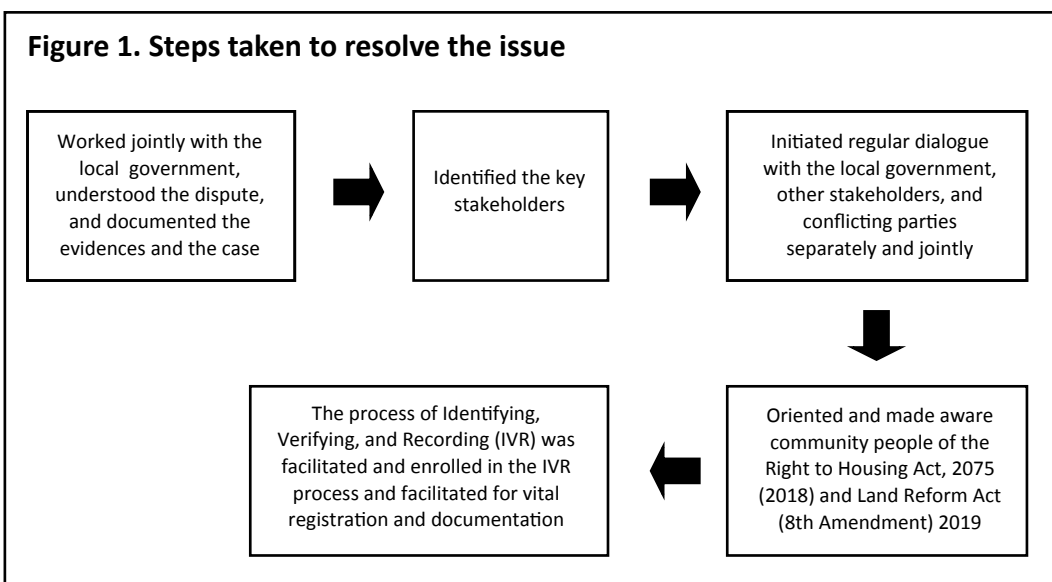
² CSRC focuses on strengthening community organizations, developing human rights defenders, improving livelihoods, and promoting land and agrarian reform among land-poor farmers.

CSRC made the community aware of the provisions of the Right to Housing Act, 2075 (2018) and of the Land Reform Act (8th Amendment) 2019. The Right to Housing Act, 2075 (2018) provides that:

- (1) Every citizen shall have the right to an appropriate housing, and such right shall be respected, protected, and fulfilled pursuant to this act and other prevailing laws.
- (2) Under the right to housing referred to in sub-section (1), every citizen shall have the following rights:
 - (a) To make safe, appropriate, and suitable housing according to his or her capacity, subject to the standards determined by the prevailing law, to settle in that housing and use it, (....)

The community also learned that according to the Right to Housing Act, 2075 (2018) while a “citizen may be evicted from his or her housing for the public purpose in accordance with the prevailing law, ... such eviction shall be made by providing him or her with resettlement or compensation, in accordance with the prevailing law.”

Together with the Saptakoshi municipality, CSRC facilitated the process of Identifying, Verifying and Recording (IVR) which the National Land Commission requires prior to providing land for the landless and for informal settlers, including the Musahar community. Data on all the landless and families of informal settlers have been collected, verified, and recorded in a computerized system. Recently, the final list of landless and informal settlers has been endorsed by the Saptari District Committee of the National Land Commission (NLC). Moreover, the measurement of land in Ward 1 has started.



The conflict between the Chandra Canal Irrigation Management Office and the Musahar community is now in a “transformation process.” A final understanding between the conflicting parties, including the Saptakoshi Municipality, has been made. The families living along the Chandra Canal will remain where they are until further arrangements are made.

Luchai relates: *“Regular discussion has helped us to be better informed about rules and regulations related to land, governmental services and facilities and social security programs. We now know that we are entitled to land and social security services by virtue of the Constitution and different acts, policies, and rules. Now that we are enrolled in the IVR process, we are more optimistic and hopeful that we will receive a land ownership certificate.”*

Lessons learned

It is important to involve all stakeholders in the dispute resolution process and ensure that vulnerable communities are made aware of their rights. Often, landless and marginalized communities lack essential documents like citizenship papers, birth certificates, and social security cards. This lack of documentation prevents them from accessing many services and opportunities.

The policies, guidelines, and provisions intended for poor and marginalized communities often do not reach them. Surprisingly, even local leaders are sometimes unaware of these provisions. Therefore, it is crucial that people’s organizations, CSOs, and the government not only become aware of these provisions but also educate community members about them. This will enable those with rights to claim them effectively. ■

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Farmers overcome conflicts on collectively-awarded land

By Mary Joy Q. Demaluan, Center for Agrarian Reform and Rural Development (CARRD)

Barangay Bayuyan, which is located in the Western Visayas region of the Philippines, covers about 1,376 hectares of land, 51 percent of which (or 700 hectares) consists of agricultural and forest lands. Corn and sugarcane are the predominant crops in the area. In 1991, Barangay Bayuyan was put under the country's Comprehensive Agrarian Reform Program (CARP).

The CARP is a Philippine Government initiative that aims to provide full ownership of government and private agricultural lands to landless farmers and farmworkers.

From 1988 to 2022, the Department of Agrarian Reform (DAR) distributed 4,854,105 hectares throughout the country, thus claiming that it had achieved 89 percent of its target to benefit approximately 2.7 million agrarian reform beneficiaries (ARBs) (SOAR presentation, ANGO, 2023). However, 2,168,116 hectares, or 45 percent of these lands, were collectively titled (Ballesteros, et al., 2018). In the early 1990s, the government, through the DAR, resorted to issuing Collective Certificates of Land Ownership Award (CCLOAs) to expedite program implementation, particularly in sugarcane plantations. These CCLOAs, initially issued under the names of farmer organizations, were intended to be subdivided in the future.

During the early years of CARP implementation, residents of Barangay Bayuyan, including farm laborers in sugar plantations, were encouraged by the DAR to apply as potential ARBs. However, although their applications were approved, and CCLOAs were issued in their names, the notice of approval and distribution of certificates were

concealed from the applicants. Instead, the certificates were allegedly received by allies of the former landowner. Thus, for over two decades, these farmers remained unaware of their beneficiary status, while the former landowner retained full possession and control of the land.

According to the DAR Capiz's 2021 inventory records, Barangay Bayuyan received 10 CCLOAs, benefiting 127 ARBs and covering a total area of 211.8225 hectares. The majority (or 90 percent) of these CCLOAs were issued between 1991 and 1996.

Inherent challenges of collectively-awarded land

Over two decades since the issuance of CCLOAs, only 1,064,746 hectares, or 49 percent, have been subdivided (Ballesteros, et al., 2018). This situation has placed nearly one million ARBs in the Philippines in constant conflict with their former landowners and allies and even their fellow ARBs. Protests related to CCLOA coverage have prevented ARBs from taking ownership of the land and allowed dummy farmers to occupy the land illegally. Conflicts between farmers have also ensued due to boundary disputes and the filing of petitions for the inclusion and exclusion or disqualification of potential beneficiaries. At the same time, because of incomplete land transfer documentation, ARBs had not been paying their real property taxes and land amortization, resulting in accumulating liabilities.

Furthermore, remaining as paid farm laborers, rather than as owners of their awarded lands, has kept the ARBs poor, while their former landowner and the latter's allies benefitted from the land, either through direct cultivation or by entering into lease agreements with sugarcane mill operators. Adding to the injustice, residents that were not covered by CARP but were closely affiliated with the landowners, had been allowed to occupy and cultivate the land under share-cropping arrangements.

According to the ARBs, the impact of threats and conflicts arising from CCLOAs that had not been subdivided and distributed to ARBs has cost them an average of 360 USD per hectare in foregone annual income. (Information derived from regular consultation sessions in the community.)

Lot 1195 — the test case

Lot 1195 was one of the 10 CCLOAs granted in Barangay Bayuyan. In 2016, the CARRD selected Lot 1195 as its target landholding, with the goal of subdividing the CCLOA into individual CLOAs under the re-documentation window of the DAR.

CARRD learned from records obtained from the DAR indicate that Lot 1195 has a total area of 24.3954 hectares that were covered by CARP, and 39 identified ARBs. However,

during the field verification and case profiling conducted by CARRD, several issues and alarming information were discovered.

- Out of the 39 initially identified ARBs, 23 were unaware that a CCLOA had been issued in their names. None of them were informed or received a copy of the CCLOA. The landowner continued to collect 50 percent of their share of the income, from cultivating rice and corn.
- Eight of the identified ARBs, who had close ties with the landowner, were permitted to occupy and cultivate areas unsuitable for sugarcane production. Unaware that the land had already been awarded to them.
- Another eight farmers, not listed as beneficiaries in the CCLOA, occupied and cultivated some portions of the land.
- The majority of areas suitable for sugarcane production was leased by Capiz Sugar Central (CSC) from the former landowner.
- Real property taxes, which were unpaid since 1991 — or the year when the land was covered under CARP — remain under the name of the former landowner.

Approaches, methodologies, and tools employed by CARRD for dispute resolution

Contact building and core group formation. With the available information on hand, CARRD paralegals and technical staff identified leads connecting them with the ARBs. A core group of six members was formed to maintain constant communication with CARRD. This group was tasked with providing feedback and mobilizing members during community meetings, learning sessions, and consultations.

Land rights education. To address the ARBs' concerns and to help them to better understand their rights, CARRD organized several core group and ARB meetings. These gatherings served as platforms for farmers to receive comprehensive education on the agrarian reform law and its implementing rules and regulations. The sessions facilitated discussions among farmers, enabling them to explore potential options and strategies to collectively address their issues. Exchanges of information and shared learning were deemed crucial, considering the necessity for farmers to be well-prepared and confident when engaging with the DAR, the former landowner and its allies, and the lessee, CSC.

Developing second-liner paralegals. While CARRD had experienced farmer paralegals, CARRD decided that it would be more beneficial to cultivate new paralegals among the core group members, empowering them to effectively articulate their issues, challenges, and aspirations. Two core group members were selected to undergo a series of paralegal training and mentoring sessions, overseen by CARRD technical personnel and core farmer paralegals from other communities. These newly trained paralegals, along with the core group members, later served as a coordinating mechanism. They were guided in securing and preparing the necessary documents so that the DAR could address their case.

Community mobilization and negotiation. While the majority of the required documents had been prepared and compiled, obtaining the original duplicate copy (ODC) of the CCLOA proved to be challenging. This ODC was crucial for validating the names of ARBs and initiating the subdivision survey. The ODC could not be found and was reported to be in the custody of one of the allies of the landowner. Despite written demands from the DAR and constant pressure from the ARBs, the ODC was never surrendered. Faced with this situation, the farmers opted for an alternative plan: executing an affidavit of loss for the missing ODC.

It took years for the ARBs to await the DAR's decision regarding the lost ODC. During this period, farmers considered the option of occupying or installing themselves on the land. However, the majority of the ARBs hesitated, fearing potential harassment from the allies of the former landowner, as had happened to other farmers in similar situations. Throughout this time, the group engaged with the *barangay* (village) officials, seeking assistance to pressure the landlord into surrendering the ODC, and negotiated with the DAR to proceed with the process even in the absence of the ODC.

On 24 October 2019, nearly two years after the ARBs executed an affidavit for the lost ODC, a stakeholders' dialogue was organized by the ARBs and CARRD with support from the local government unit (LGU) led by the Barangay Captain.¹ The dialogue was well-attended by representatives from the DAR, municipal and barangay LGU, CARRD, and the ARBs. This dialogue led to crucial agreements:

- DAR agreed to proceed with the CCLOA subdivision process despite the lost ODC;
- A field validation would be conducted to verify the names and status of ARBs listed in the CCLOA;
- DAR was tasked with facilitating the subdivision survey to identify the respective parcels and install the 23 ARBs who had been unable to till the land since the CCLOA was issued in 1991. The portion leased by the sugar mill was to be divided equally among these farmers, with lots drawn to determine which parcels would go to each farmer;
- Consensus was reached among the original 39 ARBs to include the other eight farmers who were not initially listed in the CCLOA as beneficiaries but were actual tillers of the land during the time of field validation. A petition for inclusion was to be submitted for approval by the DAR; and,
- The DAR was tasked with issuing a demand letter to the CSC to vacate the area and to terminate the lease agreement with the landowner.

All of these agreements were implemented in nine months, resulting in the installation of 47 ARBs on the land on 22 July 2020.

¹ The local term for community chieftain.

Resolving post-installation challenges. Following the installation of the ARBs, a new challenge emerged related to real tax liabilities. Due to lack of proper communication from the DAR to the LGU Assessor and Treasurer’s Office, the real property tax registration and declaration of Lot 1195 remained under the name of the former landowner. The tax had not been paid annually since the land was put under CARP coverage in 1991. This situation raised the issue of who would be held liable for the unpaid tax payments. While documents indicated a legal transfer of ownership to the ARBs through the CCLOA, in reality, there was no occupation of the land, and the former landowner maintained control over it from 1991 to 2020.

To initiate discussions on resolving real property tax payment issues, not only for Lot 1195 but also for other parcels of land with similar circumstances in the community, CARRD facilitated another layer of organizing initiative through a partnership with the University of the Philippines’ Department of Social Work undergraduate internship program.

In the first semester of 2023, two social work student interns were deployed in the community to conduct an in-depth study of the land ownership issues faced by farmers. Their tasks included organizing advance learning sessions on agrarian reform policies and processes, as well as facilitating skills development in communication and negotiation. Additionally, they worked on organizing a farmer association with the primary objective of advocating for the resolution of land claims with the DAR.

This organizing initiative culminated in a real property tax forum for ARBs, which provided an opportunity for the ARBs to engage in dialogue with the Offices of the Assessor and Treasurer of the Local Government Unit, as well as the DAR, regarding their issues. One significant agreement reached during the forum was the commitment to conduct a full appraisal of individual lots by the Office of the Assessor and to update the real property tax statements of account of ARBs by the Treasurer’s Office. The LGU also agreed that payments would start only after the ARBs have been successfully installed and have begun tilling the land.

The resolution

On 21 to 22 July 2020 – four years after the ARBs discovered that the issuance of their CCLOA had been concealed from them, and 24 years since the issuance of the CCLOA – the DAR conducted an actual subdivision survey, facilitated the drawing of lots, and installed the 47 ARBs. Since then, the farmers have been able to cultivate the land without any fear of harassment from the former landowner’s camp and the CSC.

Three months after their successful installation, the farmers received a seed fund through CARRD’s partnership with Accenture Philippines One Legal Team. This support empowered the farmers to purchase corn and vegetable seeds, as well as fertilizers. The income generated from the cropping season became their source of capital for the succeeding planting seasons.



The portion of the land leased by the Capiz Sugar Central was divided equally among the 23 uninstalled farmers through a drawing of lots. *Photo credit: CARRD FB account*

The COVID-19 pandemic, which limited fieldwork by the DAR, has caused delays in generating individual CLOAs. Nevertheless, with the initiation of the SPLIT² project in Capiz in 2022, a final field validation was conducted in preparation for the generation and registration of the electronic copies of individual CLOAs. As of 31 December 2023, farmers are now awaiting the distribution of the registered certificates.

To date, some farmers are still registering their names in the local tax system and obtaining updated statements of account. Those who have completed the registration process are now initiating tax payments based on the schemes suggested by the LGU.

The Land Tax Forum has initiated discussions regarding a potential collaboration between CARRD and the LGU. The objective is to explore the utilization of CARRD's spatial mapping database as a tool for facilitating tax mapping of agrarian lands within the locality. A memorandum of agreement has been drafted and is pending approval by the LGU.

Above all, the experience gained from Lot 1195 has served as a test and reference case for the other nine CCLOAs in Barangay Bayuyan that are currently undergoing subdivision processes.

² Support to Parcelization of Lands for Individual Titling Project (SPLIT) is a project of the Department of Agrarian Reform (DAR) which aims to improve security of tenure and strengthen property rights of agrarian reform beneficiaries by accelerating the subdivision of Collective Certificate of Land Ownership Awards (CCLOAs) into individual titles.

Lessons and insights

Access to justice for smallholder farmers may not always be achieved through the traditional pursuit of legal cases in court. Instead, it primarily centers on equipping small farmers with basic knowledge and skills necessary to navigate the intricacies of their circumstances. By providing comprehensive knowledge about the law, farmers can better understand their situation, rights, available resources, opportunities to engage, and avenues to seek assistance. This empowerment enables them to address issues through informed decision-making and explore alternative dispute resolution (ADR) mechanisms.

Supporting the formation and development of paralegals is essential. Paralegals play a vital role in empowering their fellow farmers through activities such as legal education, assistance in case documentation, facilitation of dispute resolution, and advocacy for policy changes. Strengthening them with support mechanisms, including continuous training and education, allocation of resources for mobilization and engagement with farmers, regular mentorship and supervision, and providing a platform for mutual learning with counterparts in other network groups, will better equip them to fulfill their crucial roles.

Resolving conflicts within the community presents an opportunity for community building. Conflict resolution can serve as a catalyst to foster trust among community members and enhance communication, leading to more open and transparent community dialogue. This, in turn, empowers community members to actively engage in various initiatives, instills a sense of ownership in the decisions being made, and promotes social cohesion. Such cohesion encourages collaborative efforts towards shared goals. ■

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