



Land First

Bi-Annual Publication

Land Rights for Social Justice and Freedom From Hunger

September 2004,
Kathmandu

*We are Landless.
Land, Citizenships and
Reservation in Land is our Rights.*

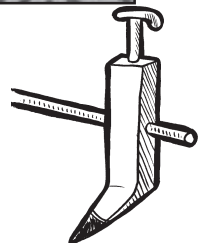
Inside

- Empowering the Disempowered Tenant Communities: A Case Study of the Impact of Land Tenancy Right-based Advocacy Campaign of Community Self-Reliance Center in Sindhupalanchowk District of Central Nepal
- Women's land rights in Uganda, Africa
- Unassociated Dalit movement with Land Rights
- Position of Tenants: Voiceless, Powerless and Justiceless
- Land in the Realm of Exclusion and Globalisation
- Civil Society Action for Land Rights



Procession for Land Rights, Citizenships and Reservation

Community Self Reliance Center (CSRC)



Land first

Editorial

This is very pity to note that those who plough land suffer from starvation, malnutrition and illiteracy. Most of the poor are landless, and they are deprived from participating in the development process. Most of the political parties were established with the slogan of “land to the tillers”. Unfortunately none of them dare to materialize it in practice. Consequently, this fueled to widen the gaps between feudal elites and peasants, increase magnitude of injustice and creating vicious structure of poverty and denials. Although every government carry slogan of social inclusion but yet over 1.2 million families have been excluded from development mainstream. Issue of land rights is not only the issue of distribution of land but it is an important aspect of ensuring social justice and protecting human rights.

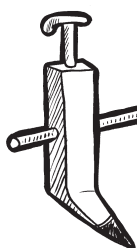
His Majesty’s Government has made several amendments on land act and brought land reform programme over the last four decades but they never turned out for changing quality of lives of the tenants and tillers. Since large numbers of people were excluded from the excess of productive resources, several development initiatives could not reach at the doorstep of tillers and marginal farmers. With the realization from development practices, few social development agencies focused to address the root cause of denials and deprivations. As a result, the interaction, debate and dialogue on land rights begun in past couple of years despite Community Self Reliance Center (CSRC) engaged into this issue for last eight years. The land rights campaign has been launched throughout the country with the leadership of tillers especially Dalits, women and minority ethnic community with the active solidarity and support from civil society and development agencies.

CSRC has been a pioneer beginning land rights issue and debate in mainstream development field as a matter of priority. CSRC is proud to be part of this greater movement in the country. We look forward having more solidarity from national and international and national development agencies, agencies and individuals working on social justice and human rights. Our collective efforts will be enough for changing current unjust socio-economic and political structure of this country and making difference on the lives of tillers and peasants.

CSRC would like to request to its all valued readers, collaborators, solidarity members and other well wishers for providing feedback and creative suggestions to make this publication worthwhile and give further momentum to land rights campaign.

In solidarity,

Community Self-Reliance Centre (CSRC)
September 2004



Empowering the Disempowered Tenant Communities:

A Case Study of the Impact of Land Tenancy Right-based Advocacy Campaign of Community Self-Reliance Center in Sindhupalanchowk District of Central Nepal

■ LAYA PRASAD UPRETY*

1.0 Prelude

This paper has two-fold objectives as follows: (i) to help the social activists understand the empowerment theory in brief, and (ii) to share the experiences of social activists of the Community Self-reliance Center (CSRC) and its local civil society partners on their decade-long land tenancy rights-based advocacy campaign with other social activists who have been fighting for the transformation of unequal and exploitative social power. The corpus of information on the experiences shared in this short article has been collaboratively garnered in by the CSRC social activists and the professionals involved in advocacy action research project of Action Aid International Nepal.

2.0 Understanding Empowerment Theory

The term ‘empowerment’ has been in vogue in the contemporary world of people-centered development, which emphasizes on inclusiveness, social justice and sustainability. And increasingly, the rights-based approach adopted under the people-centered development underscores the

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A landless women demanding her land rights in Saptari.

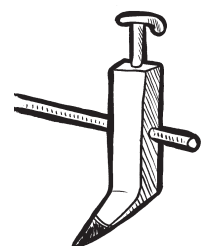


paramount importance of ‘empowerment’. Many organizations in the world have adopted the rights-based approach in their developmental practices in the recent years and one of the leading organizations adopting rights-based approach officially is Action Aid International. It has the long-standing commitments to participation and drives for sustainability, which has led it to adopt rights –based approach in its development work since 1999. It aims at the lasting solutions to poverty through the establishment and enforcements of rights that entitle poor and marginalized people to a fair share of society’s resources. It works alongside poor and marginalized communities to enhance their control over productive and social resources, their command over development interventions, and their ability to defend their interests. On the one hand, this approach recognizes the active role of poor and marginalized people and on the other hand, it emphasizes the responsibilities of state and society towards them. It also supports the contemporary understanding of the universal declaration of human rights, which recognizes the interdependence of social and economic rights on the one hand and civil and political rights on the other. Within this framework, it focuses on the rights to education, food, healthcare, water, livelihood, information and participation, and security and protection, which are essential for overcoming poverty. Overall, it focuses on the social equity, building partnerships and alliances, and critical engagement of range of stakeholders at all levels, poor and non-poor (Action Aid, 1999: 12-13).

Thus, the civil society organizations have started

to use the rights-based approach in the regime of development embedded with the objective of transforming the unequal power relations by helping the poor and marginalized people to enjoy basic human rights. And this objective can only be realized by empowering the disempowered people.

Each social activist has to have the clarity on the theoretical underpinnings of ‘empowerment’ and therefore, it is relevant to refer to a few social activists as well as the scholars working in the regime of rights-based approach of development for this purpose. Jorge O. Romano (2002) asserts that there is the need of an analysis of the power relations for fighting poverty together. The empowerment approach in fighting poverty requires a clear comprehension of the power relations. Empowerment is an approach that puts people and power at the center of the development process; a process through which people, organizations, and communities take control over their own businesses, their own lives and become conscious of their skills and competence to produce, create and manage the transformation of power. In fighting poverty, the empowerment approach implies the development of capabilities of poor and excluded persons and their organizations so as to be able to overcome the main sources of lack of freedom, build new options and be able to know how to choose and implement and benefit from their choices. Empowerment is always relational and conflictual. It is relational because it always involves links with other actors in the fabric of power relations. It is conflictual because change





▲
A village
and house
of Dalit.

does not occur without some kind of conflict. To be part of this process, one cannot be neutral. Poverty is made up and perpetuated by power relations. Poverty is a state of disempowerment. Empowerment is a means and an end for a change in the existing power relations, which contributes to overcome the state of poverty (Romano, 2002:1-12).

Veneklasen and Miller (2002) emphasize that social justice advocates want their strategies to empower people to stand up for their fights, and help create just, healthy societies. In this way, empowerment is both a strategy and a goal of citizen-centered advocacy. Empowerment is a process that involves individual discovery and change. The political empowerment process begins from individual consciousness to collective consciousness to empowerment to political power. The levels of power begin from welfare to access to conscientization to participation, and control (Veneklasen and Miller, 2002: 53-57).

Alberto Enriquez Villcorta and Marcos Rodrigue (2002) assert that the focus of sustainable development has to be on the empowerment of poor and excluded sectors, groups and people. Stated differently, empowerment has a perspective that places people excluded from the prevailing development process and power—its distribution and exercise— at the center of the process of development by putting the economic institutions (markets) and policies (the state) at the service of these groups. Empowerment is basically a process of creating and winning power for the poor and excluded sectors of the population. Winning implies the reduction of power that others have, the distribution of power and in this sense, it is a conflictual process. Conclusively, we can affirm that there is no sustainable development without effective processes of empowerment, through which the

resources and capabilities of the poor and excluded are increased, in order to participate, negotiate, co-ordinate and change, not only in their condition, but also in their surrounding context, with the purpose of bettering the quality of life for themselves. The empowerment processes necessarily should be centered on the disempowered people and groups, on their visions, interests, and priorities. And its strategy should contemplate on the construction of alliances between the subjects of the strategy, the poor and excluded, with the diverse spectrum of development actors, with the process of transforming the surrounding context and opening the way for the empowerment processes. Thus, a fundamental component of the

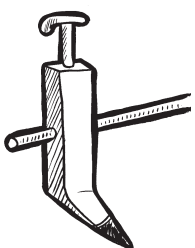
empowerment strategies is participation which is a constitutive element of the empowerment strategies (Villcorta and Rodriguez, 2002: 1-14).

Similarly, Iorio (2002) also emphasizes that NGOs and social movements together with the support of governments can empower the socially excluded groups of peoples. Creation of the environment through the modification of laws, decentralization for a wider participation of social groups and control over knowledge and information may lead to changes in power relationships through participatory institutional culture and capacity-building.

Conclusively, empowerment is a process/strategy of enabling the poor and marginalized people for creating as well as gaining the power, which is socially and historically distributed unequally. At times, empowerment itself can be the goal of the rights-based approach.

3.0 Rationale and Strategies of the Land Tenancy Rights-based Advocacy Campaign for Empowering the Disempowered Tenant Farmers

The poor people who have been tilling the land for years have been denied the tenancy rights by the landlords, which have been entitled by the existing land-related legal system. Thus, tillers have been disempowered by the landlords by controlling the land (an important physical asset for producing the food for the livelihood) and ignoring the tenancy rights. And as Romano (2002) states, the poverty of the tillers is the state of disempowerment (i.e. denial of the rights). The logic behind the tenancy rights of the tilled land is that ownership creates a sense of security resulting in the higher investments and higher quantity of agricultural productions



and thereby accruing higher amount of incomes for the families. Therefore, gaining the ownership of the tilled piece of land empowers the poor farmers economically. Succinctly put, CSRC, together with the financial and institutional support of Action Aid International, Nepal, has been launching the advocacy campaign in Sindhupalanchowk for the last 10 years to assist the uncertified (informal or unregistered) tenants of the *Raikar* (state landlordism) and *Guthi* (trust land) to acquire the tenancy rights (which are denied for years by the landlords) and ownership of the half of the tenanted land. Albeit the campaign is at the micro- level, the social activists have the also the goal of influencing the central government for the policy change on the trust-related land to empower the poor tillers who have been hitherto denied the land tenancy rights on a number of pretexts. The social activists have used a myriad of empowering strategies and the principal ones comprise the following: forming and strengthening the affected people's organizations; conducting the REFLECT classes; conscientization campaigns (particularly in the legal regime of the land); publishing the advocacy issue-based materials and disseminating them to enhance their understanding for the rights-based campaign; networking; etc.

4.0 Impact Analysis: Some Glimpses of Empowerment

The advocacy campaign for empowering the tenants has had a number of impacts, which include receiving the ownership of the 50 percent of the tenanted land, formation of the affected people's organizations and building their capacity including their leadership, recruitment of the social activists from the local communities of the affected people and involvement of the women in the campaign (to a lesser extent) are some of the examples of the impacts. A brief analysis of the impact has been provided below which covers the period as of December, 2003.

4.1 Gaining Power and Receiving Land Ownership by the Disempowered Tenants

In the existing social structure, the landed elites and the religious authorities of the *Guthi* have traditionally held the power by controlling the land resource and denying their tenancy rights. And therefore, CSRC, together with the local civil society partners, contributed to conscientizing, mobilizing and organizing the tenant farmers. Once they started being organized for the "collective strength" based on the mutual support, collaboration and solidarity, they started having the "power with" them to challenge the traditional power relationships through the movement for receiving the land tenancy rights (because resistance was considered as a form of power). There was the discernible unity among the tenant farmers for not giving the agricultural rents to the landlords without receiving the receipts from the latter (because

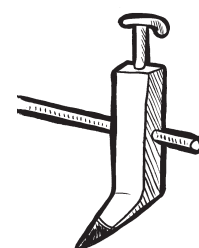
these receipts formed the evidences of tillage which would help to receive the tenancy rights).

Gradually, every conscientized tenant farmer started to realize his /her potential to contribute to the movement for shaping the destiny by receiving the land tenancy rights. And the tenant farmers had also the "power within" because they realized that they had also the sense of self-worth/dignity and self-knowledge, which they lacked prior to joining the movement. In other words, they started to feel dignified in the society because they started receiving the tenancy rights as a consequence of the movement. For instance, as of December 2003, a total of 3262 tenant farmers had received the land tenancy rights and among them, a total of 953 tenant farmers had also received the land certificates from the District Land Revenue with the recommendations from the Land Reform Office. As reported by CSRC, a total of 2488 tenant farmers had claimed the tenancy rights at the District Land Reform and District Land Revenue Offices. The tenant farmers who had received the part of the tenanted lands from the landlords had started to improve their livelihood systems by investing more time, energy and agricultural inputs, adopting cash crop culture (such as vegetables), pledging the land at the bank to obtain the loans and buying buffaloes for the sale of milk and thereby augmenting the household incomes. The tenancy rights campaign of Sindhupalchowk district had also increased people's awareness on the structural causes of the inequality and poverty (self-knowledge).

The data on the achievements of receiving the ownership of the tenanted land can also be gender-disaggregated. For instance, as of December 2003, a total of 32 female-headed households had received the land tenancy rights. Of the 32, 11 had received the land ownership certificate because their portion of the tenanted land had been separated from that of the landlords. The advocacy action research team of Action Aid Nepal (formed for two years' period towards the end of 2002 and CSRC had also been chosen as the research partner on land tenancy issue) had also urged CSRC to include a female representative in its advocacy action research team which got materialized and she started participating in the research –related workshops organized by the action research team of AAN. On the one hand, these workshops had been contributing to building her capacity and on the other hand, her role was expected to contribute to the effective advocacy campaigns at the grassroots levels by organizing and mobilizing the tenants.

4.2 Development of the Grassroots Organization and Leadership of the Affected People's Communities for the Sustained Fight for the Rights

Ubiquitous is the fact that an advocacy campaign can only be successful if the people of affected



communities have formed their own organizations. Definitely, the role of the catalyst/facilitator is crucially important for assisting them to form the organizations at the outset. For instance, CSRC, at the outset, had contributed to forming a *Mohi Jagaran Samiti* (Tenant Awareness Committee) for the conscientization of the tenant farmers on the land tenancy rights. And, subsequently, a *Guthi* and Tenancy Concern Committee was organized in the constituency no. 3 in Sindhupalanchowk district which worked for the grass-roots movement for the land tenancy rights (The district has been divided into three constituencies for the electoral and administrative as well as development purposes). As of December, 2003, the movement had spread in all the three constituencies of it and it followed as a corollary that both the constituency no. 1, 2 and 3 had one *Guthi* and Tenancy Concern Committee for mobilizing/leading the grassroots movement. There were a total of 31 members in the committees of the three constituencies. Numerically, there were 9, 15 and 7 members in the committees of the constituency no. 1, 2 and 3, respectively. There were also a total of 34 sub-committees under these three committees. The sub-committees had a total of 280 members. And a district level committee consisting of 15 members had also been formed to lead the movement representing all these committees/sub-committees. At the outset, CSRC supported to develop the action plan and the committee of the tenant farmers was involved for its implementation to make the land tenancy campaign effective and successful. The members of the committee did not have the knowledge on the Land Act, policies, and rights-based advocacy works. They used to hesitate to express

their opinions in the mass meetings and the concerned places/offices. But things changed drastically. By the end of August 2004, the different committees/sub-committees had also been involved in the preparation, implementation and monitoring of the grassroots level movement through the use of critical timeline, power analysis and power mapping. They were also knowledgeable of the Land Act, land policies and rights-based advocacy. They could express their opinions to the government officers, journalists, ministers, parliamentarians and advocates in an unprecedentedly frank way.

Given the fact that advocacy depends on the support and involvement of a large number of people, consolidating and using this kind of citizen support hinges on good leaders. In the ideal setting, there is always a necessity to develop the local leaders. Building and strengthening of the grass-roots leadership can be long, in-depth process with people in skill-building, critical reflection, confidence, organizing, problem solving and other forms of accompaniment (Veneklasen and Miller, 2002). But the success of any movement is contingent on the development of the grassroots –based leadership for generating the sustained effect of the social justice advocacy.

Considerable amount of effort has been made to develop the grassroots level leadership among the tenant farmers of the Sindhupalanchowk district for leading the land tenancy rights movement. As indicated earlier on, the land tenancy rights movement was, with the financial and professional support of AAN, initially led by CSRC and a local co-operative (called Jaya Bageshwori). On the one hand, the local lead

Minister listens what disadvantaged farmers had to say

News

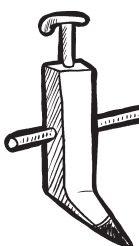
Community Self Reliance Centre and National Concern Group of Land Rights organised a public hearing event in Kathmandu on 28 July 2004. The purpose of this event is to draw attention of government on land reform by ensuring justice

and rights of the tillers and peasants. The Minister for Land Reform and Management was present on the occasion. Representatives of tenants, landless, ex-Kamayyas, haliyas especially women, Dalit, Tharu put their voices and views on the importance of land for their lives and also express the situation of denials of their legitimate rights over tilling land. The event was organised in a form of public hearing, where victim's and concerned people put forward their views and opinion in front of the Minister.

At the end, the Minister for Land Reform and Management Mr Jogmehar Shrestha said that the government is underway for preparing new land reform policy and assured that the new policy will address the issues and problems raised by the participants. He also committed to instruct the district land reform/revenue offices to collect updated information and submit to the Ministry within 7 days. Based on the statistics, the Ministry will take further decision. ■



Minister with representative of Haliya, Kamaiya, Terai Dalit, and Landless farmers.



organizations made a lot of efforts to transfer the leadership for intensifying the land tenancy rights movement through the process of capacity-building (by organizing trainings and workshops) and on other hand, they were involved in the process of the social mobilization of the unregistered tenant farmers where the local tenant leaders received an opportunity to work as the apprentice leaders in the regime of advocacy.

The Land Act of 1964 contained a provision, which confined the land rights to husbands, wives and sons. But the fourth amendment of the Lands Act stated that the tenancy rights can be inherited by mothers, fathers, adopted sons, unmarried daughters of 35 years of old, sons and daughter-in-laws, grandsons and grand daughters, and brothers. This is indicative of the fact that even the women can also inherit the land tenancy rights. But given the fact that Nepal is largely governed by the patriarchal values, there is still the predominant practice to register the tenanted land in the name of the men /adult sons and only in their absence, the land is registered in the names of the women/daughters. This traditional gender relation has triggered women's limited role on the land tenancy rights movement. CSRC, together with the support of the local non-governmental organizations (NGOs) and community-based organizations (CBOs), had been effortful in involving both the men and women tenants in the tenancy rights campaigns at the grass -roots level. They had been encouraged to participate in the campaigns like rallies, *Dharnas* (sit-ins), delegations and press meeting programs at the local, district and national levels. The women also participated actively during the press meetings 1998 in Kathmandu. On a limited scale, the leadership and the expression capacity of the women increased significantly – a function of the participation in the campaign and leader apprenticeships. The women had also been providing indirect support to the campaigns. For instance, when the men were involved in the campaign, the women bore all the domestic workloads. By the end of December 2003, there were two women representatives (out of 15) in the district level *Guthi* and Tenancy Concern Committee. Analogously, there was also one woman representative (out of 9) in the *Guthi* and Tenancy Concern Committee in constituency no.1 but the committee of the constituency no.2 had two women representatives (out of 15). But there were no women representatives in the seven-membered committee of the constituency no. 3. Of the 280 members of the sub-committees under the three constituencies, 156 were the males and 124 females.

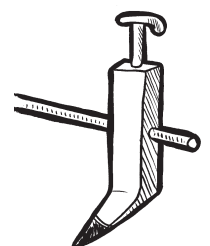
By the end of December, 2003, CSRC had been involved in the institutional capacity-building activities (mainly by organizing the trainings, workshops and interaction programs) for the grassroots level organizations. It had also been

providing a minimum amount of monthly remuneration (as an incentive to work in the harsh local conditions) and some amount of financial support needed for launching the local campaigns. CSRC had been involved for the coordination of the campaign activities launched by the local committees and documentation of the learnings of the campaigns. The local committees and CBOs had been capable of organising the rallies, *Dharnas* (sit-ins) and leading the delegations at the local, district and even at the national levels. Jagat Deuja, the focal person of the advocacy research from CSRC, remarks, "Initially, CSRC was in the frontline of the campaign and the local committees were at the back seeking support and but by the end of Decemebr,2003, the order had diametrically reversed". All this is indicative of the fact of the development of the indigenous leadership, which ultimately contributed to the relative success of the movement. The local leaders had also developed the critical reflections in the process of the campaign.

There had been the increasing emphasis on the recruitment of the social activists from the local communities, preferably from the affected communities and this approach had been found to be very effective for mobilizing the disempowered people— a function of the utilization of their social connections. The role of outside social activists had been to enhance their capacity on building organizations, mobilizing the communities, strategizing and launching the campaigns at the grassroots level. As shared by CSRC social activists, their use had been extremely useful for grassroots advocacy particularly in the conflict situation when outsiders had to bear the risk of being trapped in the crossfire of the warring factions.

4.3 Gradual Strengthening of the Local Network to Intensify the Advocacy Campaign for Empowering the Disempowered Tenant Farmers

By the end of December 2003, there had been the increase in the collaboration between and among the different actors working for the land tenancy rights movement at the district level. Tenant farmers and their organizations and CSRC and its local partners began working at the district level in collaboration with other district level NGOs/CBOs, some politicians/parliamentarians, legal practitioners, and journalists to influence the district level government offices such as District Administration, District Land Reform Office and District Land Revenue Office for expediting the process of providing the land tenancy rights to the farmers who were the actual tillers for years/several generations. A number of strategies for influencing the government offices had been adopted with the support of local network such as filing petitions, *Dharnas* (sit-ins) and *Gheraos* (encirclements). All this generated 'power' for the tenant farmers/activists/collaborators based



on mutual support and solidarity. And this 'collective power' exerted pressure on the traditional unequal power relations for the change, i.e. giving the tenancy rights to the tillers from the landlords who had been denied for years.

4.4 Conclusions:

Based on the above factual analysis, it can be concluded that rights-based advocacy has used empowerment both as the strategy and the goal. The processes and activities adopted and implemented respectively to enable the historically and structurally disempowered tenants fall within the gamut of "empowerment as a strategy" and the realizations by the tenants that they are now united based on mutual support and social solidarity (power with), that they have the potential to shape their lives through the organized effort by receiving the tenancy rights (power to), and that they have the self-dignity in the society by receiving the ownership of a piece of land which has the potential to reduce the poverty (power within) fall within the gamut of "empowerment as a goal".

REFERENCES

Iorio, Cecilla. 2002. **Notes on Empowerment Strategies and Rights-based Strategies.** A workshop Paper Presented at the International Workshop on Empowerment and Rights-based Approach in Fighting Poverty Together, 4th—6th September, 2002. Rio de Janeiro: Brazil

Romano, J.O. 2002. **Empowerment: Putting the Power First to Fight Poverty Together.** A workshop Paper Presented at the International Workshop on Empowerment and Rights-based Approach in Fighting Poverty Together, 4th—6th September, 2002. Rio de Janeiro: Brazil

Uprety, Laya Prasad, Him Prasad Sedain, Indra Rai, and Jagat Deuja. 2003. **Agrarian Structure and Land Tenancy Right Movement in Nepal: A Review.** Kathmandu: A Joint Publication of Advocacy Action Research Project, Action Aid Nepal and Community Self-reliance Center.

Uprety, Laya Prasad. April, 2004. "Understanding of Power on Tenancy Right-based Advocacy" in **Land First**, a Bi-annual Publication of Community Self-Reliance Center, Kathmandu.

Veneklasen, Lisa and Miller, Valerie. 2002. **A New Weave of Power, People and Politics: The Action Guide for Advocacy and Citizen Participation.** World Neighbours, Oklahoma City, USA.

Villacorta, A.E. 2002. **Tools and Methodologies for the Implementation of Empowerment Strategies.** A workshop Paper Presented at the International Workshop on Empowerment and Rights-based Approach in Fighting Poverty Together, 4th—6th September, 2002. Rio de Janeiro: Brazil



Meet the Press

News

Nepal Press Institute (NPI) and Community Self Reliance Centre (CSRC) jointly organized a meet the

press on 21 June 2004 in Biratnagar, on 14 July 2004 in Nepalgunj and on 27 September 2004 in Chitwan. Land rights were the main theme for the press meet in both places. CSRC presented the working paper highlighting present situation of land holding, injustice and vulnerability associated with land ownership, appropriate options and approaches for management, roles of different stakeholders – both government and civil society to address the problem systematically. Similarly, there was organized meet the press at Chitawan on 27th September 2004. NPI coordinated the entire process of this event. Significant numbers of journalists were present and critical discussions had held at the event. There was a good coverage on both print and electronic media about the issue and the debate. ■



CSRC meet the press at Nepalgunj, Banke.

Women's land rights in Uganda, Africa

■ SARAH OKWAARE OTTO,
ActionAid Uganda

In Africa generally – and Uganda in particular – land ownership is one of the most important components in the configuration of social, economic and political power in society¹. However, many women have limited access to, control over or ownership of land, despite their massive contribution to the agrarian sector. In Uganda, over 86% of the agricultural labour force is female, and yet women do not control or own the proceeds from their own hard work. Discriminatory customs and social practices are largely responsible for these inequalities, although in many instances even statutory tenure discriminates against women. Within this setting, power relations that can impede the attainment of productive and fulfilling lives by women operate from the domestic to the highest public level. In addition, there exist economic constraints to women's access to land and their ability to develop it.

Women's general lack of control of land is central to their social, economic and political position in society. The importance of land with regard to the political economy of class relations is well understood, but the relationship between control over land and economic and political power has been neglected in the study of gender relations. Because of the economic and political importance of the control of land, any reform here has the potential to transform gender power relations. A vision of gender equality with respect to land must therefore incorporate both men and women's (legally-recognised and socially-sanctioned) rights to land. In addition to rights to land, it must also take into account men and women's different interests in land.

In most African societies, women generally have access to land in that they are able to utilise it, either through their family or marital homes. However, this access to land is seldom accompanied by security of tenure, with women frequently vulnerable to dispossession by husbands to other male members of the community. Whilst opportunities do exist for women to hold land and have security of tenure, this ideal situation is not often realised. This is generally because women have traditionally had no access to the necessary financial resources to purchase or register

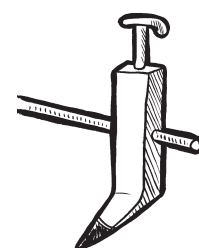
land. In addition, few countries have managed to change social or political attitudes enough to stop discrimination against women when it comes to financial matters.

Arguments have been advanced that modern processes and policies have tended to turn custodians of land (under a traditional method of tenure) into owners of land². This has been viewed against the backdrop that present day sociopolitical and economic processes favour the cash economy, to which the efforts of men are most linked. The subsistence economy characterised by agricultural production for home consumption – which is mostly dominated by women – has generally been relegated to an inferior position.

Role of Civil society organisations: a case of good practice – the ActionAid International Uganda and Uganda Land Alliance (ULA) partnership

After decades of repressive regime in the 1970s there have been attempts to improve the socio-economy of Uganda, but many challenges still remain. Equitable access and ownership of land is one such problem, especially given that land is central to development and more than 80% of the country's population is involved in agriculture and other land-based activities. During the nine years that the ULA has been working on land issues, by far the most significant event in the country with respect to land has been the enactment of the 1998 Land Act, on which the ULA had a say. It gave some sense of security of tenure to the people of Uganda, by putting in place a land tenure system that catered for individual land rights. For example, any squatters who had lived unchallenged on a particular piece of land for over 12 years automatically became *bona fide* occupants of that land.

But changing laws is a very different thing to ensuring they are implemented, especially when they run counter to traditional ways of doing things. It was clear to the ULA that this law in itself was not going to make much difference to most poor or marginalised men and women in remote areas of Uganda who were unlikely ever to hear about it. Informing rural communities of their new rights in



1 See Wilds hut and Hulbert, 1998

2 Kharono, E. (1998) Feminist Challenges to the Land Question in Uganda: Option for Meaningful Action - A concept Paper. Harare



Ugandan law and helping the marginalised claim these rights thus became a new focus of work for the ULA.

Land rights information centres

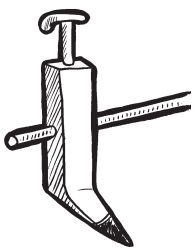
The ULA, in partnership with its members, established a number of land rights information centres as information points for members of poor communities. At each of these they then recruited volunteers (paralegals) who became agents of change in the community.

The concept of working with paralegals is embedded in the idea of 'barefoot lawyers'. In this model, paralegals are a team of volunteers, both male and female, selected and recommended by the community to be agents and vehicles for social change. Two paralegals are recruited per sub-county, and are trained in land-related laws, in particular the Land Act of 1998, as well as human rights issues, mediation skills, planning, monitoring, evaluation and gender. If a land dispute arises in the community, either party can approach a paralegal of their choice who will then attempt to mediate an agreement between the parties. If the matter cannot be resolved or the case is beyond their jurisdiction or knowledge, they refer it to the land rights information centre.

In many cases the paralegals are successful in resolving disputes on site. This has an effect beyond just the two parties involved, and is interesting and enriching for both the community and implementers. Community members play an important role during the mediation process by acting as witnesses, observing and monitoring the case, seeing how certain local traditions run counter to the law and learning how the law might apply to other cases in the local area. Individual cases thus have the potential to lead to a multiple effect.

At the same time the community also has the opportunity to monitor the quality of the work being done by paralegals, thus acting as an incentive for them to perform better. If the community feels the paralegal is not working well, they can bypass them and take their case straight to the land rights information centre, which would then demand an explanation from the paralegal who should have handled the case.

The land rights centres, supported by the paralegals, also disseminate information on land-related laws and educate the community on their land rights, empowering them to demand and defend their rights as well as challenge issues from an informed point of view. This is achieved through parish and



village meetings. The centres also monitor the implementation of the Land Act 1998, identifying gaps and emerging issues. For example, information given out at the centre has led to the realisation that the clause the ULA is promoting on the co-ownership of land may not benefit the majority of rural women who have a customary marriage and live under the customary land tenure system. Members of ULA are now carrying out research to ascertain the relevance of the clause.

The work of paralegals is appreciated by the community, as revealed by a study undertaken by ActionAid Uganda and ULA on what the community thought of paralegal work. The community response, more especially those who had witnessed and benefited from paralegal work, appreciated the roles played by paralegals – especially in the skills and manner of handling cases. They said the vast majority

of paralegals objectively investigated land cases and used the law to resolve most of them. Poor women in the community, specifically widows³, reported that they sought support from paralegals in preference to going to the Local Council⁴ courts and the clan leaders because they handle cases with a due regard to their rights as women.

‘My children and I were helpless upon the death of my dear husband. My in-laws sold off our land without our knowledge and we only realised this when the buyer came to evict us. However, with paralegal support, we were able to get back our land and are now more confident and sure of how to defend our property,’ Felitus Kures – widow

Lessons from the case above indicate that having gender sensitive laws and policies is not enough on its own. It is also important to have the instruments in place to ensure that these policies are implemented. ■

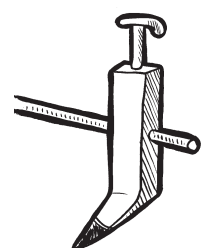
- 3 In Uganda in most cultures, traditionally women are not supposed to inherit property such as land. The constitution of Uganda and the Land Act provide for equality; every one has the right to own /inherit property. However the traditional ways of doing things have been internalised by the community, especially men, and this has hindered women’s progress towards access and ownership of land
- 4 Local Council 1. These are the smallest government administrative units at a village level

Mass demonstration for land rights

Land rights campaign has taken momentum in many districts. Dalit activists and organizations in the eastern part of the country formed a “Dalit Struggle Committee- Siraha and Saptari”, and organized a protest program from 29 September to 1 October 2004 in Rajbiraj, Saptari. According to local Dalit leaders and community they have demanded for citizenship, land rights and reservation in land for the Dalits. They organised first two days hunger-sitting and a grand procession on the final day. In that program more than 500 people sat in hunger-strike, among them 70% were women and more than 10,000 people were in rally and procession. The purpose of this programme was to draw attention of government, political parties and the entire society about their genuine and legitimate claim over basic human entitlement and land rights. ■



News



Land first

Unassociated Dalit movement with Land Rights

■ HIRA VISHWAKARMA

A few weeks ago CSRC an NGO working in the field of land rights of the peasants and marginalized people organized an interaction programme between policy makers, farmers, ex-bonded labour, plougher (Haliya) and landless people and those concerned with the land rights of the people. The most victimized community represented were from Dalit and Kamaiya (the ex-bonded labour). Likewise the landless from Terai and plougher from western Nepal was represented by Dalit. Out of five two were Dalits deprived from land rights. That clearly shows how severe is the problem of land rights among Dalit. Unfortunately there were a few Dalits and their organization to witness that interaction which clearly indicates that Dalit movement has not bothered much on the issue.

The reservation policy in India is in place for the last fifty years which has been benefiting the middle and lower middle class of Dalit population. As a result of that a middle class of Dalits have been created and example is the association of Dalit doctors within Delhi the capital city where the number is more than thousand. However, the criticism of such practice is its failure to benefit the poor and landless Dalits and tribes. Professor of Delhi University Dr. D Prempati in his latest deliberation in Kathmandu revealed that out of 10 thousands Dalit only one will get a job through reservation and this policy alone can not solve the immense problems of Dalits and as long as there could not be similar policy to increase the access to land.

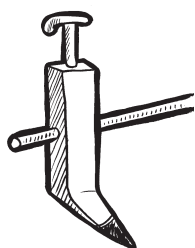
It may not be relevant to talk about the reservation as it is not in place at the moment in Nepal but I strongly feel that it is becoming late and late that we are not discussing about the land rights of Dalits and organizing them for the movement. Be it directly or indirectly the traditional occupation of Dalit is associated with land. They get their wages in the form of grain for providing their services throughout a year which is popularly known as *Balighare Pratha*. Likewise to pay the loan and interest of a money lender a Dalit has to plough his field which passes on from generation to generation is called *Haliya Pratha*, this is very much similar to Kamaiya system. The government has already abolished Kamaiya system where as Haliya system has not come into forefront in debate and discussion as yet which is pity indeed.

Nepal is still a agricultural country where its 85% of the total population is dependent on

agriculture where as Dalit are fully associated with agriculture be it in the past or in the present. Who has might and who can rule the country is also very much associated with the land. Had not the Koirala family had the thousands of hectares of land they would not have been able to lead the democratic movement of the country and be the ruler. All the top bureaucrats, leaders of present time are also associated with land as they hold large plot of arable land. The ceiling of land is often set by these leaders when the issue of land reform come into discussion. It is reported in an informal discussion that Ms Shailaza Acharya a powerful Nepali Congress leader possesses about 8 hectares of land so as another powerful leader Mr. Bamdev Gautam of UML and both of them advocate that much ceiling. Likewise Mr. Madhav Kumar Nepal the General Secretary of UML possesses 19 hectares of land and he advocates the ceiling of that limit. These examples clearly show that they want to protect their properties first rather than to distribute justice to poorers and marginalised. All these show how decisive factor is the land in all sphere of the country's political and economic life.

The deprivation and marginalization of Dalits can be attributed to land which has been clearly mentioned in the draft human development report 2004 published by UNDP. According to that report 24.44% of the total population is landless. In hills 15.32% of Dalits are landless where as in Terai 43.98% are landless. Those who are semilandless are 9.89% in Terai and 15.24% in the hills. If we consider 13% of Dalit population which becomes 3 million out of which 0.8 million are landless and 0.4 million semilandless. That means 1.2 million out of 3 million Dalit population are forced to live on off farm income which is very unpredictable and seasonal. Being a landless does not mean being ultra poor, however, since 85% of the country's population is dependent on land those who do not possess sufficient land can be regarded as ultra poor. Therefore, to let them have dignified life through a reliable source of income is a great challenge both to the government if it is a welfare state and Dalit movement.

Who has the ownership of land? How to establish one's right over it is a great question to all. When humans were not civilized there was no distinction between animal and human, the whole earth was their home and they did not have their



individual home. When they started to be civilized they started to have individual property which was transferred from one generation to another and it is quite interesting to see how that ownership was established. The first tiller of that particular land became the owner. However, when the state was run with the help of landlord those who were powerful started to capture the land. To run a state affair it needs income which is raised through income tax of the people that income comes from a means of production and that means of production is agriculture and land. In a country like Nepal the main source of tax is land. Upto this situation the ownership of the land was not clear. In a modern state system the government becomes the owner of the land first and as a result of this principle the state mechanism started to provide land to its bureaucrats, relatives of those in power both as prize or in compensation for the service they provided to the rulers.

A land lord Mr. Tanuraj Pant of Kalika VDC of Kanchanpur who is a gentle man stated in a conversation with this writer that a contract was given to a person to raise tax on behalf of the state and certain area was given to each contractor. Obviously those contractor were powerful people having strong ties with the rulers, later on captured the area of land from which they were supposed to raise tax. When this is applied then most of the area of land are in the control of hilly landlord and a very few area are in the control of Terai landlord. How it is possible otherwise to have such a large area of land in the possession of those who were afraid of

staying in the area where malaria was epidemic. It is only Tharu and other Terai people who lived there for generation by fighting with these epidemics who later on made Kamaiya by these landlord without paying any money and just by using state power. That is why often a slogan "the tiller is the owner of land" is used by political reformer.

If the issue of land rights is looked upon through a natural system then it is very much legitimate to state Tharu, Terai Dalit and other indigenous group to have their rights established on the land as they are also called son of land. Since Nepal has embraced modern way of state system by giving up natural system and has failed to implement the limit of land within the land reform system of 1967 and the declaration of then Prime Minister Sherbahadur Deuba in 2002. These days the land bank is in discussion in which government intends to buy the land from landlords and sell to poor in an affordable price. Which is nothing but to compensate those landlords whose lands have been captured by Maoist rebel group and have been distributed to their cadres and other poor people as a result of that those landlords have not been able to enjoy any income since the insurgency began.

Now there is an immediate need for reformatory Dalit movement of Nepal to take land rights as a serious issue and start a systematic movement to establish the land rights of 0.4 million landless Dalit and thousands of Haliya. Otherwise they will remain in vicious cycle of poverty benefiting only elites of Dalit from the movement. ■

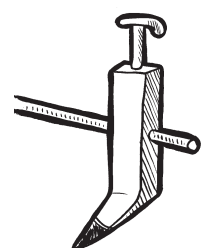
Participatory Review and Reflections

Community Self Reliance Centre (CSRC) organized a two-day long participatory review and Reflections of land rights campaign being launched in Chitwan from 23-24 September 2004. The tenant/tillers, rights activities, representatives from collaborating organizations, networks, and CSRC general members were present in the programme. The team critically reviewed the programme and reflected upon the process, strategy, outcomes and learning so far. This was an interesting process in terms of looking ourselves and reflecting upon our own role, values, practices and exploring avenues for the days to come. ■



Participating review and reflection among the movement collaborating and activist.

News



Land first

13

Position of Tenants: Voiceless, Powerless and Justiceless

■ KRISHNA PATHAK*

Land has been a source of power and basis of livelihood for majority of Nepalese people. The limited number of elites, majority of them are politicians and bureaucrats, hold significant amount of land. The land has been backbone for smoothening their livelihood and helping factor for having access to education, exposure, politics, civil service etc. This category of people has been ruling to the large section of

another elite without settling tenancy rights and Mr Khatig's tenancy was transferred to a new owner. After some time, the landowner did not become ready to receive the land rental from Mr Khatig. So, Mr Khatig deposited it into Village Development Committee (VDC- lowest unit of the government) and got receipt as evidence. In the mean time, Mr Khatig had knowledge and information about tenancy rights and he decided to claim it. He filed a case in District Land Reform Office (DLRO), Banke in 1989 with due process. The landowner was not happy by Khatig's initiative. The landowner began to create problem citing that Mr Khatig did not give rental for some time, and thus Mr Khatig's claim is not in accordance to the prevailing law. Later, once the case went to the District court, the judge decided that Mr Khatig is a legitimate tenant but he need to pay lump sum of Rs 30,600 to the landowner as rental. After paying double rental, Mr Khatig established as rightful tenant and he is about to get land.

This decision did not make happy to the landowner and he went to zonal court for appeal in 1990. It was very difficult to Mr Khatig to compete and face elite landowner's challenge in feudal society where majority of the policy makers and implementators favor to powerful landowners rather voiceless victims. This situation became gradually expensive to Mr Khatig. Mr Khatig sold his piece of land to pay the rental and manage expenses required to fight case in zonal court. Despite enough evidence and clear decision of district court, the zonal court gave decision in favor of the landowner in 1990. Then, Mr Khatig became helpless and justice less.

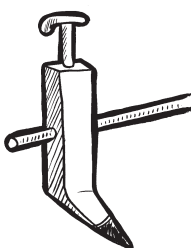
After two years, Mr Khatig came to contact of a local lawyer who assured him for pleading the case in his favor. It was a great help and matter of happiness to Mr Khatig. So, he filed case in the Supreme Court in 1992. After some time Mr Khatig came to know that, the lawyer tilted towards the landowner. Again, this was a big blow to Mr Khatig. The capital city Kathmandu was too far for Mr Khatig and he was not thru the official process and formalities in the Supreme



▲
*Tenant
farmer.*

disadvantaged people in Nepal. These people protect their own interest and strengthen feudal culture with the cost of denying disadvantaged people's rights and justice. Thus, this article describes how landless or disadvantaged people's rights are being violated and their justice is denied by the feudal socio-economic structure of Nepalese society.

Mr. Ram Adhar Khatig – 65 resident of Indrapur VDC-2 Banke district of Nepal is a tenant farmer for generations. He was a marginal landowner and tenant farmer of a landlord until 15 years back. Now, he has been struggling for his genuine legal entitlement over tenancy despite being landless and homeless. Mr Khatig used to plough the land of a powerful Rana family who is a leader of major political party and that is in power today. Mr Rana sold a piece of land to



* Mr Pathak is human rights and social justice advocate and activist. He can be reached at indup@wlink.com.np



▲
A Dalit
village of
Saptari.

Court. He could not follow up the case for some time. Later, he came to know about unfavorable decision by the Supreme Court and the deadline for appeal was already over. After all, the doors of justice were closed for Mr Khatig. And there were neither any state mechanism nor other helping agencies or individuals who could extend help and listen his grief.

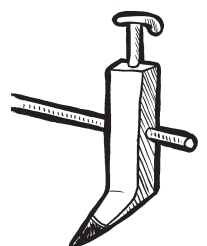
By the time he lost his case in the Supreme Court, Mr Khatig is not only denied from his rights over tilling land but also lost his properties and became homeless. His entire family members have to live under the open sky. Mr Khatig recalls his memory that if he would not have sold his small piece of land, it would likely to be worth of two million rupees. Similarly, if he would not have lost his case, he would likely to get 1.25 Bigha of land worth of nearly six millions rupees. This would have helped to change his livelihood tremendously and gain social dignity. This is very unfortunate situation that Mr Khatig has been deprived from the property of nearly eight millions rupees, which is substantial amount indeed, due to unjust state mechanism and influential power of feudal elites.

Despite living vulnerable life, Mr Khatig is still firmly convicted on his lawful claim and is committed to struggle further for justice. Although he lost his case, he had been tilling the same land until His Majesty's Government brought amendment on existing Land Act in 1996, which abolished the tenancy system thereafter. This became easy for landowner to expel tenants from tilling. The landowner also began an industry to kick-off Mr Khatig from

the tilling. In 2000, the landowner tried to influence Khatig's family members with hopes and fears to leave the land voluntarily. However, Mr Khatig did not agree on his proposal and did not want to surrender before the landowner. Then, the landowner went to the district administration and police with false charge against Mr Khatig. Police arrested Mr Khatig and his family members and kept in custody for 3 days with handcuff. Police gave severe torture both physically and mentally to the entire family members. Finally, Mr Khatig was kicked-off from the tilling.

This was a very crucial period for Mr Khatig family to survive. They began to live in a marginal piece of public land. This is not a secured shelter because they can be evicted anytime. The family members dispersed in various place for wage. Small children were compelled to work in local hotels as laborers instead of going school. **Child rights and education for all** - is far from their dream and do not come to their immediate priority as they have to struggle for livelihood. This has led their future into further darkness. This family has no other skills and opportunities as they have expertise on agriculture, which has gone away from their scope.

This is not only a single story of Mr Khatig but it is a picture of lives of millions of landless and tenant tillers in Nepal. Mr Khatig is a representative among all the deprived and less fortunate tillers of the country. There are around 8000 families being suffered from such denials of entitlement over tilling land in Banke district



alone and over 0.73 million families through out the country. Majority of them do not know what is written on the pages of land Act and policies, which has been an advantage for elite landowners. At this point, it comes several questions in one's mind that who is responsible for Mr Khatig's present situation. What are the factors that bring poor people on the street? Who is responsible for Mr Khatig's security of tenure and giving justice to him? And, how Mr Khatig along with millions of other tillers and peasants could feel that there is state for protecting their rights and ensuring justice?

The situation described above is the major problem of Nepalese society that keeps many tillers and peasants into the vicious circle of poverty. The inappropriate accumulation of productive resources especially land is the basis of perpetuating the level of injustice and practice of feudal customs in Nepalese society. This

practice is deep-rooted and institutionalized at every level – society to politics, and economic to bureaucracy. This structure always promotes the benefit of the limited elites with the cost of denials and deprivation of millions of tenant tillers. This has created a situation where those who produce plenty of grains have to suffer from starvation, malnutrition and seriously threat from security of tenure. The main reason for this is not having ownership of the tillers over the land and denied from justice of legitimate entitlement over tilling land. Thus, state should have courage and political will to handover landownership to those who actually plough the land in order to change current unjust and feudal social structure and change the oppressive position of tenants and peasants. Likewise, state should arrange for eliminating dual ownership on land by separating land to the tenants as their legitimate rights without any hassle and cost. ■

National Conference of National Concern Group

News

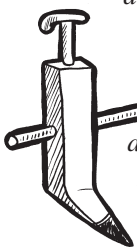


► *First National Conference of National Concern Group.*



► *Participants are developing national concern group's strategies and future program.*

National Concern Group for Land Rights held its first two-day national conference in Chitwan on 25-26 September 2004 with the slogan of land rights for social justice and prosperity. 53 representatives from 21 districts from different organizations took part in the conference. The conference elected a 13 members executive committee with the composition of four women, four Dalits, two ethnic communities and three others. The conference passed a declaration on elimination of Haliya, Kamaiya, Tenancy, Guthi, Kamlari and extend every possible support for building of people's organizations right from grass root to the national level. ■



Land in the Realm of Exclusion and Globalisation

■ YAMUNA GHALE*

The context

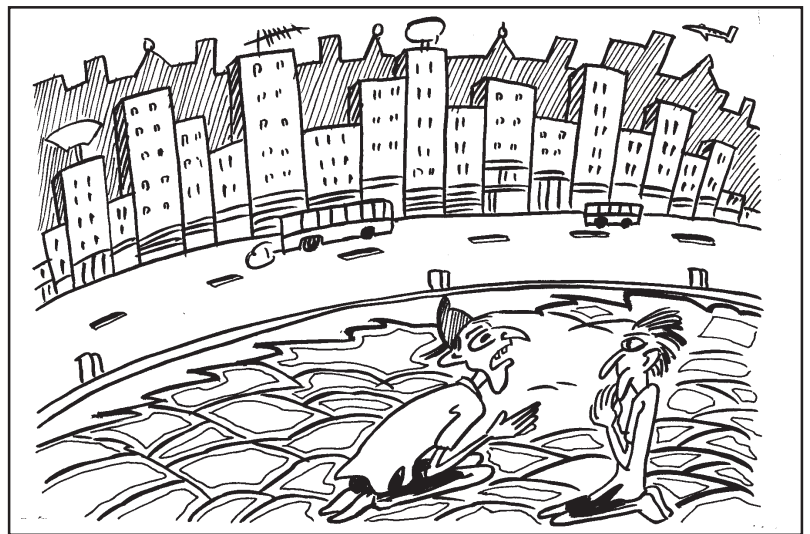
Land is a fundamental natural asset for the resource poor farmers for their livelihoods and social security. Land, either state owned or private property, is a basic asset, which can be exploited in many forms for the benefits of individuals or the nation as a whole. It provides personal identity to individual landholders, raise social status, and increase access to other production resources. But this precious resource is remained as a distance dream for poor and excluded groups in developing countries because of deeply rooted feudal systems shaped by customary beliefs and highly skewed power relations. In addition, increasing threats of land consolidation and captures by powerful neo-elites as a result of globalisation are becoming new challenges for the land rights movement. Therefore, proper analysis of existing land tenure systems and practices and its linkage with emerging global concerns and issues is essential. Furthermore, realisation of complexity of international provisions and national commitments needed to be properly understood to devise the instruments for effective land rights movement and subsequent exercise of rights.

Some key Issues:

Exclusion and discrimination

Exclusion and discrimination are some of the major constraints in achieving equitable land titles. Though women and indigenous communities are cultivators to ensure household and national food security and protect and promote biodiversity and environment, their contributions are rarely recognised in policy and practices. The land titles are blatantly denied just on the basis of class, caste and gender in many parts of the world. For example, the dalit communities of Nepal were denied for land rights since the time of different work-based classifications (Brahmin, Chhetri, Vaishya and Sudra) (Dulal, 2004). They are been working as Haliya, and or in bali pratha and mostly paid on kinds such as fixed amount of grain on certain period of the year but denied of their claim over the land despite their generation-to-generation tilling services. Similarly, large masses of indigenous and terai communities are denied

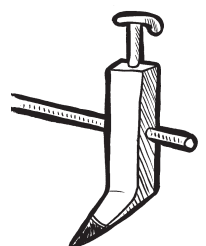
of land rights due to lack of their citizenship. This has been further complicated because of lack of their representation in decision-making. Another denied category is women, whose rights are denied due to the categorisation of girls as “passer by” and women as “passer in” in the family. So there is no proper mechanism to address their concerns either in their



parental or marital home place. Consequently, they are excluded from various benefits associated with land titles. The land titles do not only secure the permanent form of their settlement, it also equally raise the level of confidence to those communities to improve their bargaining capacity and subsequently able to challenge other forms of oppression within households and the society. This highlights the importance of land titles not only for economic improvement but also for improving their relative position within and outside household.

Inequities rooted in national laws

Several forms of systematic exclusion can be found in national laws in many countries. For example, Kenya's Law of Succession (1981) excludes the land titles to Muslims and pastoralist population in certain districts. The national laws in many parts of the world especially in Asia do not recognise the rights of women on inherited property and or family property. The dominant perception of farmer is a 'male farmer' and



* Team Leader, Livelihoods and Economic Rights Department, ActionAid International Nepal.

consequently a head of household lays foundation for male focused laws. Therefore, any forms of land either 'inherited' or 'state transfers' are accessible to the well off categories and men only. In cases, where women have access and control over parental property, they are facing management problem when they wish to settle it formally. Thus the limited and fuzzy form of rights provided to women force them to deal it as family affairs and in most of cases, it denies their access to acquire proper compensation, particularly when the male

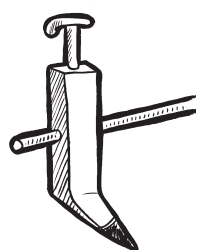
members are not co-operative.

Gaps in policies and practices on land issues

Several review reports show that though there are sporadic efforts taking place in creating space for women and indigenous community to acquire land, it is still not in their full control due to various complexities and inadequacies in policy and practices. Some of the examples are shared below:

Country	Status of gender and ethnic minority in terms of access on land resources
Africa	
Ghana	The nation had tried to protect the rights of widows and children through some Laws but most of them are still unaware of those provisions
Kenya	A task force set up to deal on vulnerability of women but still remained pending due to the resistance on affirmative actions around the land issues.
Malawi	1990 Constitution guarantees women's' right to acquire property but proper mechanism to ensure the decision in consistence with the constitution is still lacking.
Mozambique	1990 constitution provides equality between men and women. Community right is granted on communal land but is still not able to address the distributional inequalities, which disadvantage the peasant families.
Tanzania	The Land Act and Village Land Act 1999 prescribes for co-ownership. But in practice, it has not been able to address the concerns around land scarcity and dispossession. At the same time, there is intense focus on passing those laws without proper thought on monitoring mechanisms.
Uganda	1998 Land Act still does exclude women from acquiring the land property. The decisions of the local councils generally are gender biased when there are martial property cases comes the most.
Asia	In most Asian countries such as India, Nepal, Pakistan, joint family property to be inherited by son is a common phenomenon. However, in certain states of India such as Kerala, Tamil Nadu and Andhra Pradesh have abolished such system which allow son only to inherit the property as provisioned by the Hindu Succession Act 1956. In Vietnam, there is a provision which requires signature from wife while selling land but it is generally been done under pressure than her own interest.
Latin America	In most of the countries, the Constitution as well as Civil Codes had recognised dual headed household system but there is very low incidence of joins registration. The issue of joint ownership also remained silent where the land is already in the name of husband only. The 2001 Affirmative Action Programme of Brazil also targets for 30% female representation in credit schemes to purchase land, access trainings etc. but has not identified specific concerns of single, divorced and widowed women. Similarly, the Latin American Civil Codes, which provides equal inheritance rights to children but the daughters, are still excluded from this titles. Similarly, the law of Brazil provides access to only one quarter of property for the widow, but she cannot hold it anymore if, remarries. Another scheme of land bank programme created by 1999 Decree in Guatemala requires joint titles on land as well as demand for credit but as a backdrop, because of insufficient funding for land bank, the peasant men and women's access have been severely restricted.

Source: ActionAid International, 2004; Economic and Social Council, UN





◀ Interaction Program with policy makers.

Global threats

Land is one of scarce and precious resources where the market intervention is very prominent in the 21st century. In the increasing state of liberalisation and privatisation, ongoing socio economic changes exerting tremendous pressure on land resource and gives rise to new forms of exclusion and disentanglements. The example of systematic exclusion of poor from the land can be seen in the following case:

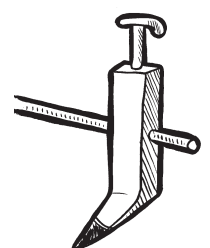
Corporate Agriculture Farming Ordinance, Pakistan

The new Corporate Agriculture Farming (CAF) Ordinance of Pakistan is one example of corporate control on land resources. The main features of the ordinance are 1) CAF is taken as an industry 2) there will be no land ceiling for the agriculture companies 3) no labour law for corporate agriculture labour 4) zero tariff for CAF related imported machineries 5) can be bought and or lease state land for initial 50 years and can be extended for another 49 years 6) special financial support schemes through national banks and financial institutions. It is introduced with an assumption to bring foreign investment, improve productivity and quality of export oriented agricultural products. For the compliance with these provisions, the Land Reform Ordinance was promulgated in 2002. It has completely closed down the hope of landless to get lands from the state owned property. Similarly, the small-scale farming will not be in a position to compete with those highly invested and state supported farming and they will loose out their business. The ordinance has been passed despite of huge opposition from civil society sectors and human rights activists.

Source: Corporate Agriculture Farming Ordinance, Pakistan (Compilation), 2001

The increasing trend of land consolidation can be clearly understood from the abovementioned case of Pakistan. Similarly, other forms of exclusion and denial can be seen in other developing countries. For example, in Philippines, farmers are increasingly engaged in commercial farming with the initial support from corporations to purchase agro inputs. The recent trends showed that they are not able to harvest their products as the farm gate price of the crop is down below the cheap imports from developed countries, which restricts them to compete in the market. Consequently, the farmers are unable to pay the loan and the corporations are increasingly holding those lands and the farmers are gradually getting displaced.

Similarly, the encroachment through technical and policy supports from bilateral and multilateral institution is also equally threatening in the context of land distribution and utilisation. The recent land bank programme proposed by the government of Nepal is another form of disregarding the available forms of proper land resource management. Though, landless poor are supposed to get lands from the government, it would be very difficult for them to pay back the property of land at the set period of time, and virtually they will not be able to retain the given land. The government is ready to adopt the land bank program as a part of globalisation rather than to resolve land problems. The government is not yet properly documenting the state owned land as well as private land beyond the ceiling. It is believed that proper land information and distribution could resolve 60% of land related issues in Nepal.



Linkage with international instruments

There are series of binding and non-binding international instruments that deal on land property issues in relation to food security and livelihoods. There are several provisions that directly or indirectly deal with land ownership and use by the indigenous communities. For example, article 17 of the UDHR and article 5 of International Convention on the Elimination of All Forms of Racial Discrimination has ensured everyone's right to own property. Similarly, the committee on the Elimination of Racial Discrimination calls upon the state parties to recognise and protect the rights of indigenous peoples to own, develop, control and use their communal lands.

In the same way, article 14.2, article 15.2 and 16.1 of the International Labour Organisation Convention No. 169 has mentioned the provision of land ownership and consultation with indigenous community in the case of traditional territory, where they have occupied. In the same document, the article 17.3 specifically concerned about not to encroach indigenous people's right by the others, article 19a and provisioned to provide more lands as well as promote the land of these group of people for their normal existence. The UN draft declaration on the rights of indigenous peoples art 10, 26, 27 clearly provisioned to not to remove them from their territory, have their right to the reinstitution and own, develop, control and use their lands.

Similarly, article 14.2g of Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) has provisioned for equal access of men and women on land and agrarian reforms as well as land settlement schemes along with other benefits such as agricultural credits. The International Covenant on Economic Social and Cultural Rights (CSECR), article 11.2 recognises the fundamental right of everyone to be free from hunger and it specifically envisaged reforming agrarian systems.

The government of Nepal had ratified most of those obligations and showed its commitment for implementation to improve the state of its people and nation. Therefore, all campaigns on land resources had to be streamlined in the perspective of rights and to be realised the role and responsibilities of state and individuals to realise those rights.

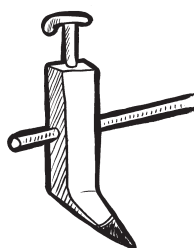
Way forward

Based on above forms of rhetoric and reality in the policy and practices, there is extreme

need of realisation to have land reforms on the basis of social justice. Certain level of initiatives are emerging in the world by the indigenous community themselves such as mapping of their traditional land ownership and land use practices in Maya Indian Community of Toledo district in Belize. Similarly, some national government also started some initiatives such as the Constitution Act of 1982, Canada, Constitution of Brazil 1988 trying to follow inclusiveness for the indigenous community and women in to the formal land title scheme. Since the issue of land and its association is with production, settlement security, gives an avenue for access to other forms of benefits, raises social status, creates independency, improves bargaining power and challenge oppression, it should be looked from beyond land for production only. In this process, the rights holders whose rights have been systematically denied and violated since centuries should be organised educate and mobilised to enjoy the land rights and help to establish social harmony and justice in the society.

References

- BBC news, September 1, Nepal
- Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)*
- Corporate Farming Ordinance*, 2001, Pakistan (compiled version)
- Dulal B.B. 2004, *Bhumima Dalitko Swamitwa*, Sustainable Livelihoods Forum (Unpublished)
- Economic and Social Council, *Human Rights of Indigenous Peoples*, UN
- Ghale Y. and B. R. Upreti, 1999. *Indigenous Knowledge and Food Security in Developing Countries: Opportunities and Challenges*. A paper submitted to 16th Symposium of the International Farming Systems Association, 27-29 Nov. 2000 Santiago, Chile
- International Convention on the Elimination of All Forms of Racial Discrimination*
- International Covenant on Economic, Social and Cultural Rights*, 1976
- Musembi C.N., 2004, *Gender, Food and Hunger: securing women's access and control over productive resources*, ActionAid International (unpublished)
- Universal Declaration of Human Rights*, 1948, UN
- Upreti B.R. and Y. Ghale, 2002. Factors Leading to Agro-biodiversity Loss in Developing Countries: The Case of Nepal. *Biodiversity and Conservation*. 11 (9) Pp. 1607-1621. ■



Civil Society Action for Land Rights

■ JAGAT BASNET*

Land rights are not only the issue related to poverty alleviation but also a pertinent issue of social justice and human rights. If the government truly comply its commitment made through endorsing the international treaties and protocols of human rights, everyone has rights over productive resources especially land to overcome from hunger, security of shelter, dignity and civic entitlements. Inappropriate land distribution has been a basis of current feudal social structure, which always keeps the large number of tenants and peasants excluded from dignified livelihood and mainstream development. But unfortunately, land reform issue has always been in shadow despite it is written in political party's manifesto and they talk during elections.

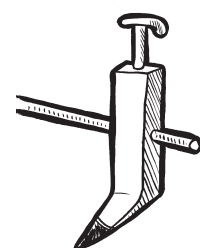
Land holding is the basis of power and symbol of feudal customs and practices in the Nepalese society for centuries. It was very necessary to demolish such social structure to empower the poor tenants and peasants but it was very hard to do so because the same elites were in and around the power. Despite this difficult context, Community Self-Reliance Center (CSRC), dared to get into this issue in 1995 for awakening the voiceless and powerless tenants and peasants to realize this unjust fact and get united to claim their legitimate rights over land resources for overcoming from hunger and security of habitats. It gives us good amount of satisfaction that now land reform has become a national issue of development agencies and some political parties as an effective approach to fight against poverty, injustice and violations of human rights.

Although land rights movement started in 1995 from couple of villages of Sindhupalchowk district, it has expanded over 15 districts from 2004 based on the learning and achievements for nearly nine years. Despite several threatens from landlord and other stakeholders, CSRC did not afraid and de-routed from this movement and being committed to support deprived communities and advocate for their behalf. This has proved definite and visible impact on the lives of tenant farmers in terms of increasing food security, increasing social status of farmers, increasing self-confidence and respect,

increasing social capital and power to fight any such denials and injustice etc.

Although the present the political situation of the country is remained unfavorable than expected, the land rights movement has been moving ahead smoothly with great amount of enthusiasm and participation of rights holders and excellent facilitation by the civil society organizations in various districts. Many development agencies (both national NGOs and international development partners) have been showing their interest and solidarity in this movement. More than 20 NGOs working together as an alliance for supporting land rights movement is an another interesting practices initiated by the civil society organizations. This is a good indication that civil society organizations have become serious on rights movement and gradually increasing collective strength to heighten the momentum more strongly in the days to come. CSRC has been facilitating the entire process as a resource organization.

Within 6 months period of 2004, more than 100 local activists have been developed from the deprived community. They have been providing support to the movement at local level with incredible commitment. The community people themselves have developed their action plan for filing more and more cases and launch campaigns at local level. By end of August 2004, around 58,000 cases have been filed at the District Land Reform and District Land Revenue Offices with the support from more than 20 NGOs. These cases have been filed in accordance His Majesty's Government decision in 2003. Now, the same applicants have been giving pressure to the government for settling the cases as early as possible. Besides, they are preparing further cases to be filed to the government in near future. The district level government and non-governmental agencies have also taken this initiative positively and extended their commitment to extend their end support to this movement. The Ministry of Land Reform and Management and numbers of District Land Reform/Revenue Offices have been found reasonably supportive by providing relevant information and technical cooperation required for the movement.



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Interaction
program
between
gov.
agencies
and
community
members.



The movement team has been able to influence government and donor communities regarding land management policy. With the series of interaction with policy makers and media coverage, the proposed land bank concept has got shaded, which does not truly justice to the tillers and landless people. Similarly, the numbers of donors including the World Bank have begun to consult with movement facilitators including CSRC on land management issue. Similarly, the Government came up with new policy extending time frame for filing the cases to separate land and settlement of landless issue. This is the consequence of continues interaction, lobby and pressure from the large number of people and the organizations who have been working on land rights issue. This has opened up the opportunity for 266,000 tenant farmers to become an owner of their piece of land.

With the regular interaction at national level and ever-increasing demands from tillers and peasants, His Majesty's Government has taken initiative for formulating new land reform policy. According to sources, government is trying to bring new policy by incorporate all pertinent issues being raised in recent days rather amending the existing land reform Act 1963. This positive move has been a product of the current debate; interactions with ministry and policy makers, advocacy and campaigns being taken place both at national and local level. Now, the land issue has become a matter of serious concern at political, civil society and landless/farmers level.

In order to manage the campaign systematically and effectively, a national Concern Group has been formed with the participation of media, lawyers, professionals,

Landless farmers gave memorandum to the Prime Minister



The deadline for registering applications by the landless people was due on 7 September 2004. There was still large number of landless people who were preparing documents for registering application, which was not possible until 7 September 2004. Thus, thousands of tillers and peasants especially Daltis, women, haliyas organised a mass rally in over 12 districts namely

Sunsari, Morang, Saptari, Siraha, Mahottari, Rupandehi, Kapilbastu, Dang, Banke, Kailali, Sindhupalchowk and Dadeldhura. The rally handed over the memorandum to the Prime Minister through Chief District Officers demanding to extend the deadline for the application and settling the filed cases as early as possible. ■

and influential people and support organizations. The concern group would devise strategic interventions and gives momentum to the campaign both at community and national level. Similarly, an advisory committee has been formed with the participation of renowned professionals and senior political leaders, who would provide inputs to the campaign team and also influence the concerned political parties to institutionalize this issue within their party policy and initiatives.

To show the visible outcome and the logical end of the movement, the primary groups are being formed at the local levels. To strengthen the movement, there will be formed around 2500 primary groups and organized around 4,00,000 landless and tenant farmers at local level. Similarly they have a regional and national level action groups to sustain and strengthen the movement and advocacy of primary groups. To facilitate and strengthen the primary groups, there will be developed around 500 local activists among the primary groups' members. These local activists will facilitate the local and link it into policy level. For this, CSRC and national concern group will be friends of these groups and their

federations.

To make the movement more effective and common understanding, CSRC is strengthening the national concern group and people's organization of deprived community at different levels. Similarly, it is being linked the local movement at policy dialogue for policy change and implementation. For this, CSRC requesting to all the development agencies to join the land rights movement and establish social justice and poverty alleviation.

Land rights are the first step to establish social justice, human rights and bring the deprived community in the mainstream of the development. So it is need to invest our effort to facilitating the land rights issue and strengthening of people's organization. Without real participation of landless and tenant people in the development, the situation of poverty and injustice will remain same. So, at the end, I would like to request to all the development agencies and individuals to join the people's movement for land rights and solidarity to establish, human rights, social justice and peace society. For this, CSRC welcome to all of you. ■

Enthusiasm towards claiming rights

His Majesty's Government had issued a public notice in September 2003 for registering applications by the landless people (identified by previous landless issue settlement committees) within one-year period. The notice could not reach to the communities and interestingly even in government offices in the districts until March 2004. Then, civil society facilitated the process and disseminated such information to the remote villages and conducted orientations about the process and documentation required to submit applications.

This information truly touched the heart and mind of thousands of landless and became keen to be part of the campaign. As a result, in 16 districts, around 58,000 landless families have submitted their applications to the committee formed by the Government. The process of filling the applications is still

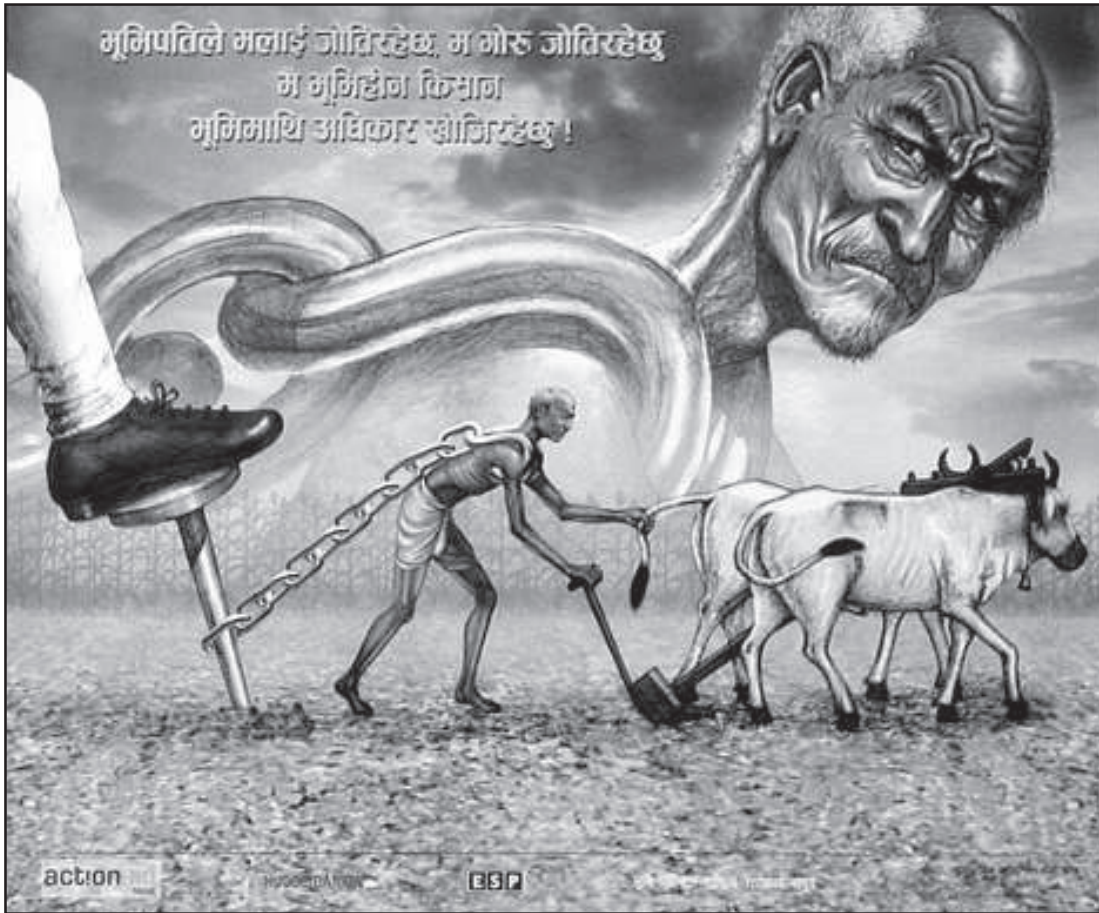
continued. This indicates the magnitude of problem and level of suffering of people. However, this is a great enthusiasm of landless people becoming aware about their rights and being part of campaign for claiming their rights. ■

News



Mass procession in Rajbiraj, Saptari.





CSRC coordinally invites to all, who have been infavor of social justice and human right, like minded individuals and organisations to join hands and extend solidarity to the mission of making loud of unheard smaller voices for asserting their rights over tilling land and securing dignified livelihood. For more information, we are available at;

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