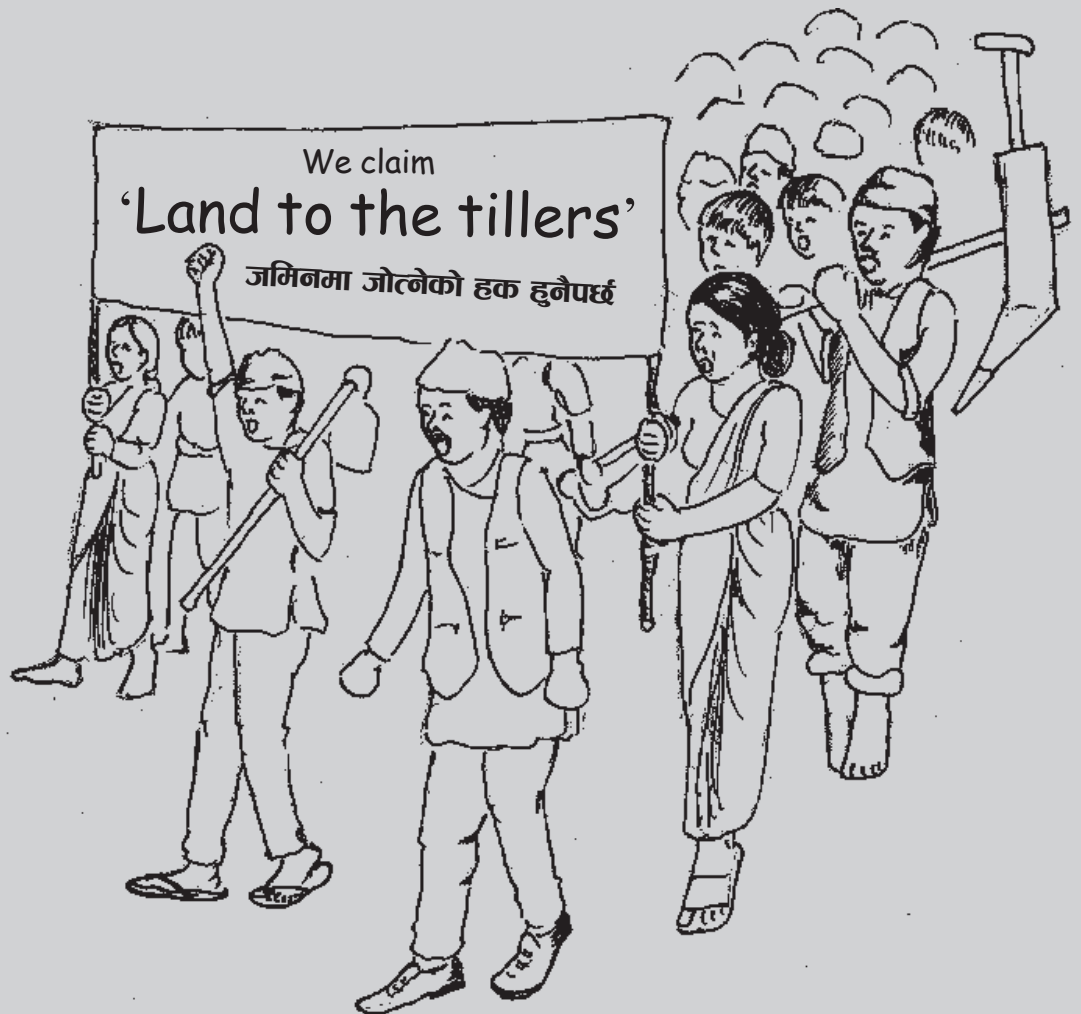


Land First

Bi-Annual Publication

Land Rights for Social Justice and Freedom From Hunger

April 2004, Kathmandu



Inside

- Land and Power Dynamics
- Land Bank Concept
- Land- Matter of social Justice and Human Rights
- Land and Conflict
- Land and Livelihood Security
- Land Rights Movement: Experiences From the Ground

Community Self Reliance Center (CSRC)

About the Publication

Community Self Reliance Centre (CSRC) is a non-governmental social development organization working with disadvantaged tenant farmers over a decade. CSRC positions itself in favor of poor tenant farmers and struggling with the tenant farmers in the mission of asserting their legitimate rights over tilling land as per prevailing laws of the land.

CSRC spends its energy and resources for policy advocacy and community empowerment. CSRC believes that it could facilitate the bridging process between state and tenant farmers working together for addressing practice concerns through appropriate policy and its effective implementation. CSRC works with state mechanism and engage in policy analysis, advocacy, and lobbying. Similarly, it works with government and assists them discharging their duties, and is responsiveness towards **landless, Haliya and Tenant** farmers.

It could be the matter of interest for those who have been launching social campaigns and

struggling for social justice to know the best practices, learning and successes and failures of the campaign and movement launched. Therefore, CSRC has taken initiative to publish bi-annual publication to share our (including alliance, networks, partners and tenant farmers) experiences and learning to the wider readers, policy makers, social activists, media and alliance members. This would give overview of the land issue, policy framework and barriers, civil society initiatives, rights holders perspective and non-violent movements to the non Nepali speakers. CSRC strongly believes that this information would be beneficial to the government, donors, solidarity members etc to understand the issue in greater detail and position themselves towards disadvantaged communities.

We humbly request to the readers for providing their comments and suggestions about the quality of newsletter and relevancy of the information supplied. This would help us to sharpen our focus to meet the interest and need of the external readers and stakeholders.

CSRC on the Mission of Social Justice

CSRC is committed for asserting poor and landless tenant farmer's legitimate rights over cultivated land as per law of the country. CSRC has just begun its journey in social justice field. We keep our ears and eyes open to learn more on campaigning on social justice in the days to come. We really appreciate our partners and stakeholders for critical comments and encouragement. This has really opened our eyes and helped us to reflect ourselves. This has helped us to ask ourselves how differently could we work more effectively and efficiently within the framework and given situation. CSRC further hope to receive critical feedback on our performance and behaviors; we sincerely commit to apply the valuable suggestions into practice.

CSRC is a learning organization. Despite many strength and opportunities it has been passing through several constraints and limitations. CSRC will further develop better governance practices, will develop skills, and distinctive competencies required on the issue, develop culture of both activism and professionalism with in CSRC and alliance /networks.

CSRC would expand its presence and replicate organizational learning and human resources in other districts of Nepal on the land rights issue. Particularly, we are going to facilitate land rights campaign and movements in Eastern, mid and far western regions especially on **landless, Haliya and tenancy** issues from the year 2004. Our learning has taught us about the importance of community leadership to success the mission. Thus, we give due priority developing more leaders, activists among the disadvantaged community and develop strong community network to make land rights movement a successful and result oriented.

There are two major aspects of guaranteeing and exercising fundamental rights by the right holders. They are i) conducive policy – positive attitude of policy makers and pro-poor policy framework, and ii) capability of rights holders to claim and enjoy it. It is universal truth that nobody is willingly ready to loose power unless they **they** feel pressure. Thus, the rights claiming process is related with balancing the power among elites and disadvantaged tillers.

Copyright@ : CSRC

Published By: CSRC

Supported by:
Action Aid Nepal
Danida/HUGOU

Press:
Capital Printers inc. Siphel

Note : The views expressed by the contributors in this publication do not represent the official view of CSRC and its partners, i.e. ActionAid Nepal and DANIDA/ HUGOU.

Understanding of Power on Land Tenancy Right-based Advocacy

Laya Prasad Uprety*

Prelude: This short article has two-fold objectives as follows: (i) to offer the theoretical underpinnings of the “power” variable to the social activists, and (ii) to share the analysis of power of the social activists of Community Self-reliance Centre (CSRC) which has been launching the successful advocacy on the land tenancy right issue for a decade with the institutional and financial support of Action Aid Nepal.

Theoretical Underpinnings:

Ubiquitous is the recognition that advocacy is primarily launched aiming at transforming the existing unequal and exploitative social structures. It is explicit that launching successful advocacy is contingent upon the comprehensive understanding of power because it contributes to crafting the effective strategies and thereby yields more transformational effects and impacts in the existing inegalitarian society. Lisa Veneklasen and Valerie Miller (2002) hold the opinion that power is an integral dynamic of politics. Analyzing and building power is a vital and continual part of citizen-centered advocacy. Power is both dynamic and multidimensional, changing according to context, circumstance and interest. Power is an individual, collective and political force that can either undermine or empower citizens and their organizations. It is a force that alternately can facilitate, hasten or halt the process of change promoted through advocacy. Power can be defined as the degree of control over material, human, intellectual and financial resources exercised by the different sections of the social, economic and political relationships between individuals and groups and it is also unequally distributed. They basically discuss **four expressions of power**. These include **power over, power with, power to, and power within**. “**Power over**” is seen as a win-lose kind of relationship in society. Power is dynamic and relational, rather than absolute. Those who control resources and decision-making have power over those without. “**Power with**” is based on common ground among different interests and building

collective strength based on mutual support, solidarity and collaboration. There is emphasis on alliances and coalitions. “**Power to**” refers to the unique potential of every person to shape his or her life, and world. Based on the mutual support, it opens up the possibilities of joint action. “**Power within**” has to do with a person’s sense of self-worth and self-knowledge. It also includes an ability to recognize the individual differences while respecting others. There is hope and common human search for dignity and fulfillment. In fact, power can be classified as the visible power, hidden power, and invisible power. Formal institutions and officials, instruments (policies, laws, constitutions, budgets, regulations, conventions, and implementing mechanisms, etc), and forms of discriminations (biased laws/policies) are the forms of the visible power. Exclusion and de-

Tenant procession in Sunsari



15

legitimization are the forms of hidden power. And socialization and control of information are the forms of the invisible power. A number of principal advocacy strategies are to be devised to counter the powerlessness and exclusion (Veneklasen and Miller, 2002:39-52).

Organizing, consciousness raising, political empowerment and social transformation have to be for the benefit of the poor and marginalized communities and understanding advocacy has to be a process of social transformation. In fact, strategies of con-

* Mr. Laya Prasad Uprety is the Reader in Anthropology at Tribhuvan University, Nepal. He is the doctoral candidate in Anthropology at Tribhuvan University and also professionally supports the Advocacy Action Research of Action Aid Nepal.

sciousness-raising, constituency building, grassroots leadership and structural analysis are always fundamental to the on-going process of social transformation. According to Valerie Miller (2003), understanding power is one of the most important factors in successful advocacy. Yet around the world, most groups do not explicitly analyze it or incorporate that analysis into their plans. This can result in dangerous backlash and ineffective action. Power takes many forms and shapes, yet often hides or is invisible. The social activists should be effortful to make power structures, forces and trends visible operating in the society affecting groups' issue and apply that knowledge to advocacy and change strategies. For her, structural analysis is one way of understanding and assessing power. It is not be an exact science but rather an attempt to estimate how power operates in society—what are the main structures and forces that shape who gets the benefits of society and who does not?. There are many ways to understand the structural analysis. One way of doing this is to look at the component parts in society. For the purpose of our analysis, we can use some of the categories as follows: 1) ruling or formal government; 11) traditional leaders and cultures (values, norms and religion); iv) profit groups (businesses, landlords, and media); v) citizen groups (NGOs, CBOs, and movements); (vi) international forces (such as World Bank, World Trade Organization), etc.

CSRC's Fundamental Advocacy Issues:

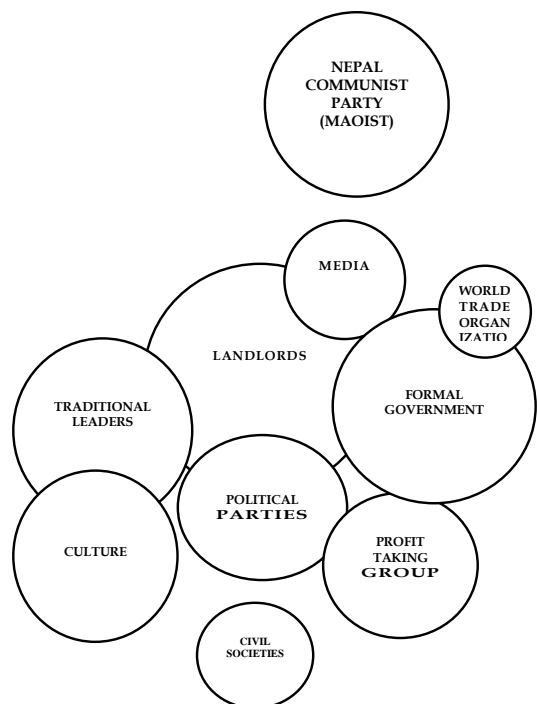
The principal issues for CSRC's advocacy for land tenancy right are as follows: (i) the fourth amendment of the 1964 Lands Act made in 1996 asked the tenant farmers to claim the tenancy within six months after the onset of the enforcement of it with the evidence of the agreement for sharecropping arrangements concluded between the landlords and tenants, thereby formally terminating the condition to claim the land tenancy right thereafter (and hence, CSRC emphasizes on the change in the current land act considering the 4th amendment as a source of great injustice and advocates that the 50 % of the tenanted land has to be given to the tenants based on the evidence of tillage); (ii) the tenant farmers have been issued the temporary proofs by the land reform office during the time of the cadastral survey but they have not been officially registered as the certified tenants (and hence, CSRC emphasizes on the effective expediting of the process of the official certification of the tenants on the basis of the required evi-

dences/documents which entitles them to have a legal claim of ownership of the 50% of the tenanted land) , and (iii) emphasis on advocacy for the issue of the registration of the state and private trust lands in the names of the actual cultivators (which eventually entitles them to own and enjoy its productions by paying the tax to the state in the case of the state trust land and paying the 25 % of the price of the land as evaluated by the land revenue office in the case of private trust land) (Uprety,et.al.2003).

CSRC's Analysis of Power for their Advocacy Campaign:

The people-centered advocacy on land tenancy rights has been very effective in organizing, conscientizing and assisting the tenant farmers for acquiring half of the tenanted land and its landownership certificate. In a workshop organized by the advocacy action research team of Action Aid Nepal entitled “ Structural Analysis, Change and Development ”, the activists of CSRC and its local level partners did the power analysis for the first time in August 2003, which has the direct implications on the advocacy of land tenancy right issue (see figure 1). And a modicum of effort has been made to present that analysis of power to share with the larger audience.

Figure 1: CSRC's Power Analysis for the Advocacy of Land Tenancy Rights, 2003



Note: While drawing the venn diagrams of the different components of the power structures, the activists had considered the relative size of each component and its relative strength/

influence. Similarly, they had also considered the extent of relationships between and among the different components of power.

The activists have also made an attempt to identify the reasons on the relative strength/influence of each of the power structure. They consider landlords as very powerful because they have the potential for influencing the political leadership of the state at the present time. This is followed by the relative strength of the formal government (such as village development committee, district land revenue, land reform, cadastral survey office, court, district administration, etc) because they have the direct involvement in the implementation of the policies, enforcement of the laws and the solution of the issue.

The traditional leaders (such as priests of the Hindu and Buddhist religions and the traditional local revenue collection functionaries whose authority has been stripped of after the implementation of the 1964 Lands Act) are ranked third in the influence of the power structure because these persons are directly involved for the maintenance of the status quo vis-à-vis the issue. This is followed by the culture variable (its ingredients include the basis of respect, dignity and prestige, traditional system that discourages people to take others' property) and the reason behind it is shared to be the observance of cultural norms and practices (i.e. landlord should not be killed/deceived because a land giver is just like the father). Profit taking groups (such as businessmen, writers of the petitions to sue at the court, land reform office and land revenue office, advocates, etc) have also been considered as powerful) given the fact that they are interested in the maintenance of the status quo so that they can maximize their benefits. Political parties (such as Nepali Congress, Communist Party of Nepal—United Marxist and Leninist, National Democratic Party and People's Front) have also the influence on the land tenancy issue because they focus on the issue with the intention of mustering the support in the votes during the election. The activists have a perception that there is difference between what they say and do in the public.

Civil societies such as the non-governmental organizations (NGOs) and community-based organizations (CBOs) have also the influence on the issue because they contribute to identifying the problem and facilitating the processes for the solution of the land tenancy right. World Trade Organization (WTO), according to the perception of activists, may

question the tenancy right issue due to its focus on privatization and liberalization. (Implicit is their logic that it would be unproductive to fragment the already fragmented land in a country like ours). Maoists as a power structure highlight the issue of land tenancy right for igniting the agitation (their so-called people's war). Media, as the participants viewed, writes in favor of the land tenancy right issue but does not focus on the solution aspect of it.

The activists have also made an attempt to analyze the challenges to be faced from the different structures of power and opportunities available. The challenges from the landlords include keeping the land fallow by rejecting the land tenancy right and evicting the tenants from the land being cultivated; attack on the tenant farmers and activists; use of the government officials including judges (by bribing them) against the tenant farmers; their access to the decision makers; and work to disunite the tenant farmers. And similarly, the opportunities from them include the pressure and injustice on the tenant farmers, which engender the spark of anger and compel them to be organized.

The challenges from other structures of power (such as formal government, traditional leaders, culture, political parties, Maoists, profit taking group, world trade organization, media and civil societies) include their own vested interests to take their own credit (from each work), impediments created by the Maoist rebel side to expedite the advocacy campaign at the community level (because they consider the advocacy work as a patchy work and want radical transformation as the panacea), formulation of the state policy due to the influence of foreign powers, corrupt bureaucracy, and statusquoism perpetuated by the religion.

Nonetheless, there are opportunities also which include the lack of unity among all the different structures of power (which creates the circumstance for the civil societies to work for the land rights without the united resistance from the former), more need to work for the poor and the marginalized people (because of the insurgency which is basically the function of the socio-economic marginalization), and the existing trends of civil societies/ NGOs for launching the rights-based campaigns (implicit is the realization that such existing trends encourage to work).

Depending upon the nature of the problem of advocacy issue, they have also started

doing the power mapping. For example, the activists have also pondered the power mapping on a specific **issue of the registration of tenanted land at the district land reform and Guthi Corporation**. In so doing, they have attempted to identify the institutions/organizations of a particular power structure (such as the ministry of land reform and management, *Guthi* corporation, department of land reform, district land reform office, district cadastral survey office, village development committee, and district administration under formal government, different local *Guthis* under the traditional structure, festivals/festive events and *Guthi* corporation committee under the culture, National Democratic Party, Communist Party of Nepal-Marxist and Leninist, Nepali Congress and their sister organizations under the political parties, a number of community-based organizations under the civil societies and a number of national and local newspapers under media), key persons involved in each of the institution/organization of a particular power structure, the knowledge about their opinions and interests (whether positive and negative) apropos of the land tenancy right movement, etc. This meticulous exercise has given them the clear idea on how the strategy for the success of the land tenancy campaign has to be framed and how the effectiveness of the advocacy campaign can be enhanced.

The activists have also identified the allies of CSRC on the selected issue of land tenancy right (more focused on the registration of the tenanted land at the district land reform office and *Guthi* corporation) and these included the campaign committees, sister peasant organizations of the political parties, ex-chairman of District Development Committee of Sindhupalanchowk district of Central Development Region, *Kantipur* daily—a Nepali vernacular, ex-elected representatives of people working at the different levels of the local government and civil societies (NGO federation, *Tuki*—a community-based organization, etc). Likewise, they have also said that they would also seek the support of the political parties, media, local teachers/intellectuals and traditional local power holder groups (such as priests and ex-local land revenue collection functionaries) for the success of the CSRC's land tenancy right movement.

They have also identified the stronger opponents of the CSRC's land tenancy right movement which comprised the board of the *Guthi*,

and a local active woman political leader of National Democratic Party in Sindhupalanchowk district. They have also identified Chief District Officer, Land Revenue Officer and *Guthi* Corporation Board as the formal decision-makers of the land tenancy cases. They also analyzed that people under the table influencing the decision-making process are the ex-members of the parliament and leaders of the political parties. They considered that formal government structures and the leaders of the political parties (who are also the landlords) are the most powerful of all the structures of the power.

Closing Remarks:

Thus, the social activists of CSRC have begun to comprehend the nature, forms and the extent of the influence of different power structures vis-à-vis their advocacy campaign. Consequently, they have started formulating their advocacy strategies after doing the power analysis. They have now the understanding that there is always the dynamics of power, which must be meticulously heeded by the social activists. And this practice has been contributing to yield better results of the campaign. Stated somewhat differently, they have now started to use the power analysis as a monitoring and evaluation tool for their advocacy campaign.

References

1. Uprety, Laya Prasad, Sedain, Him Prasad, Rai, Indra, Deuja, Jagat and Basnet, Jagat, 2003. *Agrarian Structure and Land Tenancy Right Movement in Nepal: A Review*. A Joint Publication of Action Research Project, Action Aid Nepal and Community Self-reliance Center, Kathmandu.
2. Uprety, Laya Prasad, Sedain, Him Prasad and Rai, Indra, 2003. *Structural Analysis, Change and Development*. A Workshop Report of Advocacy Action Research. Kathmandu: Advocacy Action Research Project, Action Aid Nepal, Nepal.
3. Veneklasen, Lisa and Miller, Valerie. 2002. *A New Weave of Power, People and Politics*. Oklahoma: World Neighbours, USA.
4. Miller, Valerie. May, 2003. *Oral Presentation on Power in the Workshop on Structural Analysis, Change and Development organized by Advocacy Action Research, Action Aid Nepal*. Dhulikhel, Kavre District. ■

Emerging Land Rights Movement In Nepal

Issue of Fundamental Human Rights and Social Justice

Krishna Pathak*

Background

Nepal's national economy is predominantly based on agriculture with 42.5% contribution on national income. Agriculture generates 81% employment and 76% population has been dependent on this sector. Similarly, agriculture contributes 82.5% of total export and 89% of women workforce has been engaged in this sector. The above glimpses exhibit the importance of agriculture sector in Nepalese economy. Land ownership remains the main source of wealth, social status and is the source of economic and political power in Nepal. But people who work on the land do not own single acres of land and being landless. The **Tenants, Haliyas, Gothalas, Bhariyas, Kamaiyas**, and **Dalits** accounts major chunk of the most poor in Nepal, who have been remained landless.

Distribution of Land

According to National Planning Commission (1998), over 70% of peasants' own less than one hectare of land. Likewise, Human Development Report 1998 mentions that the lower (poor farmer) 40% population own only 9% of the arable land whereas the upper (rich landlord) 6% own around 33%. Another report claims that 9% of rich landlords own 47% of the arable land; where as 67% poor people hold only 17%. This statistics indicates the situation of inequitable and unfair land distribution among total population. According to a study conducted by Community Self Reliance Centre (an organization working on land rights issue) early 2003, 25% of the households (1,037,785 HH out of 4,253,220 HH) having no land at all or less than two ropanies of land. They are considered as agricultural landless. The prevalence of landlessness is high in Terai districts as compare to hill. Apparently, the studies and researches have shown that those who are landless have remained far below to the poverty line and living vulnerable lives.

Ownership of Land: Whose Rights?

It is obvious that land is a natural resources

and a gift to human being for their survival and sustaining generations. The entire human being has rights to enjoy the produce and benefits of land by exploiting its optimum potentialities in a sustainable manner. We need to be careful and cautious for the future generations while exploiting the land resources at present. Land is not earned, it is not built-up, it is not innovated, it is not invented and it is not inherent property of human being. Thus, land is not a private property of anyone at all and it should not be the symbol of power, status, dignity, and quality of livelihood. It also should not be the basis of exemption for exploitations and enjoying undue privileges for certain section of society. Land is a resource or capital that could be utilized for having optimum yield to protect human lives. Principally, it is prudent to have possession of such capitals by those persons who have ability and

Local activist discussing on Land Rights.



7

capacity to mobilize it. Following this principle, it is obvious that the people who work on the ground (land) can eventually produce more as compare to others and they deserve rights to have possession of land resources. In Nepalese context, the poor people especially **Dalits**, tenants, **Haliyas** and other lower economic status section should have rights over land resources because they plough the land and of course, they could produce more if they had ownership on land.

* Mr Krishna Pathak is a human rights and social justice activist and actively involved in land rights campaign. He can be reached at indup@wlink.com.np

Land and Poverty

While talking to the poverty, current social and economic structure is responsible for being large number of people poor and vulnerable. 9% people holding 47% of land who are not effectively farmers and not working on land. They hold more land just because to show their power and social status. The political leaders, bureaucrats, and the policy makers come from rich land owner background. Since those who are in and around power, they accumulate more and more land and they themselves do not engage in farming occupation. The poor **Tenants-Haliyas** have been engaged in farming occupation for ages but they do not own single acres of land. Whatever they produces go to the landlord and it is pity that they have to suffer from starvation. Therefore, unequal distribution of productive resources creates poverty and perpetuates it. In the context of Nepal, one of the root causes of poverty is not having access to and control over productive resources (land) by large number

of farmers and poor people.

Although, agriculture being the basis of livelihood for more than 76% of the population, having appropriate land policy and equitable land distribution is always in shade. Tony Hagen (Introduction of Nepal, 1991 (2058BS) has rightly quoted that absolute farmers working in the farm for their livelihood are always struggling for better life condition due to unequal land distribution and continuous exploitation by the landowners. On the other hand, policies formulated to reform land have never been effective from the implementation aspect. And most of the policies developed have protected the interest and welfare of landowners rather than farmers. Badal High Commission for Land Reform 1995 (2051BS) states that even after four decades of promulgation of land act 1964 (2021BS), more than 450,000 tenants are deprived of their rights on land they have been cultivating. **Guthi** alone holds more than 42% of the total arable land, which poor tenants are ploughing but the yield go to the religious organisations and elite priests but poor tillers suffer from food scarcity.

HMG decides for Tenancy Rights on Guthi Land

His Majesty's Government has decided to provide tenancy rights to the farmers of Sindhupalchok who have been tilling trust (**Guthi**) land for the last 20-40 years. This decision has come into effect through amendment of the Land Revenue Act 1977 (2034BS) article 7.1 (ka) dated 4 February 2004. With this decision, Government has formed a five members committee in coordination with District Chief Officer (CDO) to settle tenancy rights on the **Guthi** land and outstanding Block Measurement issue in 18 VDCs within six months period. This has been a great favor to the victim tenant farmers. This decision supports to tenant farmers to have ownership over cultivated **Guthi** land, for which they were struggling for five years. This policy decision is a result of joint efforts of both tenant farmers and civil society to raise this issue as a prominent matter to settle by the state, where as the government also realized its gravity and sensitivity. CSRC had played pivotal role to organize tenant farmers and enable them to raise their voices collectively up to the government level. Similarly, CSRC has been in association with government and supporting to resolve this problem through research studies, sharing information, suggesting practice and viable alternatives etc. It is good to note that around 3000 tenants farmers' households are going to be benefited with this decision. The challenges before government is to materialize the decision effectively. Again, CSRC and tenant farmer's role would be supportive and significant to facilitate the process of executing government decision in real term. ■

Denials of Human Rights and Justice

State is responsible for protecting public lives by creating an opportunity for economic development and distributing national resources equitable manner. State is also accountable for ensuring individuals right to livelihood. Unfortunately, large numbers of citizens have not been access with basic services and suffering from starvation and malnutrition. At present, 76% people have no other means for livelihood except working on land but ironically majority of them do not have ownership of the land and cannot feed their families through out the year.

The Constitution of the Kingdom of Nepal 1990 part 4, Article 25.2 describes the Directive Principle of the State as "The fundamental economic objective of the State shall be to transform the national economy into an independent and self-reliance system by preventing the available resources and means of the country from being concentrated within a limited section of society, by making arrangements for the equitable distribution of such provisions as will prevent economic exploitation of any class or individual, and by giving preferential treatment and encouragement to national enterprises, both private and public".

Similarly, the Article 26.1 articulates policy of State as "The State shall pursue a policy of raising the standard of living of the general public throughby equitably distributing investment of economic resources....".

The above-mentioned State directives and policy intend equitable distribution of national resources but the statistics shows that 9%

people hold 47%, religious organisations hold 42% of agriculture land. This situation is against the spirit of welfare state and principle and policy of constitution in one hand and on the other hand it is a violation of rights of the people having access to and control over those productive national resources for securing livelihood (economic) rights and asserting other forms of rights gradually. Moreover, people cannot get citizenship certificate, do not access with basic services, such as water, electricity, bank loans, school admission, birth registration etc without having land ownership evidence. This has really deprived the people to exercise their fundamental human rights, and of course, this is against the justice for human being.

Cause for Migration and Conflict

Land seems to be the main reason behind the internal migration in the country. The landless or near landless people in the hills and moved down to either Terai or urban centers in search of alternative job. Similarly, the some of landless people in the Terai also moved to the urban centers and living miserable lives, and some of them have to surrender themselves to the landlord and bound to accept exploitations. This has attributed landless people to become more poor and vulnerable. Land has been a major indicator of wealth and medium of having access to public services. For instance, one should submit land ownership certificate to bank for loan, erection of electricity, water supply etc. As the poor tenant farmers do not own land, the entire family is excluded from services being delivered by the state. This has created frustration among poor people and not been able to feel that there is government in the country. This type of exclusion is one of major causes of current conflict and this would badly affect the peaceful environment in the country even in the days to come, if it is not addressed by the state seriously on time.

Role of Donor Community

Going through the development experiences in couple of past decades, our surfacial approach to development could not change the oppressive position of poor people. It's been realized by development agencies, governments and people and considered that development is the rights of the people and duty of the state through ensuring social justice and equity. The donor communities have been supporting Nepal's development initiatives over four decades but the situation of poverty remains unchanged. The major drawback behind this is despite slogan, the productive resources never been reached to the disadvantaged communities which would enable them to come on mainstream in national

development process. Land has been the symbol of social well-being and power. Those who did not have land used to work for others and never get chance to participate in the decision-making and ruling levels. This is clear evidence that only few elite groups hold the entire political, social, economic, and religious powers and resources in the country, which is in-fact an unjust and unfair social structure.

In order to understand the root cause of Nepal's poverty, the international agencies and donor communities need to look at social structure of the country, structural causes of poverty, marginalisation, deprivation and denials . The donor communities should also understand that the poverty alleviation efforts as of now have been failed just because of not addressing the structural causes of injustice and deprivation. Thus, donor communities should not continue to finance on the same unjust social structure, which again cannot bring breakthrough on the lives of poor people. Thus, as a well wishers of Nepalese people, donors need to assist state and the people to redesign the just social structure and develop mechanism to distribute productive resources equitably that creates space for those people who have been compelled to be marginalised, remained voiceless and being inaccessible to and control over state resources including land as a prime concern.

Conclusion

Land resources are the backbone of Nepalese economy and occupation. Unless, those poor people have access to the land, poverty alleviation would remain only on slogan. The poor farmers have no other alternative occupation but farming. Although they have been engaged in agriculture for decades and generations, they themselves do not have ownership on land. This situation needs to be changed for alleviating poverty and ensuing social justice. Therefore, "ownership of land to the tiller" should be the single objective and slogan of all government and non-government development agencies, and put forward collective efforts both at policy and implementation level for attaining the goal of poverty alleviation. Thus, land rights is one of the pertinent issue to be raised, promoted and campaigned for changing poor Tenant-Haliya farmers oppressive positions into dignified and legitimate rights holder.

Equitable distribution of available natural resources is one of the major areas of intervention for poverty alleviation. In the context of agro based economy, if government and development agencies are really concerned and committed to reach the poor hamlet and change

the present position of poor and marginalized tenants and landless, state should review current land management system and policy and bring pro-poor legal framework. This objective could be achieved through collaborative action between tenants farmers, civil society, and the Government. State need to understand the fact that the poor tenants and landless people have become aware and sensitive about denial of their rights with the concurrent socio political situation of the country. Thus, Government needs to think on this matter seriously and take positive initiatives immediately to avoid any unwanted circumstances.

Since land is the only means and basis of livelihood for millions of people, the victims and rights holders need to be organized and step towards claiming their genuine rights over land. A tireless struggle and peaceful non-violent movement is the way of rights holders and civil society organizations working on social justice issue taking side of poor and disadvantaged section of community to make the state realised and take affirmative action towards ensuring social justice and protecting human rights by guaranteeing through state policy and practices of "land to the tiller". ■

Understanding land conflict:

Some basic issues in Nepal

Dr Bishnu Raj Upreti*

1. Understanding basics of conflict

Conflict is a state of clashing or opposing interests. It occurs with positional differences over values and belief systems, self-determination and access to and distribution of resource and power. Conflict occurs when two or more people oppose one another because of difference in their needs, wants, goals or values. Conflict is almost always accompanied by feelings of anger, frustration, hurt, anxiety, or fear. Conflict in this paper covers observable differences in opinion, misunderstandings, clashes of interest, disagreements, complaints in public, protests by argument and physical assault, antipathy, filing cases with district administration, police and courts, violence and bloody war. When the latitude of tolerance crosses the bottom line then conflict occurs. Feelings of unfairness, suspicion, injustice, mistrust, ultimately lead to conflict (Warner, 2001).

Conflict is an active stage of disagreement between people with opposing opinions, principles and practices manifested in different forms such as grievance, conflict, dispute and war (Walker and Daniels, 1997; Buckles, 1999). Generally the term 'conflict' has interpreted as the opposite of peace (Warner 2001). Many people interpret conflict as undesirable and destructive to society and that has to be avoided, contained or eliminated. However, this is a narrow and one-dimen-

sional interpretation of conflict. Such interpretation does not allow to distinguish between different levels and forms of conflict (Warner, 2001) and their possible contribution to positive social change. Conflict is an indicator of a changing society. Rapid changes due to new technologies, commercialisation of common property resources, privatisation of public services, growing consumerism, and government policies—all are contributing to emerge conflict (Upreti, 2001). Therefore, it is merely impossible to stop these changes and associated conflict. The only way is to acknowledge, manage and transform conflict into a force for positive social change (Upreti 2002).

2. Dynamics of land conflict

Land is not only a crucial resource for Nepalese people who have their livelihood based in agriculture but also a basis of wealth and power (Ghimire, 1992). Increasing population is exerting extreme pressure on land resource. Extremely skewed land distribution patterns as a product of feudalistic socio-cultural system are causing poverty, injustice and social discrimination (Shrestha, 1997; Caplan, 1970; Ghimire, 1992). Due to such disparity, a large number of people have no access to productive land resources. More than 70 percent of farmers have less than one hectare (ha) of land (NPC, 1998). The Human Development Report-Nepal 1998 shows that

* Author holds PhD in conflict management and extensively engaged in research related to nexus and relationship between resource conflict and political conflict.

the bottom 40 percent of agricultural households use only 9 percent of the total agricultural land owning less than 0.5 ha while the top 6 percent occupies more than 33 percent of the total. Nepalese land resource is besieged by multifarious problems such as dual ownership in land tenure, fragmentation, unequal distribution, institutional obstacles and unfocused government policies (Upreti, 2001). Dual ownership is severely limiting productivity because neither owner nor tenants invest in the land. Tenant farmers have no motivation to maximise the production potential of tenanted land due to insecurity. The incidence of 'landlessness' is increasing rapidly. Small holders are marginalised and transformed into landless people (Shrestha, 1997). The land under *Guthi* (land trust) is even more controversial and conflict between tenants and *Guthi* owners is long standing (Oli, 1998).

Common land related conflicts observed in Nepal are boundary and demarcation, change in ownership, looting of crops and crop damage, tenancy rights and tenant eviction, alignment of new canals, roads, trails and drinking water systems over particular land, obstruction of existing path, land encroachment; mortgage, classification of land quality, share/contract amount, redemption, registration pass and cancellation, fraudulent sale, reclamation, partition, order of succession, and gift.

Furthermore, the fast changing socio-political situation, information revolution, technological advancement and market intervention processes not only increased the pace of modernisation in Nepal but also raised enormous conflicts (Upreti, 2001). Land resource is not only providing employment opportunity to more than eighty percent of the country's total population (through agricultural sector) but also providing fertile breeding ground for conflict to occur (Ghimire, 1992). Powerful local elite always use land as a means to maintain unequal feudalistic relation in village. Similarly, peasants and activists use land as means to change unequal agrarian social relation (Upreti, 2001).

Conflict occurs in any society where land is a source of livelihood, power or prestige. Land conflict in a society is influenced by the social context such as organisation and structure of society (more latent land conflict in feudalistic society), patterns of interaction (such as patron client relations) and unequal power structure such as landlord v/s landless (Upreti, 2002). Land conflict occurs at

different levels (e.g., intra family among the siblings or brothers, brothers v/s sisters, inter-family, intra-community, inter-community and up to international such as Kashmir dispute between India and Pakistan or globally renowned conflict between Israel and Palestine. Land conflict follows different patterns under different conditions (e.g., from disagreement to physical confrontation, violence to bloody battles)

3. Basic causes of land conflict:

There could be different causes of land conflict at different situation. Following are some of the potential causes:

- Competition over scarce land resources (access, control, use)
- Ambiguity over ownership and legal arrangement
- Different perceptions, attitudes and behaviour of people in responding to land
- Increased interdependence over land resources (landscape and land use)
- Contradictory regulatory provisions
- Equity vs. equality debate in land: continuous tension exists between equity (the belief that we should be rewarded relative to our relative contributions) and equality (belief that everyone should receive the same or similar outcomes).
- Lack of basic understanding of relationship between land and people
- Unwillingness to respond to changing social, political, technological, and economic contexts
- Social relation in land conflict always involve attempts to gain control of land and associated resources to influence behaviour in certain directions by using power

Basically 'access' and 'controls' are the main contents of land conflicts, which are very much influenced by local arrangement of property rights. Property right is therefore, central issue in land related conflict. People acquire their rights over land either using their historical association or customary practices or interpreting legislated laws in their favour (Upreti, 2001).

In the light of the Nepalese land reform process, it is not surprising that the relationship between landlordism and exploitation of peasant farmers is conclusive. Extremely large number of land related conflicts were

emerged during the period of political changes when positions of landlords became weak. So tenants and peasant farmers raised their voice against the bare exploitation by landlords.

As has been indicated earlier, value of land in

Activists/resource organizations strengthening

With the increasing need to launch land rights campaign and policy advocacy in different parts of the country, there is demand of more activists and resource organizations both at grass root and national level. In order to meet this requirement, CSRC organized a 3-day orientation workshop from 15-17 March 2004 at Imadol, Lalitpur. 21 activists from 11 districts were participated in the programme. The main objective of the workshop was to develop strategy, programme and action plan for the land rights movement in Sunsari, Saptari, Siraha, Mahottari, Dang, Bank, Bardia, Baitadi, Dadeldhura and Doti. At the end, the participants from different organisation have prepared a land rights action plan for nine months (April-December 2004). At the end of the workshop, the participants presented cases on land issue and suffering with policy makers in a policy interaction programme organized by CSRC in Kathmandu.

Policy Interaction

Recently, government has brought land bank concept. The concept aims to establish a land bank, where interested individuals could sell his/her land to the bank. Then, the bank sell the land to 25,000 landless people on concessional loans to be paid in 15 years in a small installments during three years period with the cost of Rs 2 billions to the nation probably to be borrowed from donors. This has drawn attention of tenant/landless farmers and civil society organisations. Upon regirious discussions and analysis of the issue, the civil society has come to a conclusion that this policy does not address the problem of landless rather it is a good strategy to buy the land of elite people who have not been able to cultivate themselves in the context of current insurgency in the country. Thus, CSRC, ActionAid Nepal and Conscious media forum organized two interaction programmes with the policy makers and other experts about the implication of land bank concept and scope of addressing legitimate claim of over 700,000 tenants as per prevailing policies and laws of the land. The participants except from government representatives univocally opposed the land bank concept and urged to bring alternative policy to safeguard the interest of registered and unregistered tenants urgently. The representatives from political parties also opposed the land bank idea and expressed their solidarity upon civil society analysis and position on the matter.

Nepal is embedded with history and socio-cultural structures of the society. Pride, dignity, identity and source of livelihood of Nepalese people are emotionally attached to land (Regmi, 1978). Land is also interconnected with rituals, cosmovision, religious and spiritual meanings. Therefore, landless and poor people are continue to struggle for their ownership rights to feel socio-culturally and economically secure. For the majority of Nepalese people land is the principal form of insurance at the risk of economic pauperisation and financial crisis as it is the only valuable asset they could get some money from sale or mortgage (Upreti, 2001). For landlords, land is becoming a more commercial enterprise. Fertile lands and lands connected with transportation networks are lucrative capital market in these days. People with saving and good earning usually prefer to purchase such lands as prosperous economic investment because the price of land is extremely increasing. In such a circumstance struggle over land ownership is obvious.

Do rules or legal frameworks govern behaviour of individual people? Are there discrepancies in what ought to be and what is happening in reality? These questions are particularly important in the contemporary land conflict debate. Unlike rhetoric used by the government, present land tenure arrangements in Nepal are not favouring vulnerable group of people because the execution of stable land rights granted by the Land Act is weak. Even customary land rights are heavily exploitative and supportive to maintain patron-client relationships between landlords and tenants. The control over land by women is virtually minimal. Even in the new property right arrangement all lands have to be shared by sons and unmarried daughters but not by the married daughters. Patrilineal transformation of land and exclusive inheritance rights of males is not only keeping women distance from the land rights but also increasingly creating social tension and conflict (Upreti, 2001).

Inasmuch as a struggle of the tenants for the land ensued undoubtedly changing group relation. Why, we might ask, did the land conflict not turned into violence? The answer is the accommodative and tolerant behaviour of the disputants. Though disputants were dealing with land conflict, their social relation was not ceased because of interdependence. Such relation helped a lot to bring them to negotiation. Despite the wide spread

conflicts, certain sense of accommodation and social harmony prevailed in the village prevented to turn the land conflict into violence (Upreti, 2001).

4. Conclusion

Land is not only a means to alleviate poverty and symbol of power and prestige but also a sound means to redefine social relations and induce social change. From the closer look at the political economy of land resource in Nepal it may indeed be concluded that legal and policy measures are not successful to ensure rights of tenants and security of peasants. Rather the land itself is being constant source of potential conflict and symbol of feudalism. However, land based local power structure has been changing over time with political changes and increased level of organization of peasant farmers to establish their rights. Legally regulated land management system should have lead to socially benefited effects to peasant farmers. It should also have prevented absentee landlordism, ensure tenural security and increase productivity of lands. However, these expectations remain only distance hope. Given the economically and socially highly stratified Nepalese society, extremely skewed land distribution and ambiguous role of bureaucracy it is very difficult for the poor people to get benefit from land reform programme. Legally regulated land reform measures are not effective and heavily manipulated by powerful land hungerers by influencing bureaucratic and judiciary decision-making process.

Reference

1. Buckles, D. (Ed.) (1999). *Cultivating Peace: Conflict and Collaboration in Natural Resource management*. Ottawa/Washington: IDRC/ World Bank Institute.
2. Caplan, L. (1970). *Land and Social Change in East Nepal: A Study of Hindu-Tribal Relationships*. Berkeley: University of California Press.
3. Ghimire, K. (1992) *Forest or Farm? The Politics of Poverty and Land Hunger in Nepal*. Delhi: Oxford University Press.
4. NPC (1998). *Ninth Plan 1997-2002*. Kathmandu: National Planning Commission.
5. Oli, K. P. (1998). *Conflict Resolution and Mediation in Natural Resource Management*. Kathmandu: IUCN-Nepal.
6. Regmi, M. C. (1978) *Thatched Huts and*

Stucco Palaces: Peasants and landlords in 19th Century Nepal. Vranasi: Nath Publishing House.

7. Shrestha N. R. (1997). *In the Name of Development: A Reflection in Nepal*. Kathmandu: Educational Enterprise.
8. UNDP (1998). *Human Development Report-Nepal*. Kathmandu: United Nations Development Programme.
9. Upreti, B. R. (2002). *Management of Social and Natural Resource Conflict in Nepal: Realities and Alternatives*. Adroit Publishers, New Delhi. ISBN 81-87392-32-0, Hbk, Pages 371.
10. Upreti, B. R. (2001). *Conflict Management in natural resources: A Study of Land, Forest and Water Conflict in Nepal*. Published PhD Dissertation. Wageningen: Wageningen University.
11. Walker G. B. and Daniels, S. E. (1997). Foundations of Natural Resource Conflict: Conflict Theory and Public Policy in: B. Solberg and S. Miina (Eds.) *Conflict Management and Public Participation in Land Management*, (pp. 13-36). European Forest Institute.
12. Warner M. (2001). *Complex Problems-Negotiated Solutions: Strategies and Tools for Reducing Conflict as an Obstacle to Sustainable Rural Livelihoods*. London: Overseas Development Institute.

Acknowledgement

I would like to express my sincere gratitude to Ms Yamuna Ghale, Team Leader, Livelihoods and Economic Rights Department, Action Aid Nepal for her valuable comments and suggestions and Ayush and Asmita for their co-operation while preparing this article.



Plight of Injustice

Gati Village Development Committee (VDC) of Sindhupalchok District is dwelled into the plight of tenancy injustice. Out of 742 households, 317 have been denied tenancy rights over the land they have cultivated for generations. The irony is that, the land they are cultivating now belonged to them previously. When sever draught hit the place in BS 2022, the farmers had no option but to borrow money, rice, millet, old clothes, etc from the local elites. Later, this borrowing turned out

to be an ill fate as the ignorant farmers were asked to hand over their land to the local elites.

Majority of the residents in the village fall under Tamang ethnic community, one of the most marginalized groups. Sarcastically, even their home stood land belongs to elites from Barabise Bazaar of the same district. The conditions put upon the farmers are so miserable that they are even forced to share the flowers, let alone the crops. Farmers go hungry for much of the seasons but crops are stored in the houses of local elites.

Tenant farmers are seriously victimized but the Land Act amendments that occur time and again never addresses them. Fourth Amendment 2053 that shut the doors against registering as tenant has risked the farmers from being evicted any time. This action, in fact, has circumvented the rights of poor agricultural labors.

The example portrayed here is only a minor case in point. Over 4 lakh 50 thousand tenants are believed to be of similar category. The landowners can legally evict the farmers for no reasons. Is this fair? Who is to take the re-

sponsibility of its consequences?

The alternative to employment is decreasing. Additionally, the Land Act amendments hold no support for the poor tenant farmers. In such critical situation, if the government is all set to keep arm-folded then the situation it leads to would be overwhelming. So, it's the duty of all concerned stakeholders i.e. government, political parties, NGOs and civil society to address the issue towards appropriate solution.



Network development strategy

The land issue itself is complicated, CSRC launch the campaign along with network and alliance. Networks have already been established at regional and central level. Now, CSRC has developed strategy to strengthen and mobilization of network towards making the land rights campaign effective and increase the leadership and ownership of tenant farmers. Following are the structure and strategy of working through network:



Land Rights Movement Network Operating System

The Land Bank: Elite Oriented Land Reform Approach

Jagat Deuja

A total 21% of land areas of Nepal is arable and it comes 0.12 hector per person in an average. Still, there exists a big inequality in ownership of the land. 9% rich class people hold 47% of arable land where as 67% people hold only 17 of the same (KB Ghimire: forest or firm). The access and ownership of arable land has been a symbol of social well being and basis of economic security in Nepal. Land is the major source of livelihood for 76% of total population of the country. Other occupations, such as livestock and agro-based activities are also associated with ownership of land in rural setting.

The living conditions of general people of Nepal have not been substantially improved despite several efforts made during last five decades. Donor agencies have pour thousands of million rupees in the name of development but the poor people have been further suffering from poverty and marginalisation. Addressing poverty had been key areas of focus for development intervention in the past but it never linked with land reform. Policy makers and politicians never been serious for ensuring equitable distribution of land resources but remained limited only on technical aspect of production. Lack of access over land is one of the major obstacles for making barrier to bring the benefits of the development to the hard-core poor.

Land has been associated with human life even beside agricultural production. People need land evidence even to get access to bank loan. Land is a strong basis of securing livelihoods even during emergency, bad health, starvation etc where one can put in pledge for borrowing from someone. Those who do not have land do not get this opportunity. The large numbers of poor people are bound to physical labor in the field but they cannot fulfill their food security for a year. They work for landowners and get very nominal (unfair) wages in kind or cash, which is not enough for feeding to their family. As a result, they are compelled to go for Kamaiya and Haliaya in mid-far western Terai and Hills. This is not their choice rather compulsion.

After restoration of democracy in 1990, the

political parties had gone to the people along with the slogan of equality and elimination of social discrimination. Both democratic and communist parties had given assurance to quit the dual ownership on land by safeguarding the interest of tenant farmers. Some of them had tried to make breakthrough but it remained limited only on slogan. Unfortunately, the democratic governments could not delivered what they had promised. Now, people do not have trust over government and do not believe about their proclamations, it is because of the bitter past.

The then Prime Minister Mr Sher Bahadur Deuba announced radical land reform policy in 2002. There was a big dispute on this policy and one of the reasons for this dispute was the provision of reducing land-holding ceiling. This policy restricted to hold land up to 11 bigha, 30 ropani and 75 ropani in Terai, Kathmandu valley and hills respectively. There was nothing new in this policy regarding the tenant farmers. This policy announcement brought big vibration in the country and as a consequent; the landowners began to prepare fake documents of splitting families for securing excess land. This policy could not become successful to collect more land to be distributed to the poor. After two and half years of this policy, it has come to know that the present government has been underway for homework to bring new policy on land management. The main gist of the likely policy is to establish land bank and buy land from those

*Interaction
program
with
policymakers
on Land
Bank*

▼

5

who would like to sell. This is a pilot initiative for three years as first phase with the cost of Rs 2 billion. The land is about to sell to around 25000 landless people to be recovered the amount in 15 years on small installments. It is hard to believe that the government is really serious and feel its accountability towards people. It is because government has several alternatives and ways out to distribute land to around 800000 (both registered and non-registered tenants) families without any burden to the country but the government is heading towards serving only 25000 people with the cost of Rs 2 billion giving burden to the poor people. With this approach, one can suspect that it is a strategy to support the landowners (elites) by purchasing their unsold and uncultivated land. This is really unfortunate if the government moves forwards to establish land bank in this concept. This cannot serve to the deserving people on one hand and on the other hand this initiative adds the loan burden to the country and the poor people.

The government should answer some basic questions before moving forward. Why government is reluctant to cease excess land and distribute to landless? Has government really given up the concept of ceasing of excess land? What is the policy and commitment to provide land to the nearly 800000 tenants (both registered and non-registered) who are legally entitle to own the 50% land? The attitude of government and current developments clearly indicates that the government is not serious about the concerns of poor people and do not have vision and commitment to overcome the present situation of injustice.

The government's this initiative indicates to give up the concept of land ceiling, and providing tenancy rights over cultivated land. It would have been acceptable if there were no other alternatives for providing land to the tenants and landless farmers. There are several ways to make tenant and landless people landowner. Some of them are as follows:

- According to the records maintained at Ministry of Land Reform and Management, there are 375000 registered tenants. Similarly, Department of land reform and Management conducted a sample survey in 35 districts (FY 2057/58) reveals that there are 288261 registered tenants. Further, some other reports reveal that there are tentatively 450000 non-registered tenants in the country and most of them come from Dalit communities and poor families. All these families could have access on land according to present law of

the country. The only thing is government need to be serious and committed towards asserting the rights of these people.

- The landowners' use to give threatens to the tenants and denies giving receipt of the rental. This has hampered them to claim their rights over 50% of tilling land. Thus, government could deploy a team to verify this and make provision to distribute land on the basis of the same public verification.
- It is important to increase the production and productivity of land. Thus, instead of fragmenting land into several pieces, it should be given the choice to the tenant if he/she would like to buy remaining 50% of land from the landowner (if the landowner agrees on it).
- There should have strict policy and its enforcement to cease the excess land. This land should be given to the landless people on the basis of concessional price.
- It is estimated that around 20% arable land is fallow. This fallow land should bring into in use. If the landowners are unable to cultivate such lands, it should be given to the farmers who cultivate it.

There still exist huge public land in the country especially in Terai. People have been occupying those public lands without legal evidence for decades. They are still known as landless. It would be prudent if government bring policy framework to register occupied public lands on the name of the same farmer. This could substantially help government to reduce the no of landless people and increase production and productivity. Here, government must be cautious that those who already have land should not be given public land again.

It is estimated that a significant areas of land have left out fallow because of current conflict in the country. The landlords could not have stayed in village. Basically, the government represents to the elite class; the current land bank concept is also a strategy for buying land from those elites who cannot stay at village. This approach cannot serve to the million of tenants and landless through providing land as they are entitled according to the law of the country. Therefore, now the victims and rights holders need to be organised and step towards claiming their genuine rights over land by challenging the vested interest and elite oriented land management policy.

Farmers' Rights to Land -

A Crucial Dimension on 'Livelihood Security'

Jagannath Adhikari

In an agrarian society, land is considered as the principal means of production. In such societies, land is not only the main source of wealth and livelihood, but also a source of social security, status and identity. Therefore, rural people are attached to their land.

In order to increase agricultural production and maintain livelihoods of people dependent on land, it is essential that these land-dependent people should have rights over the land on which they work as cultivators or laborers. Unless these people own land, their economic position remains bleak and they always are bonded to other people who own land. In such societies, the whole social life and identity, land-owning class controls freedom and independence of these dependent people. They always remain subservient to the landowners. This is clearly seen in the case of bonded laborers in Nepal. The **Kamaiyas, Halia, Charuwa**, and the like, have always remain dependent on 'land owners' for their livelihoods which also curtailed their freedom, identity, social and family life. From one generation to generation, they always remain bonded. They were not able to do any thing without the permission from their landowners, who also own them. Landlords were able to buy and sell laborers like any physical commodities.

Even for the development of agricultural sector and to increase production, it was considered essential that the land cultivators and workers should have rights to the land on which they work. In the 1950s to 1970s, 'land reform guaranteeing the rights of ownership to land on which farmers/laborers work, was considered pre-condition for modernization of agricultural sector through green revolution technology. In Nepal's case also, for example, Agricultural Prospective Plan, which is a 20-year plan for the development of agricultural sector and reduction of poverty, has con-

sidered that 'land reform' is a precondition for the success of the plan. Here 'land reform' does not only mean the rights of farmers and workers to land which they cultivate, but also other measures of improvements like reduction of land fragmentation, land consolidation, access to irrigation, credit and inputs. But rights to land to the tillers are the basic motto of 'land reform'.

It is because of the above reasons that land reform has been implemented in most of the countries. But only in few cases it has been successful. In many countries land reform programs were considered failures mainly because of the nexus between land ownership, political power and education. Most of the land owning class controlled the political power and bureaucracy because of their education and wealth. As a result, even though, land reform policy has been implemented, it did not bring about the desired outcomes, and land reforms were largely failures.

Even though 'land' is considered as a type of 'capital', it should be noted that it is also nature's gift to mankind. In this sense, it is also considered as a different kind of property on which those who work on it should have rights to use it on a sustainable basis. Land being a nature's free gift, it should be used in a way

Landless
Dalit
Women of
Siraha



that it is not destroyed for its use by the posterity. The coming generation of people also have equal right to this nature' gift. 'Destroying it in the name of private property would also mean that it is a 'inter-generational injustice'. Therefore, from the perspective of natural law that those who cultivate the land have the right to its ownership until they cultivate it for their use. This is especially so the land that is being used for the basic needs or for the subsistence. The people who depend on natural resources for subsistence should not be alienated from these resources whether it is land, forest or other resources.

From the principle of human rights also 'land to the tillers' guarantees the socio-economic-cultural rights of the people. The socio-economic-cultural rights of people mean that they have the rights to survival and means of livelihoods. As a matter of fact it is the state's responsibility to guarantee this rights of every citizens. Nepali constitution formulated in 1991 also clearly states this in its directives to the government.

The scale of the problem in Nepal

For most Nepalese, land is the principal asset for livelihood. Of the 86 % of the population who live in rural areas, access to land is vital for their survival. But about a million families in Nepal (of the total 4.2 million families in total) do not have land at all. Of these landless families, about 45 % have been cultivating other's land with the aim that they will get rights to cultivation of that land under 'tenancy rights'. Landlessness is particularly a problem in the Tarai, even though land availability is relatively scarce in the hills. There are 3 % absolute landless households in the hills and 18 % in Tarai. If Nepal is to embark on a serious poverty reduction work, solving the problem of landlessness and providing the rights of tenancy to tenant-cultivators should be the first priority.

Nepal has given priority to poverty reduction in the ninth (1997-2002) and tenth five-year (2002-2007) plans, but has not firmly taken the issue of landlessness in the country. The government's main aim is to increase economic growth rate with the assumption that it will lead to benefits to the poor, including the landless people. About 38 % of the population of the country is reported to live under absolute poverty conditions. Their income is not sufficient to meet even the most basic necessities of life. Most of these poor people are landless people. This shows that landlessness is directly linked with the poverty. Access to some land

is also essential for the food security of the family in a situation where state has not been able to do anything to provide food security to people. Landless and poor people are left to the market for employment. But markets in countries like Nepal are imperfect and there are also fluctuations in creation of employment opportunities. The bust phase of the economy is particularly difficult for the poor and landless people to secure their food security. Therefore, in a country where employment is not guaranteed and where state social security does not exist at all, access to land is important for the livelihood security of the landless and poor households.

Nepal's social structure is also interlinked with the problem of landlessness and tenancy. Nepal is a caste-based society, and the so-called 'low caste' households are the ones, which face the disproportionately high incidence of landlessness in Nepal. About 22 % of the absolutely landless people are from Dalit (low caste) households, even though they are only 13 % in the national population. Moreover, a large majority of Dalit households are functionally landless, i.e., they have some land, but only a small piece for the house lot. These people were dependent on higher caste households for the livelihoods in the past. This dependency relationship means that they were denied from the land ownership. They may in a way also considered as a bonded labor, but somewhat different and liberal than the ones we see in the Tarai, *Kamaiyas*, *Haruwa*, *Charuwa*, *Haliya* and the like.

Nepal has from time to time implemented land reform programs. Under these programs, provisions were also made to provide some lands to landless people and to protect tenancy rights. For example, Land Act in 1964 and 'land reform program announced in 2001' aimed to distribute some land by the state, but these programs were not successful in doing that. Similarly, most of the tenants were not provided with their rights to own some land they cultivate. Many procedural problems were kept for the tenants to pursue their rights. Moreover, most tenants being illiterate, they were not able to assert their rights. As a result, there are a great number of them who still have to remain as tenants, but without any hopes of getting a share on the land, which they cultivate. Unless their rights are not protected, poverty and destitution will remain, and agricultural sector will not be able to develop. Farming cannot prosper in a condition when absentee landlords, who have no interest in farming, control land. ■

Increasing Alliance and Partnerships

Analyzing the development interventions and situation of status quo, many individuals and organizations have come to conclusion that the current social structure is a barrier for equitable development and prosperity of poor and disadvantaged communities in Nepal. Hence, the development agencies have begun to identify the root causes of denials and deprivation, and design empowerment and partnership initiatives with both disadvantaged communities and government mechanism.

CSRC also work with both government and community for facilitating the process of ensuring social justice and supporting to develop mechanism so that disadvantaged community's rights are protected, asserted and guaranteed. In this connection, CSRC feels proud to acknowledge the increasing solidarity, collaborations and partnership of social change advocates, media, civil society, intellectuals, professionals and international development agencies. Following are the current institutional partners who are tirelessly contributing to the land rights campaign:

- ActionAid Nepal (AAN) has been supporting to CSRC since 1994 for land rights movements in Sindhupalchok. In order to replicate this experiences and models in other parts of the country, AAN has supported for two more districts namely Siraha and Chitawan for three years beginning from 2004.
- DANIDA/Human Rights and Good Governance Advisory Unit (HUGOU) has supported CSRC to launch land rights campaign in six districts namely Sunsari, Saptari, Banke, Dang, Dadeldhura and Baitadi.
- CSRC has received support from Enabling State Programme (ESP) for strengthening national level networks and carry out policy dialogue on the issue for six months period.
- Care Nepal has been very supportive and has demonstrated solidarity on the land rights issue especially the concern of the people living in **Chure** area Mahotari and Sarlahi including policy level advocacy initiatives. The formalization of this partnership is yet to be finalized.
- Large numbers of people have been denied social justice and are bound to suffer from different forms of bondage and exploitations. CSRC is striving for facilitating the process of social change that ensures social justice to all regardless of class, sex, race, age etc. International Labor Organisation (ILO) has been supporting to the government and non-government agencies to overcome all forms of bondage and eliminate exploitations. In this context, considering CSRC's involvement on social justice issue, ILO has shown interest to carry out the study to understand the other forms of bondage and exploitations in different parts of the country. This is under finalization process.
- CSRC closely work government agencies and render support through providing ground information and realities, suggesting policy alternatives, facilitating implementation of policy at community level. This collaboration has been valuable for both the communities and the government agencies. ■

Land Issue at a Glance

- According to national planning commission 70% peasants own less than one hector of land
- According to Human Development Report 1998, 40% population own only 9% arable land and 6% own more than 33%
- According to national census 2001, out of 4,253,220 there are 1,037,785 landless or near landless
- According to Badal high commission of land reform, 450,000 tenants are unregistered. Besides, there are 270,000 tenants registered at the government records. However, they could not have claimed 50% of tilling land as per the prevailing law of the land.
- Fourth amendment Land Reform Act 1996 (2053BS) has prohibited filing the cases for the land rights by the tenant farmers.
- A typical type of bondage (Haliya system) still exists in the mid west and far western region of the country, which is directly related to the land and wages issue.
- The land issue is associated with different areas of concerns, such as landlessness; trust land management, fallow land management, land ceiling, public land, encroachment etc, which needs to be dealt seriously by the state keeping in mind of the interest of disadvantaged section of community.

Ground Information Collection

DANIDA/HUGOU has been the second long-term partner of CSRC to launch land tenancy rights campaign in other parts of the country. DANIDA/HUGOU has joined hands for the noble cause of facilitating the process and enabling rights holders to assert their fundamental human rights. CSRC has collected preliminary baseline information about the status of land tenancy, Guthi land, fallow land, and status of Haliya in 8 districts of Nepal namely Sunsari, Saptari, Siraha, Mahottari, Dang, Banke, Dedeldhura and Baitadi. Moreover, similar information will be collected from other districts as well in near future. This initiative would help making the campaign legitimate and supportive to the government for taking pro-disadvantaged land policy framework.

Farmer's Movement Towards Asserting Land Rights

Jagat Basnet

Community Self - Reliance Center (CSRC) has been working in land rights issues since 1994 both at community and policy level in the form of partnership, alliance, network and collaborations with rights holders, community based organizations, NGOs and international NGOs and donor agencies. CSRC is launching advocacy campaigns on the same fully taking side of tenants and landless people. It is committed for empowering rights holders and facilitating them to assert their legitimate and legal rights over cultivated land as per their tilling proof. This article has tried to share our experiences and process while launching land rights movement at different level.

Initiation of the issue

In 1994, Action Aid Nepal (AAN) conducted a baseline feasibility study to extend its programme to Kiul and Helambu Village De-

velopment Committee (VDCs) of Sindhupalchok district. CSRC was also a part of this study. Majority inhabitants of these two VDCs were found to be cultivating landowner's land to sustain their livelihood. The study deeply excavated the problems faced by the farmers in process of cultivating others' land. Thereafter, AAN agreed to work in those VDCs in association with CSRC. In 1994, CSRC entered these two VDCs to work with the landless and poor farmers with the support of AAN and shared the findings of baseline study with the community people. When CSRC began to initiate dialogue and sharing of study findings with community, they raised the problem of land and its relevance with their livelihood and social status. CSRC further conducted an in-depth study in the very two VDCs about the land ownership situation with the participation of tenant farmers, members of local cooperation and ward representatives.

The study extracted the information that out of total households, 728 in Kiul VDC and 771 in Helambu VDC 312 and 359 respectively were found to be cultivating others land, which was their primary source of livelihood. Until then, more than 95% of the tenants did not receive receipts as a proof of rent payment. Some tenants were found being landless. Although they were unwilling to bear the atrocities by the landowners, they had no other alternatives except to surrender.

During the discussions with the local people, it was also found that the tenants used to own the land previously but since they could not repay the loans taken from landlords for funeral functions, birth ceremonies, cultural and religious functions, tax payments, etc, they were compelled to hand over the land to the landlords. The rich and powered people also confiscated the land from the poor giving threats.

Since land issue was raised overwhelmingly, it drawn CSRC due attention and influenced to take it as organizational core programme for meeting the organizational aim of fighting against poverty and injustices. Series of consultation were held with local organizations, such as saving and Credit cooperative, club etc to discuss in detail about the existing prob-

Problems encountered by tenant farmers

- Due to lack of written proof tenants are being severely exploited by landowners.
- Almost 15% of the tenant farmers stand their houses on landowners' land.
- At the time of natural hazards like hailstones, drought, floods, landslide, etc the tenants are compelled to pay rent at any cost.
- Without the consent of tenants, owners secretly sell away the land.
- The owner receives the rent through middlemen and these people do not provide rent receipts to the tenants.
- The landowner takes away the major portion of the production so tenants are compelled to buy food due to deficit problems.
- If tenants demand the rent payment receipt, they are threatened to shift ownership.
- People look down upon tenant farmers tilling landlords' land.
- Tenants are depressed at the time of rent payment.
- There are no other alternatives once the land is seized.
- Landowners have to be highly regarded.
- Some farmers are also submissive to the owners asking for land cultivated by other tenants.
- The names of tenants were not registered while measuring the Guthi land.
- Land Reform and Land Revenue offices do not explicitly help the tenant farmers.
- There is no proof of owners not providing the rent payment receipts by the landlords.

The process of Tenancy Movement

- Conducted a study of tenants' livelihood in 1994.
- In 1995 a three days legal camp was organized in Kiul VDC including 300 farmers. 45 tenants were trained and 21 members committee was formed on the same date.
- Since 1995 more than 5000 tenants have been regularly receiving rent payment receipts.
- Discussion and interaction were conducted regarding filing case to gain their rights (in Helambu, Kiul, Ichok, Talamarang, and Palchok).
- In 28 Chaitra 2052, 45 exemplary cases were filed at District Land Reform Office, Chautara.
- Legal camps were conducted in across the Sindhupalchok district
- In 1997 baseline studies were conducted in 7 different VDCs regarding guthi and tenancy.
- In 1997 discussions and press conference were conducted at Martin Chautara.
- Several appeals and delegations were made at the concerned authorities.
- Cases were prepared at the VDC level.
- Until 2001, more than 1,700 tenants have filed cases regarding tenancy rights, 277 for converting guthi land to raikar and 1,036 tenants have received their tenancy rights. So far around 3000 tenant and landless farmers received tenancy rights and filed around 3000 cases at the land reform and land revenue offices.
- The process of taking rent payment receipt is continuous.
- The information of amended Land Reform Act 2053 not being on behalf of tenants is disseminated and advocated to all the farmers.
- In 17 Kartik 2057, demonstration was organized where thousands of farmers participated at Chautara.
- Baseline study in land rights in Nepal and finding sharing with policy makers
- Bi-monthly interaction with different stakeholders and policy maker and the land rights issue become poverty alleviation and social justice issue at national level.
- Programs were launched in association with Ministry, DDC and VDCs.
- Formation of National Network for effective land reform in the country.
- Advocacy initiated to make land reform a major agenda for poverty alleviation in the country.
- Expansion of land rights movement in different districts of Nepal
- Strengthen of district, regional and national level network on land rights

lem. The meeting felt the serious need to promote legal education on this matter. Thus, CSRC and local cooperative Jayabageswari Saving and Credit Cooperative organized a legal camp in different villages.

The legal camp of Kiul VDC (1995) included 45 tenant farmers and they were briefed about Land Act 2021. After this, tenants farmers themselves formed a *Mohi Jagaran Committee* consisting 21 tenant farmers. And they were very much committed to fight for their genuine rights against. The community organization, sensitivity of the issue and participation of people were increased substantially over the period. In this way, tenancy movement gained momentum being the first right-based campaign on land issue in Nepal.

Initiation of the movement

The legal camp of Kiul VDC made tenant farmers aware regarding their tenancy rights. Unfortunately, even 5% of the total farmers lacked proof to fight for their rights. They paid their stipulated rent but never received rent payment receipts. Minimum proof or rent payment receipt is compulsory to confess the right on the land.

In this regard, tenant committee, farmers and organization conducted regular discussions

and interactions. In the early days, discussions were held on rent receipt campaign. When this process took momentum, many threatens were given to tenants regarding seizing land. The landowners were also requested to enlist their tenants in the District Land Office but it was meaningless.

Initiation of calcimining rights on land

The discussions of filing cases started only after a year of receiving rent payment receipts from Sindhupalchok. Other proofs like '*jota asthahi nissa*' and '*kut kabuliat*' were also collected because they could quite conveniently

Tenant Farmers in the process of submitting memorandam to CDO office.

get their rights once they took the ward and VDC recommendation letter. Ward recommendation letter was easily obtained but faced problem with the VDC approval. The reason behind this was that the VDC chairperson himself was a landowner and also represented other Sherpa landowners. Fortunately, taking advantage of district assembly, 47 tenants encircled the chairperson pressurizing him to provide the VDC recommendation at Chautara, head-quarter of Sindhupalchok. Once they received the approval all of them filed the cases at District Land Reform Office for the first time on 28 Chaitra 2052.

Formation of tenant farmers association

Guthi and Tenancy Concern Committee have been formed in 17 VDCs of Sindhupalchok district to precede the movement effectively at the beginning. Following this, there is form a district level committee to lead the movement at different level. This is very democratic body consisted from regional committee. And each member from this sub-committee is represented in the head committee. Regular discussion is done and they conduct various local programs. They search proofs inside the VDCs and discuss with other tenant farmers. They have been regularly assisting to file cases in the district office and also conducting regular interactions, proof collection, distribution of receipts,

etc. This has certainly helped to disseminate information to the tenant farmers.

Results of continuous efforts

The efforts made form last eight years to receive tenancy rights based on tillage proof have come out to be positive. Guthi Sasthan has taken necessary steps to provide tenancy rights on guthi land. To provide land tenancy in Guthi land the field survey conducted by Guthi Sasthan. The above decision will be published in the gazette by Land Reform and Management Ministry. This decision will benefit all the households tilling guthi land and also help solve other similar cases of the district. Based on the survey team recommendation, the cabinet has decided and forms a five-member committee to provide tenancy writes to the tenant and landless farmers of Sindhupalchok.

Impacts on policy level

Land rights issue is become national concern. Government gradually realizing to bring pro-poor and tenant policy. Following the recent two policy level dialogue, government added two more pro-poor programme and policy on land rights to provide public land for landless and loan for tenant farmers to buy the landlord's land. Similarly the decision of cabinet to provide tenancy rights to the deprived community is another milestone of the policy level impact.

A national interaction program has been organizing regularly with the support of media people in Kathmandu to discuss on policy and procedure of land rights. The interaction included senior leaders of political parties, former Land Reform Ministers, Member of Parliaments, land specialist, advocates, journalists, social activists and interested other people. The interaction programme have compel to government to listen the things, which they are going to do or formulation of policy.

Issue in media

The problems and activities of tenancy issue have been regularly published in the form of articles, news and press release. Media has made easier to share the problems faced by the tenants of Sindhupalchok and also to pressurize the government for policy level change. It is also considered as an effective medium to share the achievements of Sindhupalchok to other districts of the country and nationalize it. Different laws and policies are formulated in the country but all the citizens are not aware regarding it. So, public hearings were conducted to aware the tenants and bring changes on them. When these issues

Major Achievements of the movement

- A strong tenant farmers association has been formed in Sindhupalchok and is effectively leading the movement all over the district.
- National Action Group on land rights formed which consisted different stakeholders e.g. journalist, representatives of government and political parties, land expert, civil society organizations.
- By the end of 2060, around 3000 have received land rights at the landowner and trust land. The process is still on going. Around 2000 cases are filed at the districts land reform and land revenue offices.
- The cabinet of government formed a committee to provide land certificate or to solve the land problem of 18 VDCs of Sindhupalchok.
- The land rights movement has been expanded more than 10 districts.
- The fact of land act being against farmers is raised at national level.
- A strong voice has been raised from Sindhupalchok regarding Guthi and tenancy land and is thought to be will be a lesson all over the country.
- Confidence of tenants has risen to stipulate for their rights.
- A strong movement has been initiated regarding effective land reform in the country.
- Bi-monthly interaction programme has been regular for the policy dialogue.



became news in the papers many journalist were interested towards it. They started visiting government officials, villages to find more news. This helped a lot in pressurizing officials and finalizes many tenancy cases at the district.

Message to the country

- Land Act 2021, guaranteed tenancy rights to the farmers but it was never implemented for the tenants. As a result, there are more than 4 lakha 50 thousand tenant farmers are deprived from the tenancy rights.
- The major problem was that tenants had been cultivating land for generations but never had any proofs. The hard working tenants were busy cultivating and did not think of registering themselves. The survey team also manipulated the survey benefiting the landlords due to which tenants were deprived of their rights.
- Even after three decades of announcement of tenancy right, tenants are unaware regarding it. This clearly depicts the legal knowledge of the farmers. The rationale also lies behind the wide spread poverty in the country. If the survey team had honestly worked as per their duty, the present situation would not have been occurred. Due to lack of legal proofs tenants are losing their rights. The 4th amendment of Land Act 2053 has also severely paralyzed the tenants.
- It's high time that the government, law-makers, policy makers and planners learn from the tenancy movement of Sindhupalchok and other parts towards ef-

fective land reform in the country.

- Although the provision of tenancy right exists, problems are seen all over the country. Around 30 thousand cases related to tenancy have reached the government offices and courts. More than 70% of the cases that reach the courts are related to land.
- The movement has been strongly supported by a non-governmental organization CSRC. The organization has also formed farmers committee and networks to lead the tenants and also represent them.

Learning

Land entitlement is the first rights to strengthen other rights of deprived community like education, property and development. So our programme at least link to the land rights first then other rights.

It is very important to link policy dialogue and community level movement each other . Absent of one, it is very difficult to forward the land rights movement and it will not give expected outcome.

Without deprived community people's participation, it would not real movement for the land rights. And it will not also the ownership of community people.

It is very important role of media and network to strengthen the movement at different level.

Committed activist or facilitators are the backbone of the movement. Without facilitation of committed facilitators or activist, it is only start and close-up. ■

Civil Society Perspective and Position on Land Issue

Issues	Position
<p>Tenancy</p> <ul style="list-style-type: none"> The Land Reform Act fourth amendment 2053 BS (1997) prohibited filing the cases for claiming tenancy rights by those who have been tilling the landowner's land for long time. Consequently, a 450,000 tenant farmers right is denied. The Land Reform Act fifth amendment 2058 (1991) had stated two years period separating the land between landlords and tenant farmers. The stipulated period has already been over (July 2003) but only 1.3% tenants have received land so far. In general, the government attitude policies and practices have not been pro-tenant farmers except few supportive cases. As a result, large numbers cases are still pending in Land Reform and Revenue Office. 	<ul style="list-style-type: none"> The tenant farmers, who had been regularly tilling the land up to three years before fourth amendment of Land Reform Act 2053 (1997, should have entitlement on the basis of Sarjmin (public review) and quick settlement of the issue. State should be pro-active and take initiative. There is need to further amendment of current Land Reform Act to extend the land settlement period for at least five years. Settling pending cases, pro-tenant attitude, and settlement tenancy right should be one of the priority activities within government programme.
<p>Trust Land (Guthi)</p> <ul style="list-style-type: none"> Although the trust land regarded to generate revenue for managing Gumba and temples' religious activities, the priests enjoy the revenues for their personal chores in most of the cases. Since the priests misuse the revenue and the tenant farmers do not get good share of income, the production and productivity has been decreasing. There is clear legal provision that the tillers are entitled to have rights over tilling land but it's not yet been turned out to be effective implementation. Thousands of tenant farmers still struggling and roaming around in search of their rights. 	<ul style="list-style-type: none"> All trust land should be converted into raikar (public land) and tiller's rights be established earliest possible way. This should be mentioned in the land act as well. In some cases, tenant farmers might have due to pay rent to Trust Authority. This should be either waived out or Government should pay 75% of it on behalf of tenant farmers.
<p>Block Measurement</p> <ul style="list-style-type: none"> Lack of technical and scientific measuring system, there has been measured most of the land in block and most of them is in landlord's name. This has been a cause conflict between farmers and landlords. There is high prevalence of this case in Terai. 	<ul style="list-style-type: none"> The land should be measured with the scientific way in participation of inhabitants/tenants and landless people. The land should be measured according to the areas covered by the inhabitant, not upon the large claim made by the landlords.
<p>Landlessness</p> <ul style="list-style-type: none"> According to census 2001, there are still 1.02 million households have no own land for the agriculture. Now, this number has increased to double than 1991 census. Although the government formed the Commission of Settlement of Landless Problem, the very landless could not obtain ownership over land yet. This has really threatened their livelihood and challenged fundamental human rights. 	<ul style="list-style-type: none"> The process of identifying landless should be simple, scientific and transparent. Participation from landless, ethnic communities and civil society should be ensured in this commission. Land should be given to those whose main occupation is based on agriculture. Ensure Jasko Jot Usko Pot- real tiller should own the land.
<p>Haliya System</p> <ul style="list-style-type: none"> Large numbers of families are bound to plough for landlord with very nominal wages in the hills of western region of the country. They are known as Haliya, this could be interpreted as another form of Kamiya. They give their full time to landlord and their livelihood depends upon little things given by them. The Haliyas are extremely exploited in terms of wages, physical labor and other psychological and social perspective. None of the laws allow putting Haliya rather laws have ensured minimum wages and physical safety ness of the labors. Their rights to fair wages and dignity have been seriously violated. No agencies have statistics of the number of Haliya families in the country. 	<ul style="list-style-type: none"> Government should abandon Haliya system through state policy declaration and make it punishable. The landlord should regard these working families as agriculture labor and pay genuine wages as per prevailing law and standards. The government should take initiative to identify the number of Haliyas and other similar sufferers and compensate to those exploited (victim) families through alternative occupation, such as access to finance, skill development, etc.

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;

Community Self Reliance Centre (CSRC)

P.O. Box 19790, Kathmandu, Nepal, Tel 977-1-4360486
 Email: landrights@csrcnepal.org, Website: www.csrcnepal.org