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Jagat Basnet
CSRC in collaboration with ILC and NES Nepal Members





CSO Land Reform Monitoring Report

Support International Land Coalition (ILC)

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CSO LAND REFORM REPORT

Nepal, 2016



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Jagat Basnet

Lead Researcher **CSO Land Reform Monitoring**

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Acronym

ADB Asian Development Bank

ANGOC Asian NGO Coalition for Agrarian Reform and Rural

Development

Community-Based Organization CBO Central Bureau of Statistics CBS

CSO Civil Society Organization

CSRC Community Self-reliance Centre DDC District Development Committee

DLRO District Land Revenue/Reform Office

MoLRM Ministry of Land Reform and Management

GoN Government of Nepal

FAO Food and Agriculture Organization

HLCSLR High Level Commission on Scientific Land Reform

ICESCR International Covenant on Economic, Social and Cultural

Rights

ILC International Land Coalition MDG Millennium Development Goal

MoAD Ministry of Agriculture Development NASC National Agricultural Sample Census

NES National Engagement Strategy NGO Non-Governmental Organization **NLRF** National Land Rights Forum

NPCS National Planning Commission Secretariat UDHR Universal Declaration of Human Rights

VDC Village Development Committee

Glossary

Adibasi Indigenous people of Nepal

Charuwa System of hiring poor people for grazing cattle for landlords

under which laborers are paid minimally

Dalits Untouchables in traditional Nepali caste hierarchy

Guthi land endowment made for a religious or philanthropic

purpose

Haliya System of hiring people for ploughing landlord's land with

nominal wages

Haruwa System of hiring people for agricultural work for which

nominal wages are paid

Janajati Ethnic nationalities in Nepal

Kamaiya Bonded laborer of Tharu origin in five mid-western Terai

districts

Kamlari Girl child domestic helpers employed by landlords

Raikar Land on which taxes are collected from individual

 $landowners; additionally\ regarded\ as\ state-owned$

Terai plain land of the southern part of the country

Executive Summary

Community Self-reliance Centre (CSRC) in collaboration with National Engagement Strategy (NES) Nepal members (Abhiyan Nepal, CDS/ MODE, COLARP, and NLRF) and International Land Coalition (ILC) have carried out this Civil Society Organization (CSO) Land Reform Monitoring in Nepal for the fiscal year of 2014/15 and 2015/16. The main objective of the study was to review land related plans, programmes and policy amendments as well as to investigate access to land for marginalized communities in Nepal. This monitoring is part of an ongoing process and has employed participatory methods to generate data at various levels such as local (community), districts, regional and national. Both primary as well as secondary data sources have been used in preparing of this summary report. This CSO land reform monitoring report covers two fiscal years 2071/72 (2014/15) and 2072/73 (2015/16).

After the devastating earthquakes on 25th April and 12 May 2015 in Nepal which affected 31 districts, almost 9,000 people lost their lives; 20,000 people were wounded, 1.321 million metric tons of food were destroyed, there were around NPR 9 billion worth of causalities and approximately 750,000 houses were demolished. Due to the magnitude of this devastation, most land reform agendas were diverted towards rehabilitation and reconstruction programmes. Although issues were diverted towards rehabilitation and reconstruction after the earthquake, Government of Nepal promulgated the new Constitution on 3rd of September in 2015. Similarly, the Parliament of Nepal also approved the sixth amendment of the 1964 Land Reform Act in September 2015 and its regulation in August 2016. Furthermore, the Government of Nepal also approved other crucial land related policies such as the Agriculture Development Strategy (ADS) 2015, amended Land Use Policy 2015, and Reconstruction Action Procedure 2016. Moreover, the Supreme Court of Nepal also directed the Ministry of Land Reform and Management to implement the Public Land Lease Procedure, formulated in 2014, and a petition was filed at Supreme Court for its annulment. The

Landless Problem Solving Commission which was formed in 2014 by the government of Nepal was dissolved as its functions were limited to only collecting applications from landless and squatters. During this period (2015 and 2016), due to political and electoral changes the management of Ministry of Land Reform and Management shifted from a leftist towards a royalist political party.

Although as part of the Comprehensive Peace Accord (CPA), an agreement was made between the Government of Nepal and the Maoist Party, completed a 10 years on 21st November 2016, it failed to implement scientific land reform process agreed by both parties. The Ministry of Land Reform and Management started formulation of the National Land policies in 2012, however it has not yet been finalized. The Land Use Policy was passed in 2013 but still waiting to be implemented. The Bonded Labour Bill which began its drafting process in 2009 has not yet been passed from the Council of Ministers.

Nevertheless, the Ministry of Land Reform and Management has expanded its services of Land Revenue Offices from 83 to 104 districts. The Government of Nepal continues its tax waving scheme for women (25% in urban and hill regions; 40% in high hill remote areas; 35% for widows and no tax for identified landless, Haliya and Haruwa). The Ministry of Land Reform and Management had planned for document digitization in 16 districts offices however only 7 districts were able to be completed successfully (Progress report of Ministry of Finance, 2016). The outcomes of programmes from the Ministry of Land Reform and Management show that 198 freed Kamaiya received financial resources to buy land and 42 families for housing; 106 freed *Haliya* received resources to buy land, 130 for houses and 251 for repairing of houses (Finance Ministry, 2016). The interesting part of the Ministry's programme outcomes is that almost all activities are shown as more than 80% and most of them 100% successfully completed, however in reality, there is no significant changes in the land sectors locally. Haliya, Kamaiya, Haruwa/ Charuwa, landless, tenants, sharecroppers and smallholders still struggle for their rights and access to land every single day.

The investment of commercial banks is increasing real estate and housing loans. From NPR 47384.60 million in 2011/2012 it has now risen to NPR 127877.73 million in 2015/2016. Due to this increase in real

estate and housing loans most of the agricultural land is being converted into plots for non-agricultural purposes and there is also an increase in fallow land. The total land revenue increased from NPR 8379212671/- in 2013/14 to NPR 12145231000/- (31%) in 2014/15 and further to NPR 1413669000/- (15%) in this fiscal year 2015/16. This also indicates that land is being fragmented and increased the numbers of plots. The recent progress report from the Ministry Land Reform and Management shows that there has been an increase of around 369,321 landowners and 550,447 plots in the fiscal year of 2015/16. Moreover, the report also shows that the government has provided NPR 918734600/- discounts on land transactions for women, Dalits, martyrs, disabled and other marginalized groups. This discount has largely benefitted women in urban as compared to those in rural areas. In 2015/16, urban women benefited NPR 786199760/- whereas rural women only benefited NPR 119454254/-. Similarly, the report also documents that approximately 385978 land cases were registered at the land revenue offices between 2014- 2016 out of which more than 50,000 cases are at the Land Reform Offices and more than 50,000 are at the courts.

Till date, the Ministry of Land Reform and Management has been receiving lowest portion of the National budget (less than 1%) as compared to other Ministries. Only 0.59% of the national budget was allocated to the Ministry of Land Reform and Management for the fiscal year of 2016/17. The share of total budget in 2015/16 was 0.69% and 0.55% in 2014/15. Although the total budget amount to the Ministry of Land Reform and Management increased by 26.78% in 2016/17 there have been no new policies or programmes to support the marginalized people. There has also been a drastic reduction in the production of main cereal crops rice production has decreased by 10.25%, maize by 7.47% and wheat by 12.18% as compared to before. The production of paddy has decreased by 5.1% and in an average reduction in production of 3 % as compared to previous years (Nepal produced 9.56 million tons in 2013/2014 which reduced to 9.26 million tons in 2014/2015). As per the report of Ministry of Land Reform and Management 2016, across the country 38319 Ropanies (2878 Bigha; 1916 hectares of land) of land is over the land ceiling limits in 37 districts. Out of this approximately 2814 Ropanies are within three districts of the capital Kathmandu.

These official facts and figures clearly indicate inequalities existing in relation to access to land in Nepalese society. This report is a documentation of some of these inequalities violation of land rights more specifically in relation to harassments, detentions and evictions of marginalized people while claiming their rights and access to land. Each day, marginalized groups such as landless peasants, women, smallholders are either detained, harassed or evicted while initiating their rights to land. Moreover, the report also compiles data from primary research field work conducted in 8 case study districts which documents land related conflicts: 67 people (11 females and 56 males) detained, 1904 (914 males and 990 females) harassed throughout a period from July 2014 until June 2016.



Overview of the Report

1.1 Brief Context of Land and Agrarian Reform

Every year the Government of Nepal announces several programmes on land reform and management. As per the Agriculture Census of Nepal 2011, out of a total of 5,423,297 households there were 3,831,093 households who primarily rely on farming. Agriculture remains a predominant source of living for 65.6% of the total population of Nepal (Census 2011). A large number of these peasant farmers (approximately 53%) are smallholders owning less than 0.5 hectare of land (NPC/NLSS 2010/11). There are a handful of rich farmers (approximately 4%) who control 22% of the total arable land whereas 53% of the farmers are categorized as smallholder who have access to only 18% of land (CBS/NLSS, 2011:7). Similarly, 10% of landowners rent their land to tenants or agricultural laborers and 32% of smallholders lease land from these landowners in order to top-up on what they produce in their own land

which barely assures food security for their families. The stark irony in the farming occupation is that there are 5% farmers who do not own any land but are still farming as this is all that they know in order to survive and feed their families. Therefore, they have no choice but to cultivate on land owned by others on a shared cropping basis usually agreeing to the terms and conditions imposed by the landowner (NLSS, 2011:7). The unfortunate bitter reality of agriculture as an occupation is that those who control the legal right of land ownership and gain the most from agriculture are not the real farmers working in the fields. The landless, smallholders or poor farmers are the ones who put in their blood and sweat to cultivate the land, but are deprived of land ownership (Basnet, 2013).

Land distribution in Nepal is very much skewed and unjust which has created various kinds of conflicts as well as forms of discriminations. This is closely related to historical processes after the unification of the country since 1846. Land was utilized as a way to gain political and military support by the state. As a result, larger parts of productive and quality land were distributed to more powerful people in the form of grants (Adhikari, 2008: 6). He further argues that landlords would not like to improve the current situation of agriculture in Nepal as they want to continue to secure their power and control over the landless and tenant farmers. During the land distribution process in Nepal, the land type and quality were a form of reward only to henchmen, supporters, relatives, army personnel, bureaucrats and to a few Hindu priests, who did not remain and work as farmers. Land was not made available to the general public who were tilling for generations and without any other livelihood opportunities. The legacy of the past feudal land governance structure is still reflected in the land ownership pattern prevailing in the country today. In this context, this CSO Land Reform Monitoring initiative was planned and carried out collectively by CSO members in collaboration with government officials and academic scholars. This report covers the fiscal years of 2014/15 and 2015/16 (Nepali fiscal years 2071/72 - 2072/73).

1.2 Purpose of the Report

The main purpose of this CSO land reform monitoring report is to generate data and analyze policy i.e., programmes and results on land reform on behalf of landless and marginalized farmers as well as the general populations. Within this, some of the specific purposes are as follows:

- To develop an understanding of CSO land monitoring system in Nepal as a collective effort and process.
- To strengthen a regular data collection mechanism both through qualitative as well as quantitative means and carry out processes of critical analysis and synthesis.
- To identify gaps in policy issues and practice in relation to lands reform (through findings based on analysis of primary data both qualitative as well as quantitative types)
- To strengthen dialogues with key stakeholders as well as the general public towards the direction of policy amendment in line with the needs of the landless or marginalized farmers.
- To carry out evidence-based policy dialogues, support campaigns and government actions on issues related to equitable land and agrarian reform in Nepal

1.3 Method

The following steps were taken as strategies for preparing this report;

- Developed key indicators and shared with scholars, CSO members, academicians and government officials for valuable feedbacks.
- Developed methodology with discussions and organized orientation sessions with Districts level coordinators and land rights activists.
- Compiled both primary as well as secondary data generated from the field and secondary sources. This was the main task of the research intern who regularly supported the lead researcher to accomplish this goal.
- Organized one-day workshops with campaign officers and coordinators to present key findings (tables and other sources) and also to validate information sources.
- Revised information after identifying gaps in the research through validation workshops in order to increase its reliability.

- Developed draft report to share among all concerned members for their inputs or comments.
- Based on the inputs and comments from different team members and academicians, government officials, prepared a final version and shared with various stakeholders

1.3.1 Process

The following steps were taken to identify CSO Land Reform Monitoring processes:

- A brainstorming and input session was organized with CSRC, NLRF, its strategic partners and collaborating partners including government officials on concept note and indicators on CSO Land Reform Monitoring. Identified key aspects, variables, possible indicators, and verifier as well as data sources for the review and monitoring process.
- Based on the discussion with different stakeholders, developed two formats; one focusing on land rights violations (evictions or harassment) and another on access to land and policies/ programmes. Based on this, a half-day orientation programme was organized for DLRF members, land rights activists, campaigners and coordinators from the case study districts in order to carry out CSO land reform review and monitoring within their respective districts at various levels.
- The assigned team members collected relevant primary data from the field and also from secondary sources such as District Land Revenue Office, District Land Reform Office, District Court and Police Offices, Ministry of Land Reform and Management, Ministry of Agriculture, Ministry of Finance etc.
- A half-day consultation workshop was organized with land rights campaigners and coordinators for validation of field data generated. Revisited and reviewed all the information generated from primary and secondary data sources. After compilation of field data, a draft report was prepared and shared with key members, government and NGO partners for their feedbacks. Based on the input, final report was prepared and shared with all concern stakeholders.

1.4 Conceptual Framework

The issue of land reform in Nepal has been debated since 1950 and still continues. It has mostly been a political issue rather than an issue of economic rights for marginalized peasants and farmers. Each and every government gains power with the support and aspirations of the people to make the process of land reform more equitable through providing access to land for marginalized peasants and farmers. In the last 65 years, most political parties have been established with the slogan of 'land to the tillers' and 'pro-poor land reform'; however on the contrary to their slogan they have mostly depeasantized and commodified genuine peasants. Following neo-liberalization, CSOs have also been facilitating land and agrarian rights movements however the commercialization and monetization of land is growing across the globe. Most governments of these countries including Nepal have also endorsed international treaties committing to land reform on behalf of marginalized people. women, peasants and farmers. During election, most political parties promise equitable land reform through their election manifests and public speeches; however after gaining power fail to keep their promises. The government plans for land reform programmes each year however they are not implemented on behalf of land-poor people. Furthermore, many donor agencies have been supporting commercialization of agriculture and promoting neo-liberal policies in agriculture rather than strengthening the rights of peasant. Though large amount of foreign resources are invested in Nepal for poverty alleviation, most of the populations still remain below poverty line and are marginalized from access and ownership of land. A culture of blaming others for ones conditions has come into existence rather than reflecting and acting upon ones owns shortcomings. National and international experiences show that there is no effective mechanism for reflecting and reviewing especially within the governmental organization of developing countries such as Nepal. Without finding reasons for success and failure cases or actors and factors, it is not possible to improve land rights situation of any country.

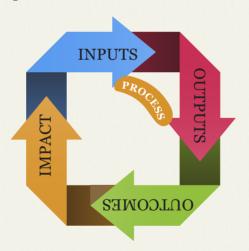
Considering all these, International Land Coalition (ILC), Asian ANGO Coalition (ANGOC), Community Self-reliance Centre (CSRC) including NES members of Nepal have been collaborating with government and various non-government organizations including academic institutions to review land reform situation and changes of land ownership and

control patterns in Nepal. For this, indicators were developed with the perspective of political economy and rights of peasants and marginalized farmers. The main conceptual research questions for this report were:

- (1) What are the inputs (initiatives) in relation to land reform from governmental organizations?
- (2) What are the processes (involvement of different stakeholders) of facilitation for the access and ownership of land?
- (3) What are the land rights violation cases and from whom?
- (4) What are the results of land reforms?

The conceptual framework used for this report was based on the inputs and processes which produces outputs, outcome and impacts of land reform process and changes in the life of larger populations in Nepal. Figure 1 below illustrates a summary of the conceptual framework for CSO land reform review process.

Figure 1: Conceptual Framework



It has been widely felt that there is a lack of appropriate tools for effective monitoring of land reform processes and practices. Hence this above conceptual framework was developed as an attempt to collectively monitor land reform processes and practices. Based on this framework, various indicators and methodology for the CSO land monitoring were developed.

1.5 Scope and Limitation of the Study

The study was limited to the Nepali fiscal year 2071/72 - 2072/73 (July 2014 to June 2016) and focuses only on land and agrarian issues. The primary focus of this study was to review land related programmes and policies from the Ministry of Land Reform and Management; and field renew on rights violations of landless, tenants, sharecroppers, smallholders and access to land and agrarian reform of marginalized people. The data generated for violation of land rights information were geographically limited to only 8 districts; whereas the review of policies, programmes and progresses were from across the country. This research also had time limitation both in terms of primary as well as secondary data generation.



Case Presentations: Findings and Analysis

As per Census 2011, the total population of Nepal was 26,494,504, out of which the total population of women (13, 345,463) was higher than that of men by 3 percent. Similarly, as per the Agriculture Census 2011, there are 5,423,297 households; among them 3,831,093 were peasants and farmers families. Out of total population 65.6 percent were depended on agriculture for their subsistence and livelihoods. Therefore, development within the agriculture sector is crucial to the development of the whole country.

As per the Population Census 2011, among the peasant and farmers families, only 19.71 percent women had ownership to land. As per the report of Ministry of Land Reform and Management in 1991, the total

number of peasant families were 4,67,000. Similarly, the number of women farmers is also increasing. However, the amount of cultivatable land available to these peasant farmers has decreased. For example, according to the agriculture census 2010/11 peasant households currently own 25,25,000 hectares of agricultural land, which is 1,29,000 hectares less comparing as compared to that in 2001. These census figures illustrate an increase in women farmers and a decrease in available farming land. The present context of land and agriculture is shown in Table 1 below.

Table 1: Information on land and agriculture

S.N.	Description/Content	Households
1	Total number of households (Census 2011)	5,427,302
2	Agricultural Households	3,831,093
3.	Population Engaged in Agriculture in %	65.6%
4	Land Owned by Agriculture Households in hectares	2,525,639.2
5	Households with land ownership	3,715,555
6	Households without land ownerships	115,538
7	Total numbers of land parcels	12,096,417
8	Numbers of Women households with land ownerships	704,185
9	Numbers of Men households with land ownerships	3,011,371
10	Cultivated Agricultural Land (in Hectares)	3,091,000
11	Uncultivated Agricultural Land (in Hectares)	1,030,000
12	Percentage of Land Owned by Government	72%
13	Percentage of Land Owned by Private Individuals	28%
14	Percentage of Women land holdings	19.71%
15	Percentage of Agriculture's contribution to GDP	35%

Source: Ministry of Agriculture (2012). STATISTICAL INFORMATION ON NEPALESE AGRICULTURE (Executive Summary), Agricultural Development Agri-Business Promotion and Statistics Division Statistics Section, Singha Durbar, Kathmandu, Nepal

The above Table 1 clearly illustrates that 1,030,000 hectares of agricultural land has not been used though it is agricultural land. The table also indicates that only a meager proportion (19.71%) of women own land inspite of them being the main agricultural producers and still more than 80% of them are deprived from access to land.

2.1 Land Related Amended Plans, Programmes and Policies

2.1.1 New Constitution

The new Constitution of Nepal formulated by the Government of Nepal on September 2015 covers the following land related issues:

Constitution 2015, part 3, Fundamental Rights, Article 18 Equal Rights, clause (5) states that all offspring shall have equal rights to the ancestral property without discrimination on the ground of gender and Article 38 Women's Rights clause (6) also states that spouse shall also have equal right to property and family affairs.

Constitution's part 3, Fundamental Rights, Article 25 clause (1) mentions that every citizen shall, subject to laws, have the right to acquire, enjoy own, sell, have professional gains, and otherwise utilize, or dispose of property, clause (2) mentions that the State shall not, except in the public interest, acquire, requisition, or create any encumbrance on the property of any person, clause (3) mentions that in case when land of a person is acquisitioned by the State according to clause (2) the basis of compensation and relevant procedure shall be as prescribed by Act. Clause (4) provisions of clauses (2) and (3) shall not obstruct the state in carrying out land reforms, management and regulation by law in order to increase the production and productivity of land, modernize the agriculture and make it professional, environment protection and managed housing and urban development and clause (5) mentions that in case the state has acquired property of any person for public interest pursuant to clause (3), there shall be no hindrance to use such property for any other public interest, other than the public interest for which it has been acquired.

Part 3, **Fundamental Rights, Article 40, rights of** *Dalits*, clause (5) mentions that the State shall once provide land to the landless *Dalits* in accordance with law and clause (6) mentions that the State shall, in accordance with law, arrange settlement for *Dalits* who do not have housing.

Constitution's Part 3, **Fundamental Rights, Article 31 Rights of Religious** clause (2) mentions that every religious denomination shall have the right to operate and protect its religious sites and religious

Guthi (trusts). Provided that nothing shall be deemed to prevent the regulation, by making law, of the operation and protection of religious sites and religious trusts and management of trust properties and lands. Constitution's Article 290. (A) provisions relating to Guthi (trusts) clause (1) mentions that the Federal Parliament shall make necessary laws in relation to the rights of the trust and the farmers enjoying possessory rights over trust lands in a manner not to be prejudicial to the basic norms of the trusts, and clause (2) mentions that other matters relating to trusts shall be as provided by the federal law.

The Constitution's part 4, Directive Principles, Policies and Obligations of the State and article 51. (e) para mentions. Policies related to agriculture and land reform has set the following objectives for land reform; clause (1) to make scientific land reforms having regard to the interests of the farmers, while ending the dual ownership existing in the lands, clause (2) to enhance product and productivity by carrying out land pooling, while discouraging inactive land ownership, clause (3) to make land management and commercialization, industrialization, diversification and modernization of agriculture, by pursuing land-use policies to enhance agriculture product and productivity, while protecting and promoting the rights and interests of the farmers, clause (4) to make proper use of lands, while regulating and managing lands on the basis of, inter alia, productivity, nature of lands and ecological balance, clause (5) to provide for the farmers' access to agricultural inputs, agro products at fair price and market.

Firstly, the new Constitution does not explicitly commit to provision of land for genuine peasant or landless farmers especially to those who have been tilling the land for generations but do not own the land. Although it does mention that the provision of security to farmers in order to enhance land productivity; however does not state these as obligatory function of the State. The security of farmers' rights is not directly related to land distribution for peasant farmers or landless farmers. Due to lack of security of tenure, many farmers may not be interested in farming any longer.

Secondly, it has set objective for commercialization, industrialization and modernization of agriculture, which is more favorable for those who have land or resource for investment but does not support tenants, sharecroppers or smallholders and marginalized farmers.

The main challenge of this objective is how to make this provision beneficial for marginalized farmers especially tenants, sharecroppers and smallholders. As per the National Living Standard Survey around 53% are smallholders; however directive principles and objectives from the Constitution do not specifically mention the rights of tenants, sharecroppers and smallholder farmers.

2.1.2 Amendments in 1964 Land Reform Act and Land Use Policy

The Government of Nepal endorsed the 1st amendment of the Land Use Policy and parliament approved the sixth amended version of the 1964 Land Reform Act in 2015 and its procedures which excluded unregistered tenant (those who had been tilling land for generations) were approved by the Minister of Council in 2016. Nevertheless, these amended acts did open applications of tenancy rights for a period of one year and committed to finalizing pending cases within another year. However, the Ministry of Land Reform and Management has not yet developed programmes to distribute land to tenant families within stipulated time frame. One of the main shortcomings of the government of Nepal especially in relation to land related policies and programmes is that they are formulated however rarely implemented due to the budget.

2.1.3 National Budget

Budgets for the Ministry of Land Reform and Management

Land reform is a colossal task, which has been a vexed question for the over last 50 years. Till date, the Ministry of Land Reform and Management has been receiving lowest budget (less than 1%) as compared to other Ministries. Only 0.59% of the gross national budget is allocated to the Ministry of Land Reform and Management for the year of 2016/17. Share of total budget in 2015/16 was 0.69% and 0.55% in 2014/15. Although the budget increased by 26.78% in 2016/17 there is no new policy and programmes within the Ministry of Land Reform and Management. Most of this allocated budget

for this Ministry is spent on administration, meeting and workshops. The increment in percentage of budget is 9.11% in 2014/2015, 19.85% in 2015/16 and 26.78% in 2016/17 in total budget for details see in Table 2. The total budget of 2014/15 was NPR 3,412,418,000, 2015/2016 is NPR 4,257,681,000 and 2016/17 is NPR 5,815,100,000.

Table 2: Ministry of Land Reform and Management budget from 2003/04 until 2016/17

S.N.	Fiscal	Budget Allo	cation (NPR	(000)	Source		
	Year	Recurrent	Capital	Total	GoN	%	Foreign Aid
1	2003/04	558152	74318	632470	632470	-	0
2	2004/05	662582	74292	736874	736874	-	0
3	2005/06	699690	102707	802397	802397	-	0
4	2006/07	724277	71429	795706	795706	-	0
5	2007/08	810721	162330	978051	978051	-	0
6	2008/09	958962	306435	1275397	1275397	-	0
7	2009/10	1234564	255910	1490474	1490474	-	0
8	2010/11	1418574	409252	1827826	1827826	-	0
9	2011/12	1476947	506705	1983652	1983652	-	0
10	2012/13	1475144	480112	1955256	1955256	-0.01%	0
11	2013/14	2557268	547325	3104593	3104593	37%	0
12	2014/15	2,763,359	649,059	3412418	3412418	9.11%	0
13	2015/16	3,200,819	1,056,862	4,257,681	4,257,681	19.85%	0
14	2016/17	4716053	1099047	5815100	5815100	26.78%	0

Source: Ministry of Finance, Government of Nepal, Budget speech book 2014-2016

Though other Ministries from the Government of Nepal have been receiving large amount of the budget and also long-term foreign support and projects, still Ministry of Land Reform and Management has not received any long-term foreign financial support for the land reform and access to land. However, Ministry of Land Reform and Management has been launching a number of land related projects which are not included within the government budget such as *Haliya*, *Kamaiya* rehabilitation, land use, digitalization of maps etc. Ministry of Land Reform and Management is generating more than NPR 10 millions yearly inspite of only receiving around NPR 4-6 billions of budget.

Financial Bill 2072 BS (2015/16 AD) and Access to Land for Women

According to the Financial Bill 2072 BS, the following provisions were included to promote women's ownership to land and property:

- The Government is promoting joint registration of land rights in the names of husband and wife. This co-ownership (joint) certificate can be obtained with a minimum registration fee of NPR 100 (less than USD 1). An individual ownership which was previously registered either in the name of wife or husband can also be transferred into joint ownership registration for a minimum fee of NPR 100.
- Senior citizens, both men and women above 70 years can register land in their name and receive 25 per cent tax exemption during land registration.
- A single woman more specifically a woman with a deceased husband receives 35 percent tax exemption during land registration.
- When transferring land within three generations of daughter or granddaughter, 50 per cent tax is exempted during land registration
- Dependent family member such as a husband, wife, son, daughter, father or mother of martyrs who have lost their lives during People's Movement I, II and Madhesi Movement need not to pay any tax for land registration.
- Disabled people, *Dalits*, or highly marginalized people receive 25 per cent tax exemption during land registration provided they have a supporting letter from their local councils such as Village Development Committee (VDC) or Municipality or possess an official identity card.
- Landless, freed *Haliya* and freed *Kamaiya*¹ need not pay any tax, service fee, prevention/restriction (Rokka- the action of restricting

20

A system of agricultural bonded labour prevalent largely in the Mid and Far Western Terai districts. As part of the practice, thousands of Nepalese people, particularly those belonging to Tharu community served their masters as bonded labourers in order to pay back the loans that their ancestors had taken many years ago. Moreover, they neither got remuneration for their work nor did they get time to work outside to earn and pay back the loan. The system was abolished in Nepal by an Act of the Parliament in 2000.

- them from selling or transferring of property) fee while buying land through bank loans.
- Depending on the geographical region, women in Nepal receive 25 to 50 percent tax exemption in land registration. However, if the woman receiving this provision decides to sell her property within three years, she needs to pay back the full amount (including the tax that was exempted) to the government.

Despite these progressive provisions to promote women's entitlements to land and property, there is lack of systematic and comprehensive outreach by the government, which means that beneficiaries are not fully aware of these provisions included in the Financial Bill. (Sharma, Basnet, Agrawal 2016)

Agriculture Budget and Food Sufficiency

The Ministry of Agriculture is the second highest budget-receiving ministry within the government of Nepal inspite of decrease in agricultural production and increase in yearly imports. The following Table 3 illustrates details of paddy production and rice imports including agriculture budget.

Table 3: Budget for Ministry of Agriculture and the production of rice

Fiscal Year	Agriculture budget (NPR)	Rice Imported (NPR)	% of increased imports of rice	Rice Produced in Nepal (Metmetric tons)
2015/2016 (2072/73)	21515484000	29430000000	15%	4300000 met.
2014/2015 (2071/72)	23280000000	25240000000	22%	4788612 met.
2013/2014 (2070/71)	21400000000	1693000000	21%	5047047 met.
2012/2013 (2069/70)	11790000000	1340000000	15%	4504503 met.
2011/2012 (2068/69)	12430000000	11560000000	-	5072243 met.

Source: Rajesh Brama, High % of Rice Import, Annapurna Post, Economic Page A, September 9, 2015. Agriculture Development Ministry, Trade and Export Promotion Centre 2015 & 2016 & Ekantipur October 19, 2016.

The above Table 3 shows that within 5 years the import of rice from India has increased by 61% whereas the production of rice has decreased by approximately 700,000 metric tons. This clearly indicates the impact of commodification of land in Nepal. Until 1980s, Nepal was a food sufficient country and even exporting to India but within last 30 years, Nepal has been importing nearly NPR 29,430,000,000/- worth of rice yearly and is dependent on other imports from India. Although there is an increase in agricultural budget every year, in the last three years one of the main reasons for a decrease in production of rice by 700,000 metric tons is land plotting and urbanization.

The following Table 4 illustrates growth rates in land and agricultural sectors. The growth rate determines food sufficiency and dependency of any country. For the year 2015/16, the agricultural growth rate of Nepal was 1.3.

Table 4: Annual growth rate for the agriculture sector

Annual growth rate for the agriculture sector					
1.3					
1.9					
2.9					
4.6					
4.5					
2.0					
3.0					
5.8					
1.0					
1.8					

Source: Kathmandu post, Money page1, Annual agriculture sector growth rate. Money (Wednesday, April 6, 2016 page 1), Bhairab Raj Kainee, Lost Decade, Republica Daily, Page 7, 19 December 2016

The above Table 4 shows that the growth of agriculture is significantly decreasing from 4.6% in 2011/12 to only 1.3 in 2015/16. The above table also directs towards a decrease in food production. The following Table 5 substantiates this decrease in food production (mainly cereal crops).

Table 5: Production of main cereal crops

Crops	2013-14 (in metric tons)	2014-15 (in metric tons)	Change %	2015-16 (in metric tons)	Change %
Paddy	5.04 million	4.78 millions	-5.1	4.29 million	-10.25
Maize	2.28 million	2.14 millions	-7.0	2.3 million	-7.47
Wheat	1.88 million	1.97 millions	4.9	1.73 million	-12.18
Millet	304105	308488	1.4	302397	-1.97
Barley	34824	37334	7.3	32806	-12.12
Buckwheat	10335	10870	5.2	11640	7.08
Total	9.56 million	9.26 million	-3.1	8.66 million	-9.35

Source: Cereal Production expected to drop 3 percentage this Fiscal, Kathmandu Post June 03, 2015, Money Page 5 & Sangam Prasai- Cereal Crop Output Down for Second Straight Year, Money page A, Kathmandu Post Daily, June 24, 2016

The above Table 5 clearly indicates a decrease in production of most cereal crops except buckwheat. The production of primary cereals such as rice has decreased by 10.25%; maize has decreased by 7.47% and wheat has decreased by 12.18%. There has been an average decrease of 3% in total food production in Nepal since 2013/14 till date from 9.56 million tons to only 8.66 million tons.

The total budget (amount in NPR) for food imports for Nepal in 2016 is illustrated in the following Table 6.

Table 6: Import of agricultural production (2015/16)

Year	Production	Amount in NPR
2072/73	Food	39702000000
(2015/16)	Oil/Ghee	32496800000
	Fruits/nuts	18776000000
	Animal food	14710000000
	Vegetables	13065500000
	Dairy product	12762000000
	Tea, Coffee and Spices	6959500000
	Sugar	4870000000
	Tobacco	3093000000

Source: Kantipur, July 26, 2016 (Shrawan 11, 2073)

2.1.4 Land Productivity

In South Asia, the productivity of Nepal (5th out of 7 countries) is less than of India, Bhutan, Sri Lanka and Bangladesh.

Table 7: Productivity of developing countries (FAO 2015)

Country	Tons Per Hectares
Nepal	3.17
Afghanistan	2.49
Pakistan	2.43
Bangladesh	4.37
Sri Lanka	3.88
Bhutan	3.69
India	3.62

Source: Sangam Prasain, Kathmandu Post June 19, 2015 Money Page 1

2.1.5 Land Owners and Plots

Table 8 below shows that around 369,321 landowners and 550,447 plots have increased in 2015/2016.

Table 8: Land owners and number of plots

Year		Land Owners			Plot numb	ers			
		Total Numbers	Addi- tional	Dis- missed	Total	Total Numbers	Addi- tional	Dis- missed	Total
2012/	13	8401319	472757	162542	8711534	51552672	595371	206630	51941413
2013/	14	9743944	726249	258317	10211876	28125603	1052501	315910	28862194
2014/	15	9157252	561453	254559	9464146	29336619	741951	211181	29867389
2015/	16	10386680	581032	211711	10756001	41076300	818276	267829	41626747

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

2.1.6 Land Plotting

Table 9 below shows that 298128 hectares of land within 16 districts in western region are plotted in government records. This includes three districts within the Terai, two within the Mountainous and 11 districts within the Hill regions. In total with reference to land approximately 1.5 million hectares have been plotted, depeasantizing tenants, sharecroppers and smallholders.

Table 9: Land plotting in the Western Region

Annual year	Area in hectare	Production in metric tons
2012/13	3,16,032	10,90,014
2013/14	3,16,006	11,76,035
2014/15	3,11,147	11,49,374
2015/16	2,98,195	9,50,320

Source: Nagarik Daily, June 29, 2016

Similarly, Table 10 below shows land plotting in different places and its affects with cases.

Table 10: Land plotting in various districts (2015/16)

S.N.	District	Address	Area of land abandon- ment (in hectare)	By Whom	Reason for land plotting
1	Bajura	Sappata-9 Muktikot	80	Land Plotters	For the development of market
2	Dang	Ghorahi-3	6.77	Maoist	This area of land was brought by Maoist in 50,000 NPR for each kattha in the name of dead people during the armed conflict. And started to plot. 2

Nagarik 11, Jeth 2073

3	Sunsari	Balaha-10	1.35	Land abandonment	56 years old farmer named Purna Mandal is being estrange from agriculture sector. Due to lack of irrigation, agricultural laborer, expensive fertilizer and lacking of proper market for the agricultural product. 3
4.	Morang	Morang	11793	Land abandonment	Lack of agricultural laborer, low price value of agricultural product and brain-drain are some reason of land abandoning in this district. ⁴
5	Jhapa	Birtamode	33.86	Land plotting	During armed conflict in Nepal people started to migrate to Terai from hilly(Maoist affected area) and this is the reason of land plotting. ⁵
6	Kanchanpur	Mahen- dranagar	14000	Land plotting	Population growth, migration from hilly region to terai region, land encroached by squatters, land transaction and so on, these are some reason for loss of agricultural land in this district. 6

Source: Compile of DLRF and media reports for the CSO land reform Monitoring 2016.

2.1.7 Government Approval for Over Land Ceiling

Although one hand the government and other political parties have been advocating that there is no land for distribution yet on the other hand they have also been giving approvals to various companies for utilization of land over the land ceiling limit. In 2014/15, government of Nepal provided an approval of utilization of over land ceiling land for the following companies listed in Table 11. The table shows that 7 national companies have received approval to use or keep land ceiling over the limit. Moreover, the table also details out the amount of land received and its purpose.

³ Kantipur, June 17, 2073

⁴ Kantipur, June 17, 2073

⁵ Kantipur, July 8, 2016 (Page 16)

⁶ Kantipur, June 13, 2016 (page 15)

Table 11: List of companies allocated land over the land ceiling limit (2014/15)

S.N.	J.T. No.	Organizations	Date approved	Description of deci	sion						
	(Regis- tration no.)	(consensus for purchase)	from Nepal government (from ministry level)	Duration for purchase	Amount of land						
1	2475	Himal International P.L.	4/30/2071 (15/08/2014)	Within a year	13.54 ha						
2	2477	Eastern Star agriculture	6/1/2071 (17/09/2014)	Within six months	20.32 ha						
3	2479	Green Venchar P.L.	6/8/2071 (24/09/2014)	Within a year	25.95 ha						
4	2480	Upper Sholu hydro P.L.	7/4/2071 (21/10/2014)	Within a year	265.87 ha						
5	2491	Saptakoshi Agricultural Research and Development P.L.	8/18/2071 (4/12/2014)	Within a year	67.73 ha						
6	2524	Varati Agricultural farm	12/12/2071 (26/03/2015)	Within a year	33.86 ha						
7	2508 Lower Sholu hydro P.L.		12/27/2071 (10/04/2015)	Within a year	45 ha						
Tota	Total Hectares										

Source: Land Administration Section, Ministry of Land Reform and Management (2015), Progress report of Land Administration Department (Annual year 2071/72-2014/2015) Singha Durbar, Kathmandu Nepal

2.1.8 Commercial Banks' Investment on Land

From 2014 until 2016 the investment of commercial banks on land nearly doubled from NPR 28,602,165/- to NPR 40,397,558/- as also illustrated in Table 12 below.

Table 12: List of banks total investment in land and housing (in thousands)

S.N	Name of Bank	2071 Chaitra (2015)	2072 Chaitra (2016)
1.	Nabil Bank Limited	2289829	2099292
2.	Sanima Bank Limited	979235	2100244
3.	Citizen Bank Limited	1970000	1986592
4.	Global IME Bank Limited	1435640	1662260
5.	Bank of Kathmandu (BOK)	425281	354497
6.	NCC	560283	269513
7.	Lumbini Bank Limited	735702	1572460
8.	Nepal SBI	1607761	2020726
9.	Laxmi Bank Limited	59220	32661
10.	Standard Chartered Bank	1063885	1109671
11.	Janata Bank Limited	601632	608891
12.	Nepal Investment Bank Limited	2126661	2065812
13.	Siddhartha Bank Limited	1794170	2787401
14.	Prabhu Bank Limited	865442	2187844
15.	NIC Asia	1521801	1211109
16.	Everest Bank Limited	33504	35463
17.	Sunrise Bank Limited	521387	691536
18.	NMB	590177	1972612
19.	Kumari Bank Limited	1114062	1042477
20.	NB	360830	2137200
21.	Himalaya Bank Limited	1709406	1930400
22.	Prime Bank Limited	2189071	2861348
23.	Civil Bank Limited	921691	822336
24.	Mega Bank Limited	275041	1334597
25.	Century Bank Limited	428979	648222
26.	Machhapuchchhre Bank Limited	989485	1201790
27.	Krishi Bikash Bank	-	-
28.	Nepal Bank Limited	905887	1596478
29.	Rastriya Banijya Bank Limited	526103	2054126
	Total	28,602,165	40,397,558

Source: Online Khabar, 4th July 2016 by Pushpa Dulal

Table 12 above shows that investment of commercial bank is increasing the real estate and housing loan. From NPR 47384.60 million in 2011/2012, it has increased to NPR 127877.73 million in 2016. Due to availability of real estate and housing loan most agricultural land is being used for non-agriculture purposes and there is also an increase in fallow land. As a result of this commercial pressure on land, the control over agriculture land is increasing. Due to the financial capitalism, everything is being privatized. The value of land while being registered at the land revenue office would be one hundred thousand whereas the value of the same land will increase to 1 million in the bank. So land is only profitable to the rich landlord and land plotters.

Table 13: Commercial banks investment in real estate and housing 2016

Loan overview wi	Loan overview within three areas (In Ten Lakhs)											
Date	Real estate (NPR)	Housing loan (NPR)	Margin landing (NPR)									
2068/69 (2011/12)	94,266.60	47384.60	10526.60									
2069/70 (2012/13)	88612.92	59246.43	11148.6									
2070/71 (2013/14)	82387.38	79135.81	14980.11									
2071/72 (2014/15)	83572.65	109663.08	21489.91									
2072/73 (2015/16)	97499.96	127866.73	32708.49									

Source: Ashish Gyawali, Unproductive areas centered Investment Annapurna post, Business (April 29, 2016 Friday) page 1

Dr. Prem Dangal, Development of Mansantro in Nepal, an interaction programme orgnised by FACT Nepal on 8th Feb 2014 at hotel pacific, Jamal Kathmandu

2.1.9 Land Revenue Generation

The total land revenue increased from NPR 8379212671/- to NPR 12145231000/- (31%) in the last fiscal years 2014/15 and to NPR 1413669000 (15%) in this fiscal year 2015/16. The percentage of revenue has been increasing since 2012/13. The table 14 below shows details of this increase in each fiscal year and corresponding percentages.

Table 14: Land revenue generated by the Ministry of Land Reform and Management

S.N.	Fiscal years	Total Land Revenue in NPR	Increase in percentage (%)
1	2008/2009	3952237859	-
2	2009/2010	7049227607	56%
3	2010/2011	7030412780	-0.26%
4	2011/2012	4716402712	-32.91%
5	2012/2013	7150894382	35 %
6	2013/2014	8379212671	15%
7	2014/2015	12145231000	31%
8	2015/2016	14136690000	15%

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal & : Kantipur, Artha Banijya (Nepal Rastra Bank) Monday, Dec 19, 2016 (4 Poush, 2073)

Details of Land Revenue Collection by Districts

The following Table 15 shows that the 10 highest progress making districts or land revenue offices for the generations of land revenue. As per the table, Kaski is the highest followed by Surkhet as the highest second progressing districts of land revenue generation. Table 15 below shows details of progress in percentage and amount.

Table 15: Top ten districts for progress in land revenue generation (2015/16)

S.N.	District/Place	Progress %	Grand Total (NPR)
1.	Kaski	226	1009559508
2.	Surkhet	251	140760667
3.	Rupendehi/Butwal	241	485144551
4.	Chitawan	213	1048920249
5.	Kawasoti	199	270200091
6.	Sunsari	197	410167928
7.	Tanahu	196	175748500
8.	Morang, Belbari	175	235286204
9.	Morang Biratnagar	174	334696071
10.	Makwanpur	170	356523370

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

Table 16 below shows the lowest 10 progress making districts or offices of land revenue generation Offices or districts. As per the table, Gotikhel in Lalitpur and Myagdi are the lowest progress making office which only made 3%. Details of lowest progress making percentage and amount are shown in Table 16 below.

Table 16: Ten lowest revenue generating districts/offices (2015/16)

S.N.	District/Place	Progress %	Grand Total (NPR)
1.	Lalitpur, Gotikhel	3	374493
2.	Myagdi	3	531197
3.	Solukhumbu	15	1400899
4.	Surkhet, Mehalkuna	23	8885491
5.	Achham	28	2414023
6.	Mustang	30	1468000
7.	Saptari, Kanchanpur	31	16109398

8.	Bara, Kalaiya	34	51351031
9.	Manang	34	948846
10.	Baitadi	36	5341335

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

The following Table 17 compares highest on amount and lowest revenue generating districts over the fiscal years from 2013/14 till 2015/16.

Table 17: Comparison of highest land revenue generating districts/offices

District/	2013/14		2014/15		2015/16		
place	Revenue	%	Revenue	%	District/place	Revenue	%
Kathmandu	1258144860	15.02	1687489954	14.35	Lalitpur	1473333354	10
Chabahil	725646156	8.66	1233393688	10.60	Dillibazar (KTM)	1385708765	10
Lalitpur	658165948	7.85	914557501	7.79	Kalanki	1202445723	9
Kalanki	504565120	6.02	889919746	8.17	Chitawan	1048920249	8
Kaski	490608907	5.86	818876663	6.82	Kaski	1009559508	8
Bhaktapur	410294393	4.90	542720880	4.95	Bhairahawa	561762922	4
Rupendehi	369689999	4.41	663973333	5.33	Manmaiju (KTM)	485357724	4
Chitawan	325598446	3.89	516912933	4.12	Butwal	485144551	4
Sunsari	286724747	3.42	401965000	3.23	Sunsari	410167428	3
Morang	256203544	3.06	-	-	Makwanpur	356523370	3
Banke	-	-	205371709	1.67			
Total	5285642120	6.0	7875181407	6.0		8418923594	6.0

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

Table 18 shows that the lowest land revenue generations districts and offices which shows Gotikhel, Lalitpur and then Myagdi.

Table 18: Comparison of lowest land revenue generating districts/offices

District/	2013/14		2014/15			2015/16		
place	Revenue	%	District/ place	Revenue	%	District/ place	Revenue	%
Manag	522745	0.01	Bajhang	6399471	0.06	Gotikhel (Lalitpur)	374493	0.002
Dolpa	1262297	0.02	Khotang	9725256	0.08	Myagdi	531197	0.004
Bajura	1440030	0.02	Okhald- hunga	11135496	0.09	Manang	948846	0.006
Kalikot	1623368	0.02	Taple- jung	13912132	0.11	Humla	1175929	0.008
Humla	1823028	0.02	Solu- khumbu	12971204	0.11	Dolpa	1372201	0.009
Mugu	2667313	0.03	Salyan	15487737	0.14	Solu- khumbu	1400899	0.009
Achham	2806790	0.03	Jumla	15544878	0.08	Mustang	1468000	0.01
Jajarkot	3841009	0.05	Sankhu- wasabha	15680250	0.12	Mugu	2105650	0.014
Bajhang	3874961	0.05	Argha- khanchi	16307096	0.13	Bajura	2326423	0.016
Rasuwa	5134670	0.06	Rolpa	16502082	0.15	Achham	2414023	0.017
Total	24996211	0.03		133665602	0.07		14117661	0.009

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

Land Registration Tax Discount

Table 19 shows that NPR 918734600/- has been discounted for women, Dalits, martyrs and disabled including other marginalized groups. This discount has largely benefitted women living in urban as compared to rural areas. In 2015/16, urban women benefited NPR 786199760 and rural women only benefited NPR 119454254. The following Table 19 shows that more than 91% urban women benefited as compared to rural ones. The table also shows that urban *Dalits* benefited more than rural Dalits.

Table 19: Discounts in land registration from 2014 until 2016

Year		2013/14	2014/15	2015/16	Total (NPR)
Women	Urban	422599093	671095413	786199760	1879894266
	Rural	325662256	302959662	119454254	748076172
Dalits	Urban	11454309	18478307	5234144	35166760
	Rural	5222041	15503356	2381888	23107285
Martyr	Urban	11172	18500	0	29672
Family	Rural	24500	1500	24500	50500
Disabled	Urban	8205	210588	279305	498098
	Rural	4205	502213	95410	601828
Others	Urban	2206	1137036	2985808	4125050
	Rural	561415	3439354	2079531	6080300
Total		765549271	1013345929	918734600	1932080529

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

2.2 Land Related Conflicts

2.2.1 Court Cases on Land

Table 20 below shows land related court cases from 2013 to 2015. As per the table 20, in an average more than 27% of cases go to the court mostly in districts within the Terai region. In the case of Nepal, legal process is expensive and if the case goes to court it is beyond the financial capacities of landless, poor, marginalized people hence they are compelled to give in to the demands of the rich landlords.

Table 20: Summary of land related court cases

Fiscal Year	Court Case	Supreme court		Appellate court		District court		All courts		
	Subje	Subject	No. of Cases	%	No. of Cases	%	No. of Cases	%	No. of Cases	%
2012	2/2013	Land	4694	29.92	9465	34.72	26157	25.78	40316	27.92
2013	2013/2014	Land	5840	28.69	9564	32.98	17506	25.15	42910	27.04

2014/2015	Land	6398	27.97	10468	29.53	24725	21.81	41591	24.22
Total	Land	16932	28.86	29497	32.41	68388	24.24	124817	26.39

Source: Supreme Court Annual Progress reports, 2012/2013. 2013/2014, 2014/2015, Kathmandu Nepal

In addition to these figures there are still higher numbers of cases within district, appellate and supreme courts. This numbers do not cover family related case like division of land property and family property claiming. As per the Supreme Court Annual Report 2012/2013, 2013/2014 and 2014/2015 only 26.39% land related cases go to court.

2.2.2 Land Cases at the Land Revenue Offices

The table 21 shows that within three years, there were 385978 land related cases registered at the various land revenue offices. More than 50,000 cases registered at the Land Revenue Offices and more than 50,000 in courts. In total more than two hundred thousand land cases were registered in courts, land registration and land reform offices.

Table 21: Land related cases at the Land Revenue Offices

Years	Land Reg- istration (Jagga Darta)	Land Transfer (Nam- sari)	Amend- ment Sam- shodhan	Annulment (Kharej)	Pre-emp- tion (Hakasa- phi)	Total
2012/2013	13709	7351	1805	15193	468	38526
2013/2014	21706	55825	1992	42834	1288	123645
2014/2015	16688	54728	24497	44460	941	141314
2015/2016	1331	48101	20626	12279	156	82493
Total	53434	166005	48920	114766	2853	385978

Source: Department of Land Reform and Management (2014, 2015, 2016). Record of landowners, numbers of plots, record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

2.2.3 Land Distrained

The table 22 shows that the total amount (NPR) of land distrained which is increasing year by year and the total amount in 2015/2016 was NPR 172906073/-.

Table 22: Land Distrained (Rokka) from 2014 until 2016

Year	Land Distrained (in NPR).
2013/2014	39,021,624/-
2014/2015	167,517,383/-
2015/2016	172,906,073/-
Total	1,935,545,080/-

Source: Department of Land Reform and Management (2014, 20815, 2016). Record of landowners, numbers of plots,

record of land revenue, land cases etc. Planning Section, Ministry of Land Reform, Government of Nepal

2.2.4 Identified Haliyas

Table 23 shows total ratified and receiving numbers of identity cards for *Haliyas*. As per the table the highest numbers of *Haliyas receiving these facilities are* in Dedelhura 1442 followed by Kanchapur 1338 and Baitadi 1185. Although government has ratified and provided identity cards to *Haliyas* they have failed to further rehabilitate them.

Table 23: Details of identified and ratified freed *Haliyas* (district wise)

S.N.	District	No of identified and ratified till date	No of dis	tributed id			
			A level	B level	C level	D level	Total
1	Darchula	428	61	94	29	244	428
2	Baitadi	1438	58	212	3	912	1185
3	Dadeldhura	1512	261	517	65	599	1442
4	Kanchanpur	1338	194	551	38	555	1338

5	Bajhang	1873	27	58	9	443	537
6	Bajura	1429	91	129	75	253	548
7	Doti	1011	178	572	20	241	1011
8	Achham	156	18	28	8	102	156
9	Kailali	163	40	91	0	32	163
10	Humla	967	4	2	0	301	307
11	Jajarkot	165	45	5	7	69	126
12	Surkhet	142	15	38	10	66	129
	Total	10622	992	2297	264	3817	7370

Source: Introduction and annual progress report of ministry of land reform and management and their branches 2070/71 (page 45) and Annual Progress Report 2071/2072 (2015/2016)

The table 23 shows that the 10622 *Haliyas* from 12 districts of Nepal who was freed in 2008 but still waiting rehabilitation with land.

2.2.5 Land Eviction Cases

Table 24 shows that different companies, institutions and individuals evicted the tenants, sharecroppers and landless people from the tilling and living land without their consensus.

Table 24: Land eviction cases

S.N	District	Location of evicted houses	Total number of houses evicted	Reason for eviction	
1.	Banke	anke Gangapur, Durgamata Community Forest (253), Phateypur VDC, Pokharimata Community Forest (46), Bhalgadiya (83), Ramjanaki (75)		Living in Community Forestry's land ⁸	
	Banke	Ganapur-06, Pharambasti	31	Police evicted the squatters from their home in order to make jail 9	

ekantipur.com, December 16, 2014

Online Khabar, December 24, 2014

2.	Surkhet	Jhupra Khola, Bhangadhi (22), Mainatada (14)	36	Living in Community Forestry's land ¹⁰
3	Dadheldhura	Nangli Gangkhet VDC, Panihalney, Netakhang (73) Kaubani, Chure, Mahabharat (48)	121	Living in Community Forestry's land 11
4.	Doti	Laxmi Nagar VDC (12)	12	Living in Community Forestry's land 12
5.	Baitadi	Mahakali, Pancheshor VDC (36)	36	Living in Community Forestry's land 13
6.	Sunsari	Chandbela VDC-Ward	20	Living on public land and needed for expansion of road 14
		Total	713	

Source: Different media reports compile for the CSO land Reform Monitoring Report 2016.

Table 24 shows that 713 households destroyed by the government and evicted the landless and marginalized people from the generation living places in the name of encroaching forest land or community forest.

¹⁰ Annapurna Post March 3, 2015

¹¹ Gorkhapatra Dainik, December 25, 2014

¹² Nagarik, December 1, 2014

¹³ Nagarik, December 1, 2014

¹⁴ Filed visit report of Jagat Basnet from 27-29 May 2016

Case Studies

Case 1: Eviction from tenancy rights

Location: Morang District



Key informant 'D' is 45 years old and lives in Ailanpur-11 Koshi Haraicha, Morang district. His household comprises of four family members. His daughter is married and his son works abroad (in one of the Gulf countries). He is a tenant farmer who owns only 4 Kattha of

the total 15 Katthas of land he has been tilling as sharecropping for the last 40 years.

On July 13, 2016, a group of hooligans (there were 30 to 40 members) came with tractor, bamboo sticks/weapons and destroyed our paddy sapling prepared for planting. We went to the police administration Belbari to file a case against this action. However, we were unable to file a case as the police officials claimed that we had no proof of this action and that we should have defended ourselves.

As the police administration did not support us in this case, we went to CDO office to tell them about this issue. The CDO office sent a letter addressing this issue to the Department of Peace and Security, but nothing was done in favor of our justice. They have not provided any kind of compensation till date. They destroyed the paddy sapling in 7 bigaha (4.74 ha) of land. We have also heard that they would not let us produce foods in this land any longer.

Case 2: Eviction from land

Location: Saptari District

Key informant 'D' who is 30 years old has been living in Shambhunath-8 Devdhar Tole, Saptari for many years. She does not have anything in the name of land. She and her family have to depend on daily wages of labor work to sustain our life. Her husband works in Punjab, India as a daily wages laborer. She has two sons and one daughter whom she sends to school with her income.

Our community had planned for reconstruction of transmitter for electricity, for which we have collected approximately NPR 4000-5000/-. This was one of the main reasons that the local people have created problems for us as they did not want us to manufacture our own transmitters and they brought police to demolish our houses. When the police came and they started destroying our houses inspite of us trying to convince them not to. We repeatedly told them that we were squatters and had not alternative place to stay other than this settlement. We also acted as physical shields against this police action and many of us including myself got injured during this. About 20 to 25 people were injured while defending our settlement against the police. After the encounter, the police published a public notice to demolish each and every house within eight days of the notice. The 17 households within our settlement feel mentally as well as physically threatened by the actions of the local landlords and police.

Case 3: Harassment and threatening from landlords

Location: Siraha

Dalit squatters of Padariya tole, Siraha, who had been residing in the area for decades, went to the local police asking for supporting them from physical threats from the landowners. As the government of Nepal has implemented a policy which has constructed cemented house for 15 Musahar families, the landowners feel threatened and as a result physically and mentally torture these Dalit squatters. These squatters are Haruwa laborer of the landowners who have been

residing on government land located, behind of the registered land of landowners. According to the *Dalit* activist Ram Narayan Sada, after the implementation of the above mention policy for *Musahar* families, the landowners have been frequently threatening and harassing these squatter families to move out.

Key informant 'D' from the settlement further explains that, one morning, local landowners came and started beating her arbitrarily and regularly asked them move away from place. She had bought concrete construction materials such as bricks, stones about six months ago in order to build her house but due to continuous threats by landowners she has not been able to build her house.

Case 4: Eviction from living and tilling land

Location: Sagarnath Forest

Sagarnath Forest Development Project is a project established from the grant provided by the Swiss Government and implemented by the government of Nepal. This project has been replacing old natural forest with plants that grows faster in less time and give high productivity such as Masala, Khayer, Tika, Sisau etc. This project covers 33553 hectares of productive land in Mahottari, and Sarlahi. In order to conserve a forestation program, 4000 squatters were involved in fulfilling the registration procedures. Sagarnath Forest Development Project assured the local squatters that by conserving the forest they will get 25% benefits but the local residents demanded for 40% of total benefit and this issue was later resolve by convincing them stating that 25% benefit was declared by the state so the demanded 40% benefit will be given after discussing with the stakeholders.

Beside the assurance given to the local squatters that they will benefit 25% for conversing the forest, this demand was not fulfilled. As a result they left conserving process and by 1991/92 forest smuggling increased rapidly. In 2003/04 Sagarnath Forest Development Project initiated Tangiya Farming in order to conserve the forest again. Squatters from different places came together for this Tangiva Farming but staff of Sagarnath Forest and Forest Smugglers join up with each other and completely destroyed the forest and vacated the forestland. As this

cultivated land was vacant, poor squatter families started cultivation from 2005 hoping to support their families for living. Farming for years as government and Sagarnath Forest Development Project didn't interrupted hence the local squatters started cultivating freely. Seeing this opportunity, flood victims, Chure victim poor squatters from other districts also came there for farming in the forest and later started building temporary houses for living in the area. But in 2012 in the name of Forest Encroachment Strategy, in Gole Tole, Ward No: 9 approximately 84 houses of poor bonded labourers were burnt without any prior notices and the terror continues for people living in Sagarnath forest area.

Due to the movement initiated by the National Land Rights Forum (NLRF), the government of Nepal and various political parties came together to make policies and an agreement was made to identify genuine squatters so that they would not be evicted. Sarlahi District Forest, Sagarnath Forest Development Project, political parties along with various stakeholders decided to recognize the real squatters and to manage them. Moreover, recently the Security Committee meeting in Sarlahi also decided that their houses will not be destroyed. Our new constitution ensures safe housing right is for all as well as management of the squatters. Despite these policies, on July 5, 2016 in Dhungrey Khola VDC, Ward no: 8 & 9, where squatters had cultivated 4500 Hectares of land with fully harvested corns were all destroyed by the government. Not only that 50 squatters living under the Sagarnath Forest Development Project vacant land were all beaten up and injured whereas two ('D' Bahadur Sangtan and 'D' Bomjom) were in critical condition. Even tear gas was used by the government for evicting squatters especially affecting pregnant women, new mothers and children. The houses of these squatters were also fully destroyed. This action is a violation of human rights as well as the rights to basic needs such as food and housing...

Summary Table of Land Related Conflicts in 8 Case Study Districts

The table 25 shows that the numbers of people killed; detained and harassed due to land conflicts in 8 case study districts.

Table 25: Summary of people killed, detained and harassed

District	No. of people killed		No. of people detained into custody		No. of people harassed	
	Male	Female	Male	Female	Male	Female
Sunsari	-	-	-	-	21	-
Jhapa	-	-	-	-	2	-
Morang	-	-	-	-	1	2
Mahottari	-	-	5	3	28	20
Bardiya	-	-	4	1	862	968
Banke	-	-	35	6	-	-
Kailali	-	1	5		-	-
Udaypur	-	-	7	1	-	-
Total	0	1	56	11	914	990
	1		67		1904	

Source: DLRF Field Report Compilation 2016

The above reported cases of detention, harassment and eviction of landless peasants, women and smallholders were while they were initiating a process to fight for their land rights. There are a number of cases not included in the above Table 25 but are shown within the indicators of this report. As per the field data from 8 out of the total 75 districts, 67 (11 female and 56 male) people were detained. Similarly, 1904 people were harassed during this 2014/15 and 2015/16, which includes 914 male and 990 females.



Conclusions and Recommendations

3.1 Conclusions

Although the Ministry of Land Reform and Management has amended some of their land related policies and acts in line with issues of social justice; however till date large numbers of land conflicts are reported where marginalized people continue to be evicted, harassed, detained or even killed. Furthermore, even though the government of Nepal has also endorsed UN Convention on Economic, Social and Cultural Rights; however feudal land governance systems are still being followed and land rights is still not considered as a part of human right. Similarly, the ICESCR (International Covenant on Economic, Social and Cultural Rights) Committee has made a numbers of recommendations as part of their concluding remarks in 2014 to the Ministry of Land Reform and Management; however they still fails to address concerns of this Committee.

Due to land fragmentation, land plots and land plotting, land price are increasing year by year. Commercial banks are also investing more than 15% of their total investments on land. Similarly, on the other hand land violation cases at various offices are also on a rise. Land has become a commodity and financial resource rather than a means of production and rights of peasants. Land prices are beyond affordable capacity of the general public. Furthermore, the situation after the recent earthquake has gotten worse as a large numbers of landless, sharecroppers, tenants

people have been deprived from receiving government grant for reconstructing their houses due to lack of land ownership certificates.

Although, the new Constitution has addressed some of the land related issues, however it still does not explicitly address and commit to a land reform process supporting the land-poor people. The Land Use Policy has recently been amended however still Land Use Act has not been formulated and endorsed by the Parliament. Similarly, although the sixth amended of 1964 Land Reform Act has been approved, however, till date more than 0.5 million tenants and sharecroppers are deprived from their land rights of tilling land.

3.2 Proposal for Land Reform Monitoring

Based on critical analysis of primary and secondary data generated from this reveiw, the following recommendations are suggested for various key stakeholders.

3.2.1 Governments

- Ensure land rights as a human rights of marginalized farmers.
- The Ministry of Land Reform and Management should also form an independent land monitoring committee with active participation from CSOs and peasants members to review land reform progresses, land rights violations and prepare independent reports.
- The Ministry of Land Reform and Management should ensure implementation of recommendations made by independent committees.
- The Ministry of Land Reform and Management, Government of Nepal should have wider forms of consultations and partnerships in formulating of policies and prorgammes with various stakeholders in order to maintain transparency and accountability.
- The Ministry of Land Reform and Management should invest all the total revenue generated from various land revenue and land reform offices.

The Ministry of Land Reform and Management should support bottom-up processes of comprehensive land reform from local level (such as VDC or DDC) and should develop comprehensive policy mechanisms for this.

3.2.2 CSOs

- Formation of common platform for all CSOs working on land and agrarian reform issues, particularly development of CSO land monitoring mechanisms.
- Generate evidence-based cases and support the government in policy formulation and implementation processes.
- Coordinate with local and national level stakeholders for formation and implementation of policies and support the process of land reform from below.
- Support the Ministry of Land Reform and local government for the land reform from below and tenure security of marginalized people (land-poor people)

3.2.3 Donors

- Funding support to develop land reform monitoring systems, capacity building of CSOs and further research activities.
- Support for collective efforts such as participatory processes through which marginalized groups gain land ownerships.
- Support processes of land data transparency and accountability.
- Support to CSOs and local government jointly for the land reform from below

3.2.4 Land Rights Movements

- Mobilize its members for an inclusive, bottom-up land reform process (starting at community/VDC/Municipality levels) and put pressure on various political parties and stakeholders to support it.
- This bottom-up land reform process must start from the community members.
- Show the models of land reform from below in collaboration with local government, CSOs and political parties.

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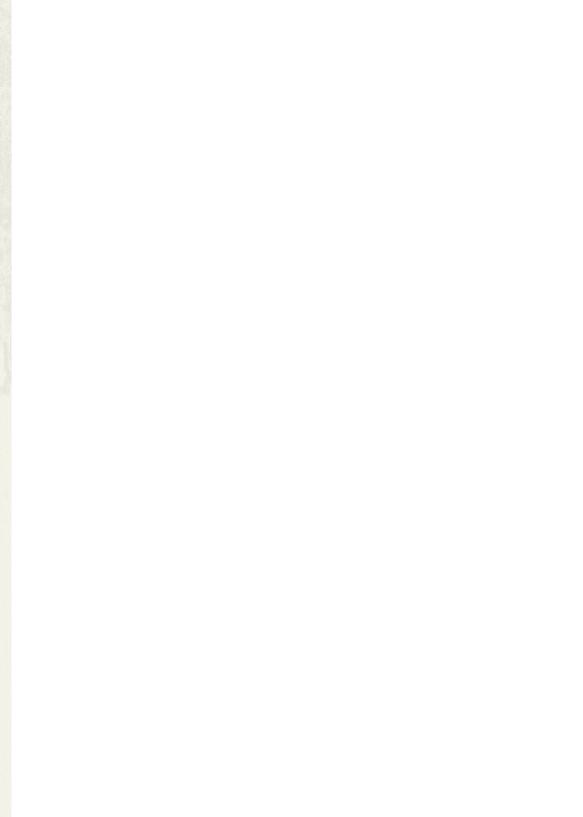
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