Land Related Policies and Laws in Nepal

A DISCUSSION PAPER

Laya Prasad Uprety

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Citation:

Uprety, L. P. 2021. *Land Related Policies and Laws in Nepal: A Discussion Paper*. Kathmandu, Nepal: Community Self-reliance Centre (CSRC), International Land Coalition (ILC) & NES-Nepal

Community Self-reliance Centre (CSRC)
Tokha-10, Dhapasi, Kathmandu Nepal
Tel: (+977) 01-4357005/ 4360486
E-mail: landrights@csrcnepal.org
www.csrcnepal.org

Published by
Community Self-reliance Centre (CSRC)

Graphic design
Bikram Chandra Majumdar

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ACKNOWLEDGEMENTS

Grateful am I to Community Self-reliance Center (CSRC) for professionally entrusting me with the prime responsibility to write a discussion paper on “Land Related Policies and Laws in Nepal”. The paper is an outcome of the review of existing land-related policies and laws in Nepal and related international documents and a two-day long mini-interactive review workshop. It would have been subject to professional amorphousness without the relentless contributions of several people working at CSRC. More specifically, I acknowledge the professional support offered by Dr. Jagat B. Basnet, Advocacy, Research and Policy Analyst of CSRC (who is also the incumbent Executive Director), Mr. Jagat Deuja, Member of the Land Issues Resolving Commission (who is also the former Executive Director of CSRC), Mrs. Kalpana Karki, Campaign Manager, Mr. Dharm Raj Joshi, Coordinator of National Engagement Strategies (NES-Nepal), Mrs. Geeta Pandit, Administration and Finance Coordinator, Mr. Gopal Krishna Basnet, Advocacy Officer, Mr. Kumar Thapa, Program Coordinator, Mr. Sudip Shrestha, Program Officer and Mrs. Sristi Shrestha, Finance and Information Technology Officer. My warmest thanks are rendered to all staff of Jhule Organic Farm that provided the cozy social ambiance for organizing the mini-review workshop with the best accommodation and hospitality. I accept the ownership of any *mea culpa* of this professional discussion paper.

Prof. Laya Prasad Uprety (Ph.D)
The Author
May 25, 2021

FOREWORD

Community Self-reliance Center (CSRC) has the clear understanding that people-centered advocacy vis-a-vis land and agrarian rights is achievable only on the robust and evidence-based professional research works and it follows as a corollary that "research" and "publication" activities have been the indispensable parts of CSRC's institutional strategic directions. The current discussion paper entitled "Land Related Policies and Laws in Nepal: A Discussion Paper" written by Prof. Laya Prasad Uprety is the continuity of the CSRC's institutional effort for publication and dissemination. I thank Prof. Uprety for preparing this discussion paper on behalf of CSRC as a contribution to National Engagement Strategies (NES) under the International Land Coalition (ILC) finanacial sponsorship. I am sanguine that researchers, academicians, advocacy activists and graduate students may be tremendously benefitted from this discussion paper riveted on the land-related policies and laws in Nepal since the early 1950s. I also sincerely thank the staff of CSRC for their professional inputs given in the process of preparation of this discussion paper and ILC and IM Swedish Development Partner Nepal for making the grant available for research and publication of this discussion paper.

Jagat B. Basnet, PhD
Executive Director
CSRC
Dhapasi, Kathmandu
May 25, 2021

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ACRONYMS/ABBREVIATIONS

ADS	=	Agriculture Development Strategy
ADB	=	Asian Development Bank
AFIMCC	=	Agro-forestry Inter-ministerial Co-ordination Committee
APROSC	=	Agricultural Projects Services Center
COVID-19	=	Coronavirus Disease of 2019 (name given by WHO on Feb.11, 2020)
CSRC	=	Community Self-reliance Center
FAO	=	Food and Agriculture Organization
FECOFUN	=	Federation of Community Forestry Users, Nepal
FUG	=	Forest Users' Group
HLLRCs	=	High Level Land Reform Commissions
ICESC	=	International Covenant on Economic, Social and Cultural Rights
IMF	=	International Monetary Fund
MoALD	=	Ministry of Agriculture and Livestock Development
MoFE	=	Ministry of Forest and Environment
MoLRM	=	Ministry of Land Reform and Management
MoAD	=	Ministry of Agricultural Development
MoMCPA	=	Ministry of Land Management, Cooperative and Poverty Alleviation
NARC	=	Nepal Agricultural Research Council
NES	=	National Engagement Strategies
NLRF	=	National Land Rights Forum
NCP	=	Nepal Communist Party
PPTA	=	Project Preparatory Technical Assistance
SDGs	=	Sustainable Development Goals
UN	=	United Nations
WB	=	World Bank
WHO	=	World Health Organization

LAND RELATED POLICIES AND LAWS IN NEPAL: A DISCUSSION PAPER

Laya Prasad Uprety[1]

Abstract

From the political economy perspective, the development of all laws, policies, and strategies appertaining to land, forest, wildlife, and agricultural development in post-1951 Nepal has primarily been influenced by the historically specific "reigning development paradigms" of the world. More specifically, "modernization paradigm" in the 1950s/1960s, "people-centered development framework" in the 1980s, and "market-oriented liberal economic development approach" and "rights-based approach" in the 1990s and 21st century have, in one way or the other, influenced for shaping laws, policies, plans, and strategies with their sociological bearing on the "commodification of land and forest and wildlife ecosystems", "acceleration of capitalist development in Nepali agricultural system", "destruction of the sustainable indigenous agricultural system", "accumulation of capital by economic elites/land speculators/state agencies through the dispossession of peasants", "exodus of young peasants from the weakened agricultural system in the context of penetration of capitalism in the rural hinterland", "landlessness", etc. Growing immiseration of "small-holder peasants" is the function of the negative role of the laws, policies, and strategies related to land, forest, and agricultural development. Under the neo-liberal regime, new agenda on the sectors of land and agriculture is coming every year. Succinctly put, legal provision of "land bank" in the national land policy and land use act and legal preparatory work for the "contract farming" are the latest examples which largely benefit the large-

1 Laya Prasad Uprety is a student of political economy who sereved in the capacity of Professor at the Central Department of Anthropology, Tribhuvan University until his retirement on March 6, 2020. Currently, he works as a free-lance social science researcher in the "peasant and agrarian issues".

scale commercial farmers or owners of the agricultural corporates. Nonetheless, there have been several positive legal and policy provisions too for the benefit of "formal tenants", and "traditional forest users". But on the whole, these legal and regulatory, and strategic policy frameworks have failed to contain the progressive provisions for saving and empowering "small-holder peasants". Contextually, what is ideologically and empirically true is that "the prosperity of Nepal is entirely contingent on the prosperity of small-holder peasants, not on the prosperity of handful of capitalist farmers or owners of agricultural corporates". Therefore, under this neo-liberal regime, the importance of "people-centered advocacy" as practiced by Community Self-reliance Center (CSRC) and its allies for two and half decades has phenomenally grown for influencing the neo-liberal government's legal and regulatory frameworks and strategic policies for the larger benefit of "small-holder peasants", and "landless agricultural laborers".

1.0 PRELIMINARIES

1.1 The Problematic

The Shah and Rana hereditary oligarchies of more than 250 years and more than 100 years, respectively, created a favorable condition for the heyday of feudalism in Nepal under which they succeeded in kick-starting and institutionalizing the extractive political and economic institutions. Contextually, Mcemoglu and Robinson (2013) have argued that extractive political institutions lead to extractive economic institutions, which enrich a few at the expense of many. They further argue that extractive economic institutions create the platform for extractive political institutions to persist. Power is valuable in regimes with extractive political institutions, because power is unchecked and brings economic riches (p.343). Extractive political institutions are extremely exclusionary in nature and economic institutions are inherently exploitative. More specifically, on the one hand, both Shah and Rana oligarchies had survived on the close circle of elites and their henchmen, and on the other hand,

they nurtured exploitative and inequitable land tenure systems such as Birta, Jagir, Rakam, etc. for the furtherance of their exclusionary political interests by immiserizing the generality of the peasantry toiling hard in the nook and cranny of the country.

In 1951, Nepal witnessed a political revolution committed to overthrow the hereditary Rana oligarchy and supplant it with a more liberal democratic dispensation. The democratic dispensation, albeit controlled by a large number of feudal elements even in the so-called democratic party, was indeed apparently committed to eliminating the feudalistic extractive economic institutions. The most notable examples were the legal attempts for the abolition of Birta, and Jagir tenures, and tenancy reforms. However, save the case of the abolition of Jagir in 1952, the issues of Birta and tenancy reforms could not yield the expected outcome. Despite the much-touted land reform under the 1964 Lands Act (which ended in a fiasco), problems of tenancy are still looming large. A large number of legal and regulatory frameworks for the land governance crafted during the Panchayat regime (between 1960 and 1990), liberal democratic era (1990-2006), and republican era (2006-2020) with a neo-liberal economic system ostensibly geared toward democratic socialism have also been replete with a plethora of contradictory provisions on the one hand, and have failed to address the fundamental problems of the "peasants" -- tillers who produce for the " use value" (Marx, 1887), on the other hand. They comprise tenants, smallholders, landless agricultural workers, Dalit tillers, etc. Equally, the problem of informal settlers has continued to be unabated despite the constitution of nearly two dozen commissions to resolve the land issues.

With the proclamation of the new constitution in 2015 by incorporating the provision of federalism as a significant historic feature, there has been a new necessity to enact new legislations on land at three levels of governments, namely, federal, provincial and local. It followed as a corollary that the federal government has already formulated a national land policy (2019) and the land use act (2019). These policy and legal frameworks have also largely been geared toward the "commodification of land" and "dispossession of peasants" and much remains to be done to address the issues of genuine peasants, landless agricultural laborers, and Dalits. It is

also in the process of enacting new integrated land legislation (as an umbrella act). Both provincial and local governments are also in the process of enacting their land policies and legislations as mandated by the constitution. Despite the rhetoric of the political parties for the revolutionary land reform during the general election period, they seem to have forgotten it once they are in power as seen in the last five years after the implementation of a new constitution (let alone the scientific land reform as enshrined in the constitution of Nepal). In this circumstance, debates on agrarian issues vis-à-vis peasants are continuing in Nepal for the enactment of progressive land legislation with the potential to reduce the ongoing trend of "accumulation by dispossession" by a few capitalist farmers/agro-entrepreneurs/land speculators (in the context of relatively low LANDex in the land governance sector, that is, overall 49 score).

Against the afore-mentioned backdrop, the fundamental questions for the assessment of land-related policies and laws in Nepal are as follows: (i) what is the status of the existing legal and regulatory frameworks to identify the likelihood of coordination and cooperation or conflicts between and among responsible agencies to govern or manage land rights issues?; (ii) what are the contradictory provisions of the existing legal and regulatory frameworks related to access, use, and ownership of land resources included in the sectoral legal documents?; (iii) what are the currently operational existing land-related government institutions?; (iv) how can the legal reform on land resource be made at the government level to address the land issues of genuine peasants?, and (v) how can CSRC support the government in the integrated land law formulation process for the larger benefit of the peasantry in the context of people-centered advocacy even under the neo-liberal economic and political dispensation in contemporary Nepal?.

1.2 Research Agenda

The fundamental purpose of this study is to carry out an in-depth assessment of existing legal and regulatory frameworks to identify the likelihood of coordination and cooperation or conflicts between and among responsible agencies for people-centered land governance

vis-à-vis land rights. However, its specific objectives are enumerated as follows: (i) to review the relevant laws, policies, and strategies vis-à-vis land, forest, and agricultural development in the current context of federalism and investigate the contradictory provisions (if any) related to access, use, and ownership of land resources included in the sectoral legal documents; (ii) to develop a comprehensive understanding on land-related government institutions; (iii) to provide concrete recommendations for legal reform to the government for the larger benefits of the genuine peasants, and (iv) to support the government in integrated land law formulation process to address the major issues of the peasantry in the context of people-centered advocacy for land resource even under the neo-liberal economic and political dispensation.

1.3 Framework

This piece of professional paper is not ideologically unmoored because careful perusal and review of all land-related policies and laws of Nepal (formulated and enacted after the democratic change of 1951 and republicanism in 2008) have amply shown that the 'land resource' has been treated as a principal "commodity". The entire "modernization paradigm" copied from the west since the First Five Year Plan in 1956 has always been the driving force in this regard of "commodification of land" which began after the unification of Nepal in 1768 and subsequent unification campaigns both in the east and west of Kathmandu valley through the destruction of communal ownership of land resource among indigenous peoples (Mishra, 1987) such as the Rais and Limbus. Land-related policies and laws have underscored the 'private ownership' of land, an essential for the unimpeded development of the capitalist mode of production (which mainly produces for "exchange value" in the markets to generate profits). Policies and laws related to land, despite their claims for better land governance, have been hell-bent on "dispossession of peasants" and their "proletarianization" (because they have been forced to sell their "labor power" as their only available commodity). "Dispossession of peasant population" (a population that owns little land resource or has access to it and produces for "use value") can be historically seen in the acquisition

of their lands for industrial estates, government-owned corporation sites (which were privatized after 1992), the establishment of national parks, the faulty implementation of the much-trumpeted land reform program of 1964 (in which actual sitting tenants were evicted by the landlords in their anticipatory process of land transfers in the names of their faithful/kin), the establishment of 'special economic zones', urban, semi-urban, and peri-urban settlements, etc. National land policy, land use policy, agriculture development strategy, and national agro-forestry policy have all been crafted with a neo-liberal perspective which underscores the "agricultural capitalism" and "commodification of land". Contextually, the 'use value' of land has been undermined in favor of "exchange value" (Marx,1887) in the neo-liberal context of the development of Nepal making the "peasant population" even more vulnerable inexorably to the onslaught of neo-liberal capitalism. There is the burgeoning trend of "expropriation of the agricultural population from the land" (Marx, 1887) and "accumulation by dispossession" of peasants (Harvey, 2005), the analysis of which emanates from Marx's original concept of "primitive accumulation" (1887). Unhesitatingly speaking, the entire gamut of legal and regulatory frameworks related to land and agricultural policies and strategies has, after the political change of 1951, triggered to push the peasant population out of land resource and indigenous agriculture practice and created a national ambiance to sell their labor power as a commodity and this is on the increasing scale (despite repeated denials by the advocates of Panchayat regime and contemporary neo-liberal regime). Before 1951, the extractive political and economic institutions as elaborated by Daron Mcemoglu and James A. Robinson (2013) such as Shah and Rana oligarchic exclusionary political systems and their exploitative and inequitable land tenure systems had historically turned Nepali peasantry into starveling and inflicted tremendous amount of hardship in their pursuit of livelihoods.

Given the fact that the neo-liberal capitalistic international context has the preponderant influence on contemporary Nepali economic and political order which has been accepted by all major democratic political parties (centrist regardless of their traditional appellations), neo-liberal capitalism continues to be the overarching development model in Nepal for many years. Under such circumstances, advocates of "small-holder producers" or "peasants producing for use value"

can continue pursuing strong advocacy campaigns for saving them from the snares of "corporate agriculture".

1.4 Methodological Approach

Methodologically speaking, review of relevant national policies, strategies, acts, and international documents, mini-review workshop, and feedback meetings with CSRC professionals (epistemological assumptions) have been used for the generation of relevant qualitative data/evidence (ontological assumptions) needed for inditing this discussion paper on 'land-related policies and laws in Nepal'. All the necessary data/evidence accumulated have been analyzed (categorized/organized/systematized) by adopting the "thematic classification system" as used by conventional ethnographic researchers. Effortfulness has also been maintained for developing interpretation (meaning-making) out of the accumulated data/evidence.

2.0 LAND RELATED POLICIES AND LAWS IN NEPAL: AN ASSESSMENT

This main body of the paper critically assesses the overall land and related legal and regulatory frameworks, plans and strategies vis-à-vis governance/management of land rights issues, contradictory provisions (if any) related to access, use and ownership of land resources, international frameworks vis-à-vis land rights, and institutions responsible for land governance in Nepal. The assessment is furnished underneath seriatim.

2.1 The Constitution of Nepal, 2015

The Constitution of Nepal (2015) under the federal, democratic, and republican dispensation, in its preamble, has clearly articulated for "ending all forms of discrimination and oppression created by the

feudalistic, autocratic, centralized, unitary system of governance". It has also resolved to "build an egalitarian society to ensure economic equality… and social justice". It has also the commitment to "socialism based on democratic norms and values" (Government of Nepal, 2015, p.1). Several significant progressive provisions are appertaining to land-related issues. In part three, under the fundamental rights and duties, Article 25 has " right relating to property" which writes, " Every citizen shall, subject to law, have the right to acquire, own, sell, dispose of, acquire business profits from, and otherwise deal with property" (p.17). "Property" means "movable" and "immovable property" as well as intellectual property rights. The state shall not create any encumbrance on the legitimate property of a person (save for public interest/requisition for which compensation shall be provided in the process of acquiring) but such constitutional provisions of clauses "shall not prevent the state from making land reforms, management and regulation in accordance with law for enhancement of product and productivity of lands, modernization and commercialization of agriculture, environment protection, and planned housing and urban development" (Government of Nepal, 2015, p.18). This is indeed a very progressive clause in the context of land issue. Article 26 mentions "right to freedom of religion", under which a clause reads as follows, "Every religious denomination shall have the right to operate and protect its religious sites and religious Guthis (trusts) (Government of Nepal, 2015,p. 18). Article 36 mentions "right relating to food" for every citizen and entitles him/her "to be safe from the state of being in danger of life from the scarcity of food". More importantly, "Every citizen shall have the right to food sovereignty in accordance with law" (Government of Nepal, 2015, p.21). Article 37 has given the "right to housing" (appropriate) under which citizens shall not be evicted save in accordance with the law. Article 38 apropos of "rights of women" has two clauses as important for the study which read as follows, "Every woman shall have equal lineage right without gender-based discrimination" and "The spouse shall have an equal right to property…" (Government of Nepal, 2015, p.22). Article 40 mentions "rights of Dalits" under which two clauses are of paramount importance. Constitutionally, the state shall, in accordance with the law, once provide land to the landless Dalits and arrange a settlement for those who do not have housing.

Part four of the constitution contains directive principles, policies, and obligations of the state. Article 51 has the mention of "policies of the state" under it "policies relating to agriculture and land reforms" are specifically written. The major provisions comprise as follows: (i) to implement scientific land reforms having regard to the interests of the peasants by ending the existing dual ownership in the lands; (ii) to enhance product and productivity through land consolidation by disincentivizing the absentee landlordism; (iii) to make land management and commercialization, industrialization, diversification, and modernization of agriculture by pursuing land-use policies to augment agricultural product and productivity, while protecting and promoting the rights and interests of the peasants; (iv) to make proper use of lands, while regulating and managing lands on the basis of, inter alia, productivity, nature of lands and ecological balance, and (v) to provide for the farmers' access to agricultural inputs, agro-products, at fair price and markets (Government of Nepal, 2015, p.33).

Under the same Article 51 of the Constitution of Nepal (2015), there is also the mention of "policies relating to social justice and inclusion". Relatedly, one of the provisions is "to identify the freed bonded laborers, Kamalaris, Haruwas, Charuwas, tillers, landless, squatters and rehabilitate them by providing housing plot for residence, and cultivable land or employment and livelihood" (Government of Nepal, 2015, p.40). Finally, Article 290 has the "provisions relating to the Guthi (trust). It specifically mentions, "The Federal Parliament shall make necessary laws in relation to the rights of the trust and the peasants enjoying possessory rights over trust lands in a manner not to be prejudicial to the basic norms of the trusts". Further, it specifies, "other matter relating to trusts shall be as provided by the federal law" (Government of Nepal, 2015, p.217).

Critique: Critically speaking, these above constitutional provisions, look very progressive in the Nepali context. But if the process of implementation is duly considered, housing and Dalit land issues may be solved in the near future because of the formation of a high level "Land Issues Resolving Commission" by the federal government which has kick-started its mandated function. Given the fact that five

years have elapsed ever since the proclamation of the new constitution, its cherished goal to reach "socialism" remains only in the paper in the context of "scientific land reform". All successive governments and major political parties representing in the federal parliament seem to have forgotten the commitment made in the preamble of the constitution because this issue is neither included in the annual government programs nor in the federal parliamentary discussion agenda. The slogan "land to the tillers" since the political change of 1951 has now proved to be an electoral plank only for reaching the "corridor of political power". Put differently, this is indicative of the fact that social justice through the redistribution of land has been a far-fetched dream. There is a greater focus on the interests of the farmers who commercially produce for the "exchange value" in the context of commercialization and modernization of agriculture within the market regime. But the constitutional document is diametrically silent on genuine "peasants" who mainly produce for the "use value" (household subsistence) by utilizing their family labor occasionally supplemented by "labor exchange" cultural practices.

The constitution of Nepal (2015) has delineated the list of authorities of the federal, provincial, and local governments. But the practice has clearly shown the contradictions in the exercise of the authorities. For instance, schedule 6 of the constitution has given the authority to the province for the Guthi management (Government of Nepal, 2015, p.176) but the federal government has already made an abortive effort to enact the Guthi Act at the Federal Parliament (an implementation of article 290!). The bill was withdrawn from it after a series of protests launched by the indigenous Newar community of Kathmandu valley backed by opposition political parties. One can pose a litany of naive questions as follows: "why is the issue of "the rights of the trust and the peasants enjoying possessory rights over trust lands" divorced from "Guthi management"? "Can it not be a variable to be considered under "Guthi management"? and " is it not reasonable for the province to enact legislation apropos of the rights of the trust and peasants enjoying possessory rights over the trust lands also under overall trust management?". Contextually speaking, the contradiction in the constitutional provisions would be automatically resolved provided the province has been authorized for

the framing of Guthi land management policy, act, and regulation as well as their implementation. Definitely, in so doing, the province can maintain its coordination with federal and local governments. Bizarrely, the federal government has not hitherto permitted the provincial governments to enact their land legislations too (on the pretext of the non-existence of the integrated land law-- an umbrella law- at the federal level which is reported to be on the anvil). On the whole, political commitment seems to be lacking in the list of details of the distribution of powers (specific and common) among federal, provincial, and local government levels. In other words, the unbundling of responsibilities (vis-à-vis land resource) among these governance units as decided by the federal cabinet also seems to be more focused on technical dimensions bereft of discussion on "peasants", "land" and Guthi. However, the rehabilitation of the freed bonded laborers, Kamalaris, Haruwas, Charuwas, tillers, landless, and squatters by providing housing plot for residence, and cultivable land or employment and livelihood may materialize due to the ongoing function of the high level "Land Issues Resolving Commission" as indicated above.

On a broader conceptual level, the author would argue that the entire document of the new constitution is the embodiment of the neo-liberal political and economic system largely influenced by the existing international political and economic order. Hence, the constitutional narratives have been the narratives of the political and economic elites of Nepal under the existing international neo-liberal framework which is not free from contradictions. Historically and contemporaneously, classical capitalism and neo-liberal capitalism had/have never worked for the well-being of "peasantry" (be it in Europe and America or colonial/post-colonial states in Africa, Asia, and Latin America). In essence, capitalism has been hell-bent on destroying "peasantry", their "dispossession of lands" for capitalist development (in this or that pretext), and pushing them toward increasing "proletarianization". One needs to be ideologically and empirically clear that that the current constitution and a myriad of land-related acts and policies/strategies under it have been geared toward the "capitalist development of agriculture" for "exchange value" at the cost of "peasant economy" which produces for the "use-value".

2.2 Policies

Land Use Policy, 2015

Land use policy is a document formulated to guide the conservation of limited land and land resource of the nation for its conservation, optimum utilization, and effective management (MoLRM, 2015, p.1). First of all, such a policy was formulated in 2012 which had prioritized the conservation of agricultural land for ensuring food security and this has been replaced by new land use policy 2015—an outcome of the review of the earlier one by considering the risks and hazards of the natural and made-made disasters after the earthquake of 2015 with a double whammy. The new policy is based on constitutional provisions (such as land management and commercialization, diversification and modernization of agriculture and land reform policy), land zoning theories (such as promoting complementary land use, maintaining competitive land use, and avoiding conflicting land use), national necessity (sustainable and inclusive economic growth through the optimum utilization of land and land resource), the realization of Sustainable Development Goals (SDGs) as committed by the state, and other directives/suggestions of the cabinet/different commissions, and long-term vision of MoLRM.

This policy has been premised on the ideology for achieving sustainable social, economic, and environmental development and prosperity through the optimum utilization of available land and land resource (MoLRM, 2015) and this is indeed a long-term vision. The sustainable management of land as directed by the land use plan has been its goal. However, its genuine impacts take time to be manifested. Characteristically, its significant policy provision comprises a "land-use zoning" which has 11 categories of land use such as agricultural zone, residential zone, commercial zone, industrial zone, mineral zone, cultural and archaeological zone, river, lake, and pond zone, public use and open zone, construction material extraction zone, and other zones designated as per need (MolRM, 2072, p.5). Other policy provisions emphasize: (i) formulation of federal, provincial, and local level land use plans and their implementation; (ii) preparation and implementation of physical infrastructural development projects in consonance with governance level-specific land use plan, and (iii) ensuring the optimum use of agricultural land and its conservation by discouraging the use of agricultural land for the non-agricultural purpose, the culture of "keeping the agricultural land fallow", and uncontrolled fragmentation of such agricultural land. Several strategies have also been crafted under the policy provisions. But a couple of them are relevant in the paper. For instance, management of growing land fragmentation by setting a minimum ceiling of land (below which a piece of land cannot be fragmented); encouragement of "land consolidation" of classified "agricultural land" for the commercial agricultural works (to enhance production and productivity); ensuring participation of stakeholders based on gender and social inclusiveness in the process of formulating and implementing land use plans, and encouragement of the development of integrated settlement with low-cost housing for landless and marginal people with little access to land under government-private or government-cooperative partnership. Interestingly, the policy has a schedule with its result-based implementation log-frame with a goal, an outcome, and seven effects/results. There is also the mention of columns for specific measurable indicators, baseline data, period of achievement, sources of verification, responsible agencies, and risks and assumptions. There is a provision for the evaluation of the effectiveness of land use policy by selecting the agencies on a competitive basis which must be conducted in an independent, participatory and coordinative way every five years which now needs to be implemented (because five years have elapsed ever since the implementation of land use policy). The department of topography has to contribute to land use mapping activities. During the past two decades, human intervention has been primarily responsible for altering the land use in the name of urbanization, special economic zones (for industrialization), and physical infrastructure developments with adverse effects/impacts on climate and environment. In this context, the provision of a result-based implementation framework in the schedule of policy is a commendable aspect. Of late, the land use act has been enacted to implement this policy.

Critically speaking, the land use policy is not free from its loopholes as follows: (i) the scope of land use policy has been confined only to "land zoning", preparation of topographic maps in consonance with it, and mentioning of land use zoning in the certificate of registered land, and regrettably, the policy has failed to pay attention to the overall conservation of land, and utilization of the unused land by increasing the access of marginalized people who have little or no access to land (for their livelihood); (ii) there is little or no implementation of provision to pay attention for not building the development infrastructures against the land use zoning principle and "peasant dispossession" is on the rise (on the pretext of land acquisition for development projects in the name of public interests, thereby their "livelihood basis" has been stolen making them economically highly vulnerable); (iii) institutionally, there has been a provision of the constitution of "federal land use council", "provincial land use council", and "local land use council" (but surprisingly, these councils have not been constituted yet), and (v) finally, there is neither an iota of indication on how agricultural capitalism in particular has been accelerating the "dispossession of peasants" by grabbing their meager lands in the names of agricultural modernization nor there are any policy and strategy for promoting the "peasant economy" (in which production is primarily for "use value" with the utilization of domestic labor).

National Land Policy, 2019

National Land Policy (2019) had been passed by the federal government after the relentless effort of governmental and non-governmental sectors. It has stated that the state has the "eminent domain" in the land as a natural resource that is to be used as specified by the state. It came into being for the country's economic prosperity and equitable distribution of benefits derived from land and land resource which is to be ensured by the state. More specifically, it will be instrumental for the security of land rights and ownership, safe and systematic settlement for all citizens, peasants' easy access to land, sustainable development of infrastructures, systematic land markets, ensuring

food rights, environmental protection, mitigation of the adverse effects induced by climate change, gender equality, and sustainable permanent solutions of all land-related issues ((MoLMCPA, 2019, p.1). This document is set for the scientific land reform and ending dual ownership as envisioned in the constitution, discouraging absentee landlordism, implementing land consolidation, enhancing productivity by protecting and promoting peasants' rights, managing unsystematic settlements, and developing planned and systematic settlements (MoLMCPA, 2019, p.2).

Contextually, several necessities of this policy include: (i) maintaining uniformity in the sectoral policies by formulating the main land policy; (ii) addressing the issues of land tenure, ownership, rights, access and use in an integrated way; (iii) addressing the land-related issues raised by different sections of society and sectors; (iv) distributing the benefits equitably derived from land and land resource; (v) implementing the constitutional arrangements and recommendations of High-Level Land Reform Commissions (HLLRCs); (vi) bringing land-related international treaties, agreements, and commitments into the implementation of which Nepal has been a signatory; (vii) contributing to country's economic prosperity and bringing improvements in the living standard of Nepal through land's productive use ; (viii) making optimum use of governmental and public land by controlling its encroachment and excessive exploitation, and (x) maintaining good governance in land. The vision of the policy document is sustainable land management. Its long-term goal is "to contribute to the country's economic prosperity and bring qualitative change in the living standard of people through equitable land distribution, its optimum use, and good governance". More specifically, its main objectives comprise: (i) ensuring security of land tenure and land ownership and protection of land rights; (ii) ensuring citizen's access right to land; (iii) ensuring optimum utilization and management of land for environmental balance, food security, systematic infrastructural development, and safe human settlement; (iv) evaluating homestead, improving land tax fixation system, and managing land market, and (v) maintaining good governance in the sector of land administration and management by implementing modern land information system (MoLMCPA, 2019, pp.3-4).

Some of the salient policies adopted for achieving the objective include: making the government-owned or private land available to foreign investors or international multi-national companies or institutions on lease for operating the agricultural and industrial enterprises/businesses; setting the ceiling of land ownership as per the changed context of time and on a scientific way; appropriating the land above excess of set ceilings legally; managing systematic settlement for landless poor families; making appropriate arrangement for people or families needing rehabilitation; increasing access of agricultural households to cultivable lands; increasing women's access and ownership to lands; formulating and implementing land use plans in consonance with the federal structure, etc.

Analogously, some of the salient strategies and working policies adopted in the national land policy document have been briefly analyzed here. There has been an effort for defining the 'land tenure system' and its management. For instance, definitional categories include formal (private, trust, governmental land, and public land), non-formal (lands included in the field book after the cadastral survey, lands used with their official records and revenue payments but not covered by the cadastral survey, lands without documentary evidence but self-settled which can be settled by the existing law), and informal (land used for long bereft of documentary evidence and encroached land which cannot be addressed by the existing laws) (MoLMCPA, 2019,p.6). Other important main strategies and working policies comprise: ending the dual ownership of land and making the soft loan available to willing tenants for buying the landlord's portion of the tenanted land (after acquiring his/her share as per law); registering the lands in the name of the government which is not registered within the specified period; making compensations legally for the lands acquired for the public interest; setting a ceiling on lands as per land-use zoning; fixing of the basis and limits for owning lands by cultivating and non-cultivating households; making the documentary evidence available to landless and marginalized peasant households of the cultivable governmental land (which is exclusive of forest sector) for a fixed period for agricultural purpose as per fixed criteria; replacing the existing share-cropping arrangements (such as adhiya/

batiya) by lease or contract systems, and implementing the "Land Bank" by preparing its concept and program details. There has been an emphasis on "land development" by encouraging governmental, private, non-governmental or donor agencies, and "commercialization, mechanization, and industrialization of agriculture" for augmenting agricultural produce through the encouragement of "land consolidation" and "cooperative farming".

Critique: From the perspective of the government, it can be prognosticated that its proper implementation may lead to positive transformations in land governance and management. Critically speaking, major policy provisions are the manifestations of the neo-liberal model of land management as evidenced by the provisions for land development, landlords' priority of leasing lands, and consequent enhancement of agricultural produce, making the governmental lands available to foreign multi-national companies on lease for agricultural and industrial enterprises/businesses, etc. Poor peasants' access to land is possible only through lease or contract. There has been no specific focus on policy provision for the actual land redistribution through scientific land reform as constitutionally mandated. Given the fact that "Land Bank" has been included in the working policy provision without any preparatory work, one can easily feel that the agenda of "scientific land reform" is pushed further. Despite the commitments made for the formulation of a practical land policy by integrating different land-related policies, it has failed for its materialization in reality. Given the fact of the non-existence of a common perspective on the land issue among all three-tier governments, a difficulty exists for the implementation of this policy and other legal arrangements. Many policy provisions appertaining to "agricultural capitalism" (commercialization of agriculture), "land development", "development of physical infrastructures", etc. ultimately trigger "dispossession of peasants" (by grabbing their lands) and the policy document is diametrically silent on this major sociological problem.

National Agro-forestry Policy, 2019

Agro-forestry is the integrated system of practice of agriculture, livestock-raising, and forest-related activities in one unit of land and each of these activities has an important contribution to the national economy of Nepal. Indeed, agro-forestry has been indigenously practiced by the peasants of all ecological belts of Nepal, albeit it is reported to have commenced in the Bara district of the Tarai in 1972 as a developmental practice in the forestry sector development. The vision of the policy is to "contribute to national prosperity through the development, extension, and commercialization of agro-forestry system". Its objectives comprise as follows: (i) to augment the production of agriculture, livestock, and forest-related products by enhancing the productivity of land and using it multi-purposely; (ii) to reduce population pressure on land and conserve environmental and biological biodiversity, maintain soil quality and develop climate-friendly environmental system; (iii) to ensure food security of local communities by creating opportunities for livelihood, employment and income generation through the intensive promotion of agro-forestry; (iv) to contribute to the economy through commercialization by creating investment opportunities in agro-forestry, and (v) to promote the study, research and capacity in agro-forestry subject. For accomplishing the vision and objectives of the policy, a host of policies and strategies have been devised as follows: (i) prioritization and encouragement of commercial and collective farming of agro-forestry system; (ii) simplification of agro-forestry research, value-chain and peasants' access to markets; (iii) management of enterprise and market based on agro-forestry products; (iv) provisioning of financial incentives to agro-forestry sector; (v) prioritization of agro-forestry system in fallow, abandoned and marginal lands; (vi) development and promotion of location-specific agro-forestry models based on appropriateness; (vii) prioritization of study, research, publicity and capacity-building of agro-forestry system, and (viii) development of a system for the planning, coordination of budget and program, and monitoring and evaluation of agro-forestry at three levels of federal, provincial and local levels (Government of Nepal, 2019,pp. 4-5). There has been an institutional structure for the implementation of national agro-forestry policy which has been termed as "agro-forestry inter-ministerial co-ordination committee" (AFIMCC). Interestingly, the committee has the representation from all the relevant line ministries such as the Ministry of Agriculture and Livestock Development (MoALD), Ministry of Forest and Environment (MoFE), Nepal Agricultural Research Council (NARC), and concerned University, Agricultural Groups, Cooperative Networks and the Federation of Community Forestry Users, Nepal (FECOFUN) and collaborating institutions (for formulation and implementation of the policy). MoALD has been the lead organization in the entire process.

Appreciatively, the national agro-forestry policy has been very progressive that has the potential of preserving and continuing the indigenous practice of agro-forestry in Nepal. If properly implemented, it can enrich the biological diversity and environmental conservation on the one hand and ensure the food security of the marginalized peasants of Nepal, on the other hand. But it is easier said than done. The policy has been formulated in accordance with the principle laid in the Agriculture Development Strategy (ADS), 2014 which has underscored agro-forestry for enhancing production and productivity through the integrated development of agricultural land. Given the fact that ADS is largely geared toward the development of commercial agriculture (i.e agricultural capitalism), this policy, on the whole, will also move along the same line. While the policy underscores the active role of the private sector (together with the cooperative sector) and exhorts for investment for commercialization, marginal and small peasants will not be able to compete with bigger commercial farmers who promote agro-forestry products on a large scale due to their bigger investments and their enhanced competitiveness for generating larger incomes through the sale of commodities for "exchange value" in the markets (be they internal or external).

2.3 Acts

Birta Abolition Act, 1959

This Birta Abolition Act (1959) had been enacted for collecting land revenue from Birta (tax-free land). More specifically, the preamble of the Act states that it was desirable to abolish the feudal system that nurtured a system of land tenure to use land without paying land revenue to the state. There have been three amendments to this Act. The term 'Birta land' as defined by the Act is to be understood as " a land free of all government revenues or a land with a lesser amount of revenues imposed in comparison to the private lands of the same area or all lands with such use right". The Birta land was categorized into A and B. A category of Birta land included "the land under which the Birta-holder could collect the revenues as per the agreed contract system or lands used for collection of revenues as specified by the then revenue figure norms regardless of the obligation of payment of some portion of collected revenue or non-payment to the state and uninhabited public land and forest". B category of Birta lands included all other Birta lands which are exclusive of category A. The enactment of the legislation was premised on egalitarianism in the domain of land for ensuring tillers' or peasants' rights by abolishing the rights of Birta-holders (Government of Nepal,2019.pp.4-6).

Characteristically, some of the salient provisions of the Act comprise: (i) abolition of all types of Birta lands on the very first day of the implementation of this Act; (ii) conversion of all Birta lands into Raikar (state-owned land) by transferring its ownership to Nepal government; (iii) automatic annulment of all entitlements and rights of Birta-holders pertaining to their land ownership; (iv) annulment of all acts and other official documents or any other written letters which ensured the land ownership entitlements and rights to any person; (v) registration of A category Birta land into the names of the sitting tenants (barring an exception to the uninhabited wasteland and forest land which came under the ownership of Nepal government); (vi) registration of all B categories of Birta lands into the names of Birta-holders (but persons using such lands by exercising their usufructuary rights under

mortgage or other legal arrangements can have such lands registered only as usufructuary right-holders and the legal provision reserved the right to convert such land into Raikar); (v) provision of registering of B category of Birta lands in the name of tillers (as specified in the third amendment of 1992) who can apply at land or land revenue offices with all necessary evidences within the time-frame specified by the government); (vi) arrangement of compensations to the A category Birta-holders by the Nepal government, and (vii) special arrangement for the registration of Birta lands (as per the third amendment of 1992) not registered in the name of any person by converting it into Raikar until June-July 1992 which could benefit sitting tenants. This last provision ruled out the registration of any such land after that specified time frame but lands under judicial review process due to the filing of case/s by claimant/s at court prior to the specified period were spared and the case of such lands would be decided as per the judicial verdict.

The Act abolished the feudal system on the one hand and increased revenues to the state on the other. More importantly, sitting tenants got the land entitlements in several cases. CSRC has its own empirical experience of facilitating the process of giving land entitlements to 152 sitting tenants (beneficiaries of the Act) in the Rasuwa district.

Analytically speaking with a critical perspective, the Birta Act actually failed to contain clear-cut or specific provisions for the existing sitting tenants of Birta lands. More specifically, it can be argued that the provisions of the third amendment of 1992 also fail to address the contemporary Birta-related tenancy issues. This is primarily so because there are still the remnants of feudal culture and it follows as a corollary that many lands under the feudal land tenure Birta have not been registered in the names of sitting tenants and hence, they are deprived of their ownership/entitlement. Succinctly put, the problem of Birta tenure has persisted even after nearly six decades of the enactment of the first legislation and its implementation -- a function of a weak implementation mechanism. From the institutional perspective, local government units, land revenue offices, and courts can play an important role in settling the tenancy issues provided the legal ambiguities are addressed by the federal government. In this context, several measures can be prescribed to eliminate the existing

problems in this tenure. These comprise (i) time-specific amendment of the existing act with legal provisions/clauses for ensuring the tenancy rights of sitting tenants, and (ii) empowering local governments for resolving all Birta-related problems.

Finally, the Birta Abolition Act (1959) was also diametrically responsible for making land a "commodity" for which the owner has been legally required to pay "ground rent" to the state in the form of revenue. The Birta-owners of the pre-1960 constituted the upper class (political and economic elites) in Nepali society who ruled the Nepali society since the territorial integration of Nepal and their descendants have the preponderant influence in the political and economic sectors in contemporary Nepal also despite its democratic and republican dispensation. The underdog (toiling peasantry as a class) was exploited in the past by the upper class and it continues to be exploited by large landowners, commercial farmers, and rent-seeking bureaucracy (who may have some type of connections with such past exploitative land tenure).

Land (Cadastral Survey and Measurement) Act, 1963

The preamble of the Act (1963) explicitly shows the ideological position of it. More specifically, it was enacted and implemented for maintaining relations of people belonging to different classes and castes/ethnicities and conducting the cadastral survey for maintaining the facility of the citizenry and specifying the types or categories of land (held by people). It has been amended eight times after its implementation to address the urgent legal issues.

This Act has offered some important definitions which are useful for researchers, government officials, policy-makers, and advocacy activists. These comprise "land", "cadastral survey", "landlord", "tenant", "governmental land", "public land", and "community land". The term "land" meant "all types of land including the land with houses, gardens, trees, factories, ponds, lakes, etc." The term "cadastral survey" has been broadly defined. Generally, it meant, "collection of statistics

concerning landlords and tenants through the cadastral survey or re-cadastral survey of the land, preparation of land maps, specification of the area of landholding, categorization of land (land taxonomy), or registration of land in the area-specific record book based on maps or documentary details of the land, and aerial survey, fixing the control point location and topographic mapping as well as the publication of topographic maps" (Government of Nepal, 2019,p.23). It has defined "landlord" as a "person with land ownership right in the land as per the prevailing law of Nepal)" and "tenant" as a "person who has got the land of any landlord on any agreed term and condition and cultivates such land by utilizing his/her or household's labor" (p.23). And as a student of "peasant and agrarian studies", the researcher appreciates the legal effort for defining "peasant", albeit partially.

The definitions of three types of land, viz. "governmental", "public", and "community", are equally important. The term "governmental land" means "the land under government tenurial right, ownership or control. Generally, it includes " government house, building or land; road, foot-trail or railway; forest, jungle, or trees, bushes in forest, and jungle; river, rivulet, lake, pond, and its boundary mounds; irrigation canal, traditional water-course (for irrigation) or public wasteland, unused public land; mines or minerals; Himal, cliffs, rocky area, sand area of the river, public garden, or any land other than the public, community, trust or private lands registered in the name of a person". "Public land" means "the lands being used for the public purpose". Generally, it includes " traditionally existing house, land, sewerage or foot-trail; well, traditional public tap, drinking water source, pond, and its boundary mound; cattle walking path, public grazing land, alpine pasturelands, crematorium, cemetery, and pyre burning location; location of traditional rest-house, religious meditation centers, memorials, temples, monasteries, chaityas, stupas, mosques, churches, public squares, public resting houses and their land; land for hat (periodic markets), public fairs, public entertainments or sports or any other land specified as the public land through the publication in Nepal gazette by Nepal government". Finally, community land has been defined as "land set aside for the use of the community or any structure constructed in such land or any other land under the control of community ownership" (Government of Nepal,2019,p.24).

Some of the salient legal provisions of this Act comprise: (i) the authority/power of implementing cadastral survey is vested with the government of Nepal which can issue order for initiating it in the entire country or any specific area; (ii) commencement of cadastral survey-related works in an area by issuing notification to landlords, tenants, peasants of the adjoining lands, traditional local land revenue collection functionaries, local government units (village development committees or municipalities) at least 15 days prior to the onset of survey; (iii) registration of the land through survey in the area land record book and the subsequent distribution of certificates of land ownership among owners (based on the documentary evidences appertaining to land right/use, long utilization of land even in the case without documentary evidences which must not be claimed by others); (iv) mention of the evidentiary details of tenancy rights in the area land record book in the case of the tenanted land; (v) legal arrangement for conducting survey of the lands not covered during the comprehensive cadastral survey time in a particular area (through filing petitions with documentary evidences to the designated official/s); (vi) registration of land (governmental, public or community as specified by the earlier survey) utilized/reclaimed/settled by anyone through encroachment as originally specified category of land; (v) specification of the legal obligation of the land owners to pay land revenue/s to the land revenue office/s as the area of landholding (as specified in the land record book); (vi) no imposition of the expenses incurred upon for land survey work by the government of Nepal exclusively performed for its official purpose (as outlined in the preamble) but such provision was not applicable to the cadastral survey work carried out for the individual purpose of a particular land owner; (vii) land classification during the time of cadastral survey as per the specified criteria; (viii) constitution of a committee for investigating the non-compliance of this Act or regulation framed under it or correcting the registration of forest boundary, governmental land, public land, community land or trust land by encroaching or resolving any other general problem encountered during the land registration process through mapping; (x) implementation of the cadastral survey by the government of Nepal; (xi) implementation of cadastral survey by the government of Nepal for consolidation or integrated development of private, governmental, public or community land; (xii) legal arrangement for the government

of Nepal for issuing the license to any person or institution for conducting the cadastral survey by remaining within the provisions of this Act, etc. (Government of Nepal, 2019). Institutionally speaking, implementation of these legal arrangements/provisions has been shouldered by a host of agencies such as the Department of Cadastral Survey, Land Revenue Office, Land Reform Office, etc.

Apropos of the impact, CSRC data as of October 2020 has revealed that a total of 2,40,00,000 plots of land have been surveyed and these are being utilized for agricultural and other economic purposes as private lands. Critically speaking, a serious contradiction is discernible between the clause of the eight amendments of the Lands Act (1964) and this Act. The former specifies the provision of registering the illegal settlers who have occupied land (governmental or public or forest land) for more than 10 years but provisions of this Act prohibited such settlers from doing so. CSRC's empirical experience has amply shown that this Act was regressive in the case of empowering tenants. The landed elites, by foul means, succeeded in registering swathes of land under tenancy by manipulating the legal process with the assistance of survey officials deputed in the field, thereby depriving them of their genuine tenancy rights. The interest of the landed elites and government officials converged because they belonged to the same class structure in the Nepali society.

In the present context of Nepal where a high-level "Land Issue Resolving Commission" has been recently constituted by the government, the immediate amendment of this Act should be consonant with the 8th amendment of the 1964 Lands Act. The amendment has to incorporate the provision to register all illegal settlers (staying at least for 10 years) for one time on the one hand and update the record of all governmental, public, community and trust lands and use them for the integrated development as per necessity, on the other hand. On the whole, the Act has been geared toward the "commodification of land" through legalizing the private ownership of all the governmental lands used/grabbed/accessed by people in the local power structure, albeit the marginal peasants also availed of it through registering their used lands for ownership.

Act Concerning Ukhada, 1964

This Act Concerning Ukhada was enacted and implemented in 1964 which has been amended four times. This was specifically implemented in Nawalparasi, Rupendehi, and Kapilvastu (Palhe, Majhkhanda, Shivaraj, and Tawlihawa) districts. The term "Ukhada" means "the land which is cultivated by the peasant on the stipulation of submitting the Naghat Pot (cash ground rent) to the landlord as per mutually agreed upon terms and conditions". Indeed, this Act was based on the principle of "land to the tillers" (a basis of egalitarianism in the domain of land resource). In this context, it is reasonable to have a brief analytical discussion on the salient legal provisions. More specifically, the third provision of the Act ensured the registration of the Ukhada land as private land in the names of sitting tenants who were paying "cash ground rent" to the landlords at the time of its implementation. There was the provision of compensations to be paid by tenants to landlords (i.e either all compensations to be paid at one go which would be 10 times higher than the yearly rate of cash ground rent usually paid or on an installment basis of the same amount within five years from the date of registration of the Ukhada land in tenants' names). The provision of the registration of the Ukhada land in the names of sitting tenants required the submission of documentary evidence from both landlords and tenants (such as names of landlords and sitting tenants, their castes/ethnicities, addresses and citizenships, districts and traditional land revenue administrative units where the land is located, and boundary of the land and its actual measurement) to the designated land authority within the stipulated time-frame.

Regarding the impacts of the Act, official data accumulated by CSRC during various stages of its land and agrarian rights movement until October 2020 have shown that a total of 5000 peasants have been tilling the Ukhada land. Similarly, a total of 2550 sitting tenants have got land entitlements of which 2100 are in Rupendehi, 300 in Kapilvastu, and 150 in Nawalparasi. Critically speaking, the generality of sitting tenants in Ukhada lands have been economically marginalized class, and hence, the legal provision of asking them to pay 10 times higher compensations to the landlords (either at one go or on an installment basis within five years) has been a disincentive for them to ensure their

land rights. Similarly, clause 1 of provision 3 of the Act has prohibited the registration in the names of sitting tenants who are either foreign nationals or proved to be foreign nationals even at a later stage and such land would be registered in the name of the government of Nepal. Institutionally, land revenue offices of the three districts, special court (between 2021 and 2042), and Ukhada problem resolving office (2060) have been the agencies involved in the settlement of the Ukhada land issues but they have been constrained by understaffing, flaws in the collection of official statistics, limited dissemination of necessary information among the tillers, and lack of necessary budget needed for expediting the implementation process.

Nonetheless, the Act was progressive in granting land entitlements to sitting tenants, on the one hand, and a contributory factor to augmenting the agricultural produce, on the other hand. Interestingly, the punitive measure adopted against the intimidation of tillers by landlords can be taken as an exemplary one. Finally, based on the existing nature of the land tenure, two practical suggestions can be made as follows: (i) resolving of all remaining problems under the Ukhada tenure by legally mandating the existing "Land Issue Resolving Commission" (which can act with the coordination of local government units), and (ii) reintroducing new provisions in the Act for resolving the problems of the Ukhada tenants in those areas where there are problems of citizenship (which can be settled with the certification or verification support on citizenship issues by the rural municipality or municipality as per the prevailing citizenship act of Nepal). From the perspective of political economy, this Act also further facilitated the "commodification of land" in these three districts, namely, Nawalparasi, Kapilvastu, and Rupandehi districts through the registration of Ukhada lands by sitting tenants under private tenure.

Land Management (Sale/Distribution) Act of Raptidun Development Sector, 1967

The preamble of the Act explains the raison d'etre of its framing by referring to the fiasco of the Regional Development Projects (Implementation) Act, 1957 under which Regional Development

Project (Land Distribution of Raptidun) Regulation, 1957 was framed for the sale/distribution of land. Later, it was revealed that the land was not under the right of those people who were sold and distributed by the government but bizarrely, it was found to be controlled or grabbed by other people (not involved in the entire process). Hence, it was desirable to enact and implement this Act for provisioning the facility to the general people and maintaining their economic interests and equitable sale/distribution of the land of Raptidun. The ideology behind this Act as indicated above the equitable distribution of land to the needy people in the area where there was the cornucopia of forested land awaiting reclamation for human settlement and agricultural purposes (Government of Nepal, 2019).

The principal provisions of the Act comprise the following: (i) constitution of a commission consisting one or three members (as per need) for the resale and distribution of land after the necessary investigation; (ii) prohibition on the acquisition of the resold and distributed land in the names of the member of the commission or his/her relatives; (iii) authority of initiating legal investigation into the land of development sector and confiscating the two categories of lands (i.e those not acquired by the occupant/settler as per the law/regulation, and those acquired by the occupant/settler as per law/regulation who failed to comply with the norms set by the government; however, such occupants/settlers were given the "use right" provided they were using such lands until the day of confiscation by Nepal government), and (iii) sale/distribution of land confiscated as per this Act, and the price of the land to be paid within the stipulated three years' time by person/household acquiring land (with permission to pay overall amount at one go or in less than three years) (Government of Nepal, 2019).

As per the legal provision, recipients would include: person or household cultivating the land who had acquired it legally after its reclamation prior to the implementation of the Act; household or person cultivating land after its reclamation in the case of acquisition of a particular land by one or more households or persons prior to the implementation of this Act (but in the case of forceful eviction of such households or persons from the land which had actually been reclaimed by another party for its cultivation, such land would be distributed to the first category of users);

household or person actually cultivating the land legally acquired by a person or a firm or an institution prior to the implementation of this Act for initiating a particular program and project who indeed rented-out it to other by flouting the government norms, and any household or person settling in a particular piece of land before one day of the implementation of this Act in this development without being a landlord or a tenant. Other provisions included the annulment of the ownership certificates of unspecified lands (being cultivated) received under sale/distribution in the past or existing grazing lands/ public roads; evacuation of people from the settled land for maintaining forest boundary or security of rhinos (with compensation as per the prevailing law); legal requirement of the payment of the price of the land within the stipulated three years' time by person/household acquiring land (with permission to pay an overall amount at one go or in less than three years) (Government of Nepal, 2019).

Critically speaking, this Act had facilitated the land development project in the area of indigenous communities such as the Tharus. On the one hand, the government had the objective to increase the area of the agricultural land to augment production for feeding the growing population, and on the other hand, it had the objective to increase the government land revenue through the reclamation of land. More importantly, the then government had the political expediency of this project to shift the population from the hills (where the population had almost exceeded the carrying capacity) to the Tarai where there was a low man-land ratio. Indeed, the government had also the "assimilationist tendency" for changing the ethno-demographics in the Tarai which later triggered the marginalization of the indigenous communities through land grabbing in a myriad of cases as shown by many social science researches. Commission, land revenue office, and local government units had also been institutionally involved in the implementation process. Initially, the land sale/distribution program was weakly implemented—a function of lack of a carefully thought-out plan. Manifestly, landed elites of the hills were tremendously benefitted who neither reclaimed nor cultivated the acquired lands, which is again the manifestation of the political nature of the Act. Albeit the legal provision was in favor of the land tillers' registration, it lacked the clauses for specifying the land ceilings under the acquisition process. Even more importantly, the Act failed to make a clear distinction

between the people/households with and without land in other parts of the country in the process of the implementation. Neither the Act had heeded to the traditional/customary use rights of the indigenous communities. The review of the Act gives the prescription that lands must be registered in the names of persons/households involved in the actual tillage.

This Act was enacted to facilitate the entire process of the "commodification of land" through the reclamation of pristine forest areas in the Tarai for the accumulation of revenue resources at the level of the state which also largely benefitted the powerful landed interests within the "rent-seeking bureaucracy".

The Lands Act, 1964

The preamble of the Act explicitly shows three interrelated objectives as follows: (i) to shift the inactive capital from land and burden of the population to invest in other sectors of the economy to accelerate the pace of economic development of the country; (ii) to bring improvements in the life-standard of actual peasants dependent on land through equitable distribution of agricultural land and making agriculture-related knowledge and means available, and (iii) to maintain the facility to general people and economic welfare by encouraging optimum augmentation in agricultural production. The Act implemented in 1964 has had eight amendments in 55 years (Government of Nepal, 2019,p. 43). The significant feature of this Act is the land reform program.

From the perspective of political economy, the international and national context of land reform has to be understood. In the international context, US advocacy of land reform in Asia needs to be apprehended. In the national context, the absolute monarchy also needed international political and economic support for its legitimacy in the context of the ban of political parties after the royal coup d'etat of 1960. Objectively speaking, the program had no intention for triggering the epoch-making transformation in the agrarian structure of Nepali feudal society, albeit it looked revolutionary in its peripheral agrarian agenda. In this context, Krishna Ghimire (1998,p.39) has

summarized some significant opinions of several foreign scholars in the following way:

> First of all, it is worth recalling that the pressures for land reform were actually brought by foreign aid donors, particularly in the US whose advocacy of land reform in Asia as a measure of deterrence against communism was at its height in the early 1960s (Ladeninsky, 1977,p.132,& McCoy,1971,p.15). The monarchy, after its 1960 coup d'etat, was seeking international political and economic support and did not directly own any significant tracts of land. Also, many of the larger landowners from the Tarai were lending support to political parties opposing the king's direct rule (Scholz,1977, pp .52-3). Thus, it became advantageous for the monarchy to meet US wishes. However, as the monarchy was not prepared to take the risk of outright conflict with the landed elements and as people within the bureaucracy maintained vested interests in land (many of whom owned large tracts of land themselves), the result was a product of expedience rather than a commitment to fundamental change' (Gaige, 1975, p.172).

Ostensibly, the Act seems to have specified two main agenda as follows: (i) creation of relatively egalitarian agrarian structure through the imposition of land ceilings and appropriation of land in excess of ceilings for the redistribution, and (ii) ensuring the land rights to the tenants through the legal provision of "tenancy rights". The land ceiling set in 1964 for both types of land (agricultural land and homestead land) was 18.4 ha in the Tarai and inner Tarai, 3.1 ha in Kathmandu valley, and 4.9 ha in the Hill region. Tenants were denied homestead lands. Conversely, the ceiling for tenants was 2.7 ha in Tarai and inner Tarai, 1.0 ha in the Hill region, and O.5 ha in Kathmandu valley. Hence, as Ghimire (1998,p.39) writes, "... Land reform measures favored the land-owners... in the field of land ceilings...". Scholars have argued that in the Asian context too, land ceilings in the Tarai were indeed set at a higher level. More specifically, in the case of Korea, Japan, and Taiwan, the ceiling was set at 4 ha whereas it was 7 ha in the Philippines. In the Indian context, the ceiling ranged from 4 to 6 ha (Poudyal, 1983,p.30 quoted in Ghimire, 1998, p.40).

Basnet (2018) labels such high land ceiling arrangement as "unjust".

Given the fact that land reform was implemented at three phases within a period of two years, a large amount of land excess of land ceiling was retained by the landlords themselves through the anticipatory transfers in the names of the relatives/faithful persons. The land reform began from the eastern Tarai region of Nepal where there was less concentration of landholdings among the landlords. But conversely, there was a higher concentration of landholdings in the western and far-western region of the Tarai which allowed the landlords to expedite the process of anticipatory transfers prior to the actual implementation of the land reform program (Zaman, 1973) and in actuality; a large number of tenants were evicted by landlords in the process of such anticipatory transfers. Thus, to a considerable extent, tenurial insecurity was engendered during the vacuum of the implementation period. Such faulty process of implementation led to the fiasco of the program. In this regard, referring to the original work of Ram Bahadur KC (1986), Basnet (2018,p.150) summarizes:

> It was estimated that 600,000 hectares of land would be acquired from land reform to make redistribution of land to landless and tenant farmers. The combined area of all landholdings exceeding ceiling levels and available for land redistribution was only 3 percent, of which less than 1.5 percent was legally appropriated and only 1 percent was legally distributed (KC,1986,p.5). This was not a land reform program; it was only sharing of the land among rich families.

Nonetheless, the Act provided the relative security of tenancy rights for the first time in the agrarian history of Nepal. Interestingly, the Act defined a tenant, " a peasant who obtains land from a landlord on any condition and cultivates it through his labor or the labor of the family" (Government of Nepal, 2076, p.45). Regmi (1977, p.203) notes that "actual cultivators were recognized as tenants. The rights of intermediaries were abolished...without compensation. Existing tenants, or those who raised the main crop at least once, were entitled to permanent tenancy rights on agricultural lands tilled by them...". Reduction of the value or productivity of the land, delinquency in the payment of agricultural rents, and non-cultivation of the obtained land for one year by the tenant could lead him/her to eviction by following the prescribed legal processes.

The Act also had the provision of regulating the agricultural rents to incentivize the tenants for enhancing production. Except in Kathmandu valley, it had the provision of agricultural rents at 50 percent of the total annual production from all crops (either in kind or cash) which was actually introduced in the 1957 Lands Act. This system continued up to 1968 when the second amendment was made prescribing the agricultural rent only 50 percent of the main crop. Save the seed contribution from the landlords, all inputs had to be borne by tenants. Landlords could grant remission of the agricultural rents to tenants during the unfavorable condition or natural calamity. Social scientists researching agrarian issues have considered the proportion of rent fixed in Nepal as extremely high. Contextually, synthesizing the opinions of such social scientists, Ghimire (1998, p.41) notes:

> The land rent for tenants appears to have been- and still is- far higher in Nepal than in India, Sri Lanka, Thailand, and the Philippines, where maximum rents were set below 25 percent of the agricultural produce (Dasgupta, 1977,p.38 and Poudyal,1983,p.32). This situation confirmed the position and interests of landowners as the law gave them the right to receive rents, but without any obligations towards production and tenants' welfare. As for the tenants, on the top of high-level rents there remained neither any concrete security of their cultivation rights nor any resources to invest.

In a nutshell, provisions on the 'establishment of tenancy rights of the tillers', and 'equal right to the tilled piece of land between the certified tenant and the landlord' are of paramount importance. The 'inalienability' of tenancy rights is commendable. Analogously, abolition of the "Jimidari system", and conversion of the "Kipat" (communal land ownership among the indigenous people such as Rai and Limbu) into Raikar (private land taxable to the state) are also historically important in the context of Nepal. The new land ceiling has also been set as per the 5th amendment (in 2001). The new ceiling of land (both agricultural and homestead land) for Tarai (including inner Tarai) has been set 7.37 ha, 3.81 ha for the Hill region (excluding valley), and 1.52 ha in Kathmandu valley. But bizarrely, the new set land ceiling has not been implemented for the last 20 years. The objective of shifting the inactive capital from land and population to

other sectors of the economy has not materialized. Indeed, on the whole, there has been little impact on the agrarian structure of Nepal. Apropos of it, Regmi (1977,pp. 208-210) writes:

> ... The program has made tenants more secure on their holdings and also has reduced the rents payable by them to their landowners but it has strengthened the position of landowners as rent receivers without imposing any obligations on them beyond collecting rents after crops are harvested. Nor has the acquisition of lands in excess of the prescribed ceilings affected the nature of the landholding system per se. The land still remains a profitable field for investment, and the demand of the upper classes of the rural community for land remains undiminished. Along with the tendency to resume land for personal cultivation, the progressive displacement of the small peasant, and the growing pressure of the population, this is likely to result in the progressive proletarianization of the peasantry. The problem could be solved in part, by 'diverting manpower and other resources" from land to sectors of the economy but the land reform program has not had much success in bringing this about.... Despite the land reform program, agricultural land still not only a profitable avenue of investment but is deliberately being made so from the viewpoints of both current returns and capital gains... A landowner, therefore, has little reason to divert his capital from land to the non-agricultural sector... Available evidence suggests that legal provisions aimed at protecting tenancy rights have actually had the effect of increasing the area under informal tenancy...

In addition, scores of other legal provisions seem very relevant and positive to the relatively marginalized peasants/settlers. These comprise the following: (1) making the land available to the landless Dalits once as specified within three years (after the implementation of 2015 constitution) and such land right cannot be transferred to anyone until 10 years (but the transference in the names within the family members and its sub-divisibility among them are legally permitted); (ii) making lands available to landless squatters (regardless of the existing legal provisions, land cultivated/settled by landless squatters would be made available to them or any other governmental land may be made available to them considered as appropriate by Nepal

government not exceeding the specified land ceiling), and (iii) managing unsystematic settlers (unsystematic settlers living in any unregistered governmental land or any other governmental land or forest area at least for 10 years through reclamation/cultivation at the time of the onset of the implementation of this Act would be made available for once not exceeding the specified land ceiling). More importantly, the legal provision of constituting a high-level commission at the federal governmental level comprising of a chairman and members for making the above-stated land available to the concerned marginalized peasants and unsystematic settlers is significant to address the issue of landlessness. This has been mandated for the identification of landless squatters, lands, maintenance of land records through field visits, and collection of evidence for making the lands available. For the support, coordination, and facilitation of the work of the high-level commission, there has also been a legal provision for constituting a district-level committee as per necessity. Whatever is written above, the Act prohibits the distribution of lands within the religious, cultural, strategic, and environmentally sensitive locations and this provision is also equally applicable in the case of public land, protected land, and land needed for local, provincial, and federal governments.

Finally, a litany of prescriptive measures have been made to address the weaknesses of the Act as follows: (i) federal government has to intensify the action-oriented program to implement the new land ceilings set 20 years ago in co-ordination with other relevant government agencies; (ii) any land considered as above excess of new ceiling must now be appropriated by the federal government for the redistribution among the landless (government's conspicuous absence of interests with the investigation of such excess land above ceiling for such protracted period does not bear any fruition); (iii) federal government must expedite the process of the distribution of land pending under disputed tenancy rights; (iv) federal government must work seriously to prevent the misuse of the land resource and the loss to be incurred upon by the state while legally permitting the sale of the land allocated to an industry, academy, company or institution in excess of ceiling in the event of dissolution or liquidation for settling its institutional liabilities/arrears. Albeit the agencies under the Ministry of Land Reform and Management have been diametrically responsible for the implementation of this Act, inter-ministerial and inter-departmental

level coordination and co-work need to be seriously undertaken in practice for addressing the scores of issues of marginalized peasants, small-holders, freed bonded laborers, and illegal squatters.

From the perspective of political economy, the entire Act, albeit it looks welfare-oriented to the tenants, landless Dalits, and unsystematic settlers, has been historically geared toward two main things as follows: (i) "keeping the inegalitarian agrarian structure intact", and (ii) "commodification of land" by the aping "modernization paradigm" of the west dominant in the 1950s/early 1960s. As a result, neither the goal of diverting the inactive capital and manpower dependent in agriculture to other sectors of the economy have succeeded nor qualitative changes in the living standard of the peasants through the equitable distribution of agricultural lands and provisioning of necessary agricultural knowledge and means to them have materialized. Manifestly, revolutionary land reform in genuine terms could not take place in Nepal because the legitimate regime in post-1950 Nepal has also been exclusively controlled by landed politicians, and landed bureaucrats. Successive governments under the Communist Party in post-1990 Nepal have also been under neo-liberal grip heavily influenced by the comprador bourgeoisie and their myriad of associates spread in the nook and cranny of the country and dominated by neo-liberal multilateral institutions such as World Bank (WB), International Monetary Fund (IMF), and Asian Development Bank (ADB) and it followed as a corollary that they too have shelved three comprehensive reports submitted to them by the High-Level Land Reform Commissions (HLLRCs), let alone their revolutionary slogan "land to the tillers" vociferously shouted since 1951 in the context of the bourgeoning "embourgeoisement" of the ruling elites of Communist Party of Nepal (NCP).

Jhora Area Land Act, 1971

This Jhora Area Land Act was enacted and implemented in 1971 by the government of Nepal. Apropos of the ideological position of the Act, its preamble states that it was desirable to manage the reclaimed forest land of the Jhora area in Morang, Sunsari, and Jhapa districts for the maintenance of peace and order and economic welfare of the general

public as per changing time. The Act has defined Jhora as, "area under settlement and cultivation through the reclamation of forests as legally mandated". It defined landowner as "a person with legally registered land in his/her name or a person with such right for registration (of land)". The term "Raiti" has been defined as " a person who has reclaimed land in the Jhora area or a person settling in the same place by cultivating land through the use of the family labor" (Government of Nepal, 2019, pp.100-101). Apparently, the objective of the Act seems to be geared toward augmenting the agricultural produce through the reclamation of land, on the one hand and registering the reclaimed land in the name of genuine toiling peasants, on the other hand. However, actual impacts of the Act need to be sociologically investigated in the absence of such empirical studies.

The principal provisions of the Act comprise the following: (i) denial of all entitlements and land rights to the non-cultivating landowners in the case of the reclaimed land of Jhora area being cultivated by the "Raitis"; (ii) mention of a provision for prohibiting any person for the receipt of the land in Jhora area or registering such land in his/her name right after the onset of the implementation of this Act; (iii) compensation for landowners (who have been denied of their entitlements and land rights) not exceeding five times of the annual land revenue amount imposed on the reclaimed land; (iv) sale and distribution of the reclaimed land at the officially fixed price by the designated official to any Raiti up to four Bighas (by considering the household size) who has been settling in the Jhora area and cultivating the land for the last one year; (v) payment of the officially fixed price of the land (either all amount at a time or on installment basis) to be made by the land recipient at the designated office within specified time period, etc. (Government of Nepal, 2019). Actually, denial of entitlements and land rights to the non-cultivating landowners who work as intermediaries is laudable. Institutionally, the land revenue office or land administration office, and the special court have a role in the implementation of the Act.

Economistically, the Act has been inherently geared toward the shift of the growing hill population in the Tarai area for bringing the forest area under reclamation and settlement to augment agricultural production and increase the state's land revenue. On the whole, the

Act has worked for the "commodification of land" through the massive forest clearance in the eastern Tarai region.

National Parks and Wildlife Conservation Act, 1972

National Parks and Wildlife Conservation Act (1972) has been enacted and implemented due to the desirability for maintaining general people's ethics and facilities through the management of national parks, conservation of wildlife and its habitat, control in hunting and conservation, promotion, development, and proper management as well as utilization of places with special importance from the perspective of natural beauty. The Act has been amended five times. Several important concepts have been defined by this Act. For instance, a "protected area" has to be understood as " an area to be managed in accordance with an integrated plan for the conservation of the natural environment and balanced utilization of natural resources". "Buffer zone" has to be understood as "a designated area in the national park or the surrounding area of it where local people have access to the utilization of forest products (in the form of the facility)". "Local people" are to be understood as "inclusive of permanent residents of the national park, reserve, protected area, or buffer zone". "User committee" within the boundary of national park or reserve or protected area is usually constituted by the warden in consultation with local government units for the proper management of fallen trees, dried logs, firewood, and fodder. Ideologically speaking, the entire Act has been directed toward the conservation of the ecological system and greater well-being of the general public but empirical observations made by CSRC and peasant association, its ally, have shown that the Act has not been successful in inducing significant improvements in the "land rights" and "livelihood activities" of the residents of "buffer zone".

As per the Act, Nepal Government has the legal authority for declaring a national park, reserve, or protected area. Some of the salient provisions of the Act comprise: (i) authorization to the government for reversing the decision on the declaration of national parks, reserve or protected area, or transferring the ownership or changing the boundary of it and fixing the "buffer zone" in the adjoining area of national park or reserve

and reversing the decision on "buffer zone", transferring ownership or changing of its boundary by publishing the notice in Nepal Gazette; (ii) management and protection of "buffer zone" to be facilitated by the warden as per the "management plan" prepared in consultation with "users' committee" and approved by the Department of National Parks and Wildlife (but such management and protection work should have no adverse impacts on the landownership of local people); (iii) permission to be granted to the disaster-affected families by the warden for the collection of necessary forest products upon the recommendation of the "users' committee" in the event of the insufficiency of such products collected in a specific area; (iv) compensation to be made by national park or reserve to the disaster-affected family living within it (such as turning to be homeless) from the allocated fund for the community development of local people as per the recommendation made by the "users' committee"; (vi) prohibition of the entry of any person within the park or reserve barring an exception to a person with the written permit issued by the official with authority or person/s with traditional use right of the foot-trail; (vii) prohibition of the following activities without the written permit issued by the concerned authority: construction of house, hut, shelter or forms (regardless of the type of materials) and its use; occupation of any part, clearance of it, inhabitation in it or farming of it or producing crop or harvesting it; hunting wildlife and transportation of live or dead bodies or their parts; felling of trees/seedlings/bushes or exploiting forest products and transporting them or setting fires in the forests; exploiting mines or quarrying; destroying forest products or wildlife, birds or forests, etc. ; (viii) permission to be granted for the continuity of the traditional use rights of local people for foot-trail, grazing, drinking water, irrigation, collection of wild vegetables and roots/tubers and fishing in a prescribed way (however, such use rights must not have adverse effects on environment, forest or wildlife); (x) operation of hotel, lodge, public transport or similar type of service or facility through contractual arrangement for the general welfare in the area of national park, reserve or protected area by following the government's prescribed procedure, etc. (Government of Nepal, 1972). Institutionally, the Department of National Parks and Wildlife and its lower-level agencies have been the major institutions for implementing the provisions of this Act.

Critically speaking, many of the issues germane to land rights of local

communities have remained unaddressed as empirically experienced by the land rights activists of CSRC and it often follows as a corollary that there have been repeated occurrences of the demolition of houses/shelters of the marginalized peasants on the slightest pretext (resulting in the depopulation in isolated extreme cases). International conventions and practices are rarely followed while treating local communities by the concerned authorities. Compensations of demolition of dwelling structures are never paid to those marginalized peasants who are bereft of land ownership certificates. Even in the case of compensation made, justice is a far-fetched dream. CSRC activists have the experiential learning that people of the "buffer zone" have a perception that there are two de facto acts being operational in the national park or reserve or protected area, that is, one general act of government and another specific act of park or reserve or protected area. Given the fact that the overall institutional arrangement under the Act has truncated the access of local communities to land and natural resources of the park or reserve or protected area, a special strategic management framework has to be devised by the government for the collection of necessary natural resources for their livelihood (by considering their indigenous rights as per the international legal frameworks). Likewise, the government has to make an institutional decision for permitting local communities to use the cultivable land within the park or reserve or protected area for agricultural purposes so that their food security and economic condition would be improved.

Analytically speaking, the political economy of conservation is highly contested in the world. Therefore, in the late 1990s, Ghimire and Pimbert have argued that protected areas tend to be established, and conservation policies implemented, with nature and wildlife in national priority. But these institutional initiatives can have far-reaching repercussions on local communities often resulting in undermining their customary access to resources and their traditional livelihoods. Learning from the case studies from Africa, Asia, Central Asia, Europe and North America, they have cogently argued that the loss of secure traditional livelihoods threatens conservation because poverty and environmental degradation increase around conservation areas. They have further argued that failure to respect social justice not only creates economic misery and conflict but also makes it difficult to mobilize local participation for conservation (Ghimire and Pimbert

(1997).

Similarly, in the mid-1990s, Michael P. Pimbert and Jules N. Pretty have cogently argued that the dominant ideology underpinning this conservation has been that "people are bad for natural resources". Policies and practices have, therefore, sought to exclude people and so discourage all forms of local participation. This style of conservation has neglected local people, their indigenous knowledge and management systems, their institutions and social organization, and the value to them of wild resources. The cost of conservation has been high. Social conflicts have grown in and around protected areas, and conservation goals themselves have been threatened. Conservation itself needs rethinking. It has been dominated by the positivist and rationalist paradigm, in which professionals assume they know best and so can analyze and influence natural resources in the ways they desire. Professionals tend to be reductionist in their approach, taking only the presence of a particular species or total species diversity as indicators of value. Such preservationist ideology is dominated by the desire to exclude local people. Yet, there is growing empirical evidence to show that local people have long influenced natural systems in ways that improve biodiversity. Many apparently `primary' forests or habitats did, in fact, support large numbers of people in the past, whose management actions significantly influenced what remains today. What is needed is a rethinking of conservation science itself. This will need to draw on emerging experience on post-positivist science and philosophy from other fields as well as ecology itself. The central challenge is to find ways of putting people back into conservation. Such participation will not be easy, as the term itself is interpreted in many different ways. Only certain types of participation will lead to sustainable conservation. Alternative systems of learning and interaction will help this process of participation, and lead to a new vision for protected area management that builds strongly on vernacular conservation. The new vision will need new professionalism, new supportive policies, and innovative inter-institutional arrangements (Pimbert & Pretty, 1997,p.2).

The author is in total agreement with the people-centered conservationist perspective of Pimbert and Pretty because this is equally valid in the case of Nepal as elsewhere due to the domination

of positivist, rationalist, and reductionist approach of conservation approach, ethics, and practice from the early 1970s onwards. Institutional coercion and control are not effective measures for the conservation of ecology. The conventional approach of conservation in Nepal, as elsewhere, has largely benefitted the upper-class people who have invested in the hospitality industry as tourism entrepreneurs and a select few foreign entrepreneurs from the "commodification of conserved ecosystem". Reductionist professionals in the conservation bureaucracy have also been the beneficiaries but indigenous communities living in the conserved areas or their vicinity have been disempowered economically ever since the onset of conservation practices.

Pastureland Nationalization Act,1974

The preamble of the Act states that it was desirable to nationalize the pastureland for the facility and the economic well-being of the general people. It has defined 'pastureland' as "a land used exclusively for grazing of domesticated animals regardless of its official registration or non-registration as a pastureland". The term "Darthawala" as defined by the Act means " a person or persons with legal use right/s who has personally or have collectively registered the pastureland in his/her or their names for paying land revenue or grazing fee as required by the prevailing law of the land " (Government of Nepal, 2019,p.104).

Some of the salient provisions of the Act comprise the following: (i) transfer of the ownership of pastureland in the name of the government on the very day of the onset of nationalization triggering the automatic nullification of the ownership of "Darthawala"; (ii) exemption for retaining the ownership of the pastureland used privately by the "Darthawala" for grazing provided it is under the land ceiling specified by the prevailing law of the land; (iii) exemption for the continuation of the ownership of pastureland used for horticulture, stock-raising, herb cultivation, and tea cultivation; (iii) institutional arrangement for the right amount of compensation to be paid by the Nepal government as per the recommendation made by the legally constituted committee (which may also have the chairpersons or their representatives in it); (iv) legal arrangement made for maintaining a "separate

pastureland record book" at land revenue office and handing over it to the local rural municipality for its protection and animal grazing (use of pastureland for other purpose/s is legally prohibited); (v) legal arrangement provided to rural municipality for permitting the grazing of the domesticated animals by imposing "grazing fees" (i.e Rs. 3 at the most per bigger animal such as yak/nak, cow, buffalo, horse, mule, etc.) and Rs.1 at the most per smaller animal (such as she-goat, he-goat, un-castrated he-goat, sheep, mountain goat, etc. per year); (vi) institutional arrangement for the deposit of such "grazing fees" in the fund of rural municipality, etc. (Government of Nepal, 2019). As indicated above, the land revenue office and rural municipality have been the institutions involved in its implementation.

Critically speaking, legal provisions might have been misused by the powerful landlords in registering pasturelands in their names and they might have also misused exemptions granted by the government as specified above. Contextually, there is an assumption that only a smaller proportion of pastureland has been nationalized. Hence, such misuse actually needs to be empirically investigated in the days to come by independent agencies.

Prescriptively, handing over the management of the pasturelands to rural municipalities and prohibition on their uses for other purposes as indicated above cannot be considered a very rational decision for their optimum utilization for generating "economic goods". Indeed, the whole management authority needs to be handed over to the specific local communities for the sustainable use of all pastureland ecosystems.

Sociologically speaking, the Act has disregarded the "common property regime" in the pastureland/rangeland management. These pasturelands/rangelands had always been sustainably managed under the "customary common property regime" prior to their nationalization in 1974. Given the fact that local communities had the perception of their "management rights" with "tenure security", they were used to manage these resources most sustainably by developing their "community governance institutions" to prevent the "tragedy of the commons" (Hardin, 1968). Not surprisingly, the federal-state has now created an "intermediary institution" (i.e rural municipality)

for its conservation, management, and utilization and in so doing, local communities are divorced from their communal ownership and management practices. Candidly speaking, "the ecosystem of pastureland/rangeland" has been under "commodification process" (i.e rural municipality imposes grazing fees from the local graziers and deposits that collected amount in its fund which it uses at its disposal).

Guthi Corporation Act, 1976

Broadly speaking, Guthi tenure refers to the institutional landownership in Nepal. Guthi means "land endowments made by the state/ruling elites and individual citizens for the religious and charitable/philanthropic purposes". Guthi land endowments were made primarily with the objective of acquiring "religious merit" (Regmi, 1977,pp.46-50). The Guthi Corporation Act was enacted and implemented in 1976 which has been amended twice.

According to the Law Commission (n.d), the preamble of the Act states, " Whereas, a Guthi Corporation has been established to remove state trusts (Rajguthi) from the jurisdiction of the Government of Nepal and place them under a corporation and operate the state trusts in a systematic manner, and it is expedient to make more effective and timely provisions by amending and consolidating laws relating to Guthi with a view to maintaining cordial relation between the people of various classes and economic interest and morality of the people generally". According to the Act,"Guthi" means and includes a Guthi (trust) endowed by any philanthropist through relinquishment of his or her title to movable or immovable property or any other income-yielding property or fund for the operation of any shrine (matha) or festival, worship or feast of any God, Goddess or for the construction, operation or maintenance of any temple, the shrine (devasthal), rest house (dharmashala), shelter (pati), inn (pauwa), well, tank, road, bridge, pasture, garden, forest, library, school, reading hall, dispensary, treatment facility, house, building or institution for any religious or philanthropic purpose (www.lawcommission.gov.np n.d pp.1-2).

Broadly speaking, there are three categories of trusts, namely, Rajguthi (state trusts managed and operated by Guthi corporation-

-government), Chut Guthi (state trusts under private management which are also on inheritable basis as explained by M.C Regmi in 1977 which enjoy exemptions so that operators are themselves entitled to the surplus income after operating the worship/organizing festival and land revenue or taxation payable to the state is exempted), and "personal Guthi" is an individual private trust.

Some of the relevant provisions of the Act comprise (i) abolition of Jimidari system in the trust land; (ii) management of the tenancy right for the tiller of the trust land; (iii) specification for the Kut Tero (fixed agricultural rent or ground rent) in the trust land tilled under tenancy provision similar to the one in the Raikar land as per the location and type of land (in addition, the tenant was also permitted to pay a lesser amount of rent if he/she has been doing it customarily and enjoy the leeway to continue paying the rent in kind provided there was the existence of such system); (iv) institutional denial of tenancy rights on the stipulation of the failure to pay ground rent on the specified time (i.e same time to pay rent as in the tenanted raikar land); (v) special arrangement for the alienation of the tenancy right (i.e tenants were allowed to sell and buy the tenancy rights under the Act), etc. (www.lawcommission.gov.np n.d).

With due respect to the sentiment of religious people, "institutional land ownership" for religious and philanthropic purposes may continue in Nepal because the whole system is inextricably linked with the culture and identity of Nepali people. Therefore, federal government has also withdrawn its new draft bill pertaining to Guthi management due to the strong protests by the indigenous community of Kathmandu valley backed by the main opposition parties. This might be due to the lack of consultation by the government with the stakeholders (hence, there was an uproar at the streets of Kathmandu fearing that the new draft did not appropriately address their cultural/religious/identity sentiments). Despite this brute sociological fact, the system needs to be looked into critically. M. C Regmi, a noted Nepali scholar on agrarian studies, cites four major critiques on this land tenure system

as follows: it attaches less importance to the "egalitarian aspirations of society"; guthi lands yield no revenue to the state; guthi land tenure system does not create favorable conditions for insuring that land is put to its best physical or ecological use; and the guthi corporation is interested only in revenue and is not at all concerned with the actual processes of agricultural production (Regmi, 1977, pp.68-70).

Whether agreed or disagreed in the public discourse of social science domain, as elsewhere in the world, the guthi institutional land ownership system had developed during the heyday of feudalism bereft of egalitarianism in a highly inegalitarian and caste-stratified society (characterized exploitative patron-client relationships and economic and social discriminations) and therefore, there is a sociological need for its transformation for the better use of the vast amount of land resource available in the country for its progressive and equitable utilization (without hurting the religious/cultural/identity sentiments of the people). Capitalism has also fully entered in this Act. For instance, even the "tenancy right" under Guthi tenure has been treated as "commodifiable" because a special arrangement has been made for the alienation of the tenancy right.

Land Acquisition Act, 1977

Land Acquisition Act enacted and implemented in 1977 had replaced the Land Acquisition Act of 1960 and now it is in the process of being amended very soon to address many contemporaneous issues vis-à-vis land acquisition. It has defined 'land' "as any land under the right and use of anyone inclusive of its wall, house, trees and any other material fixed permanently in it". According to it, "public work" means " any work for the well-being, benefit or use of general people or any work to be done on behalf of Nepal government or provincial government and it has also the connotation of the following works: (i) project approved by the Nepal government, and (ii) project to be implemented by local unit" (Law Commission, n.d, pp.1-2). Prioritization of well-being through public work done in the acquired land has paramount importance from the perspective of the Nepal government.

Some salient provisions of the Act comprise as follows: (i) power vested

with Nepal government for the acquisition of land for public work (Nepal government can acquire any amount of land in any place by paying compensations as deemed necessary for any public work; in the event of need of land for the project to be implemented by provincial and local levels, it can make decision for acquiring land for the said purpose for which the provincial and local levels must pay compensations and other expenses as required by existing law); (ii) compensation to be paid to the affected party for the loss incurred upon (i.e for the loss of crops grown, trees, walls, etc.); (iii) possibility of providing land in lieu of land acquired by Nepal government (in the event of willingness of the affected party to accept any governmental land in the form of compensation); (iv) compensation for the land appropriated in excess of ceiling set by government does not exceed the figure as specified in the Lands Act, 1964; (v) compensation to be received by tenant (a tenant is entitled to receive 50 % of the total compensation to be paid by the government; he/she is also entitled to receive the compensation for the house structure constructed with the permission of the landlord), etc. (Law Commission, n.d). Institutionally, the land administration office, land revenue office, district administration office, and federal, provincial, and local government units have been involved in the implementation of the Act.

Critically speaking, the Act, in a bizarre way, has been silent on "unsystematic settlement" and "landlessness". Tenants of trust land have not been entitled to receive any compensation in the process of land acquisition. Likewise, informal tenants cultivating Raikar lands have also not been entitled to receive such compensations. The Act retains the provision to acquire land for other institutions too (in addition to the institutions fully owned by the Nepal government, provincial government, and local government). In such a process for acquiring land for other institutions, there has been the need of carrying out a detailed investigation on the potential adverse effects of such activity on the marginalized peasants and the landless settlers and all decisions have to be made in consonance with findings. CSRC advocacy activists have made empirical observations on the eviction of landless squatters from the unregistered governmental land in the process of land acquisition for undertaking development projects or works which is indeed totally wrong from the humanitarian

perspective and international legal frameworks (without providing suitable alternatives to such evictees).

Based on the CSRC's experiential learning from its advocacy campaigns, it can be said that the Act was enacted by the Nepal government without the consideration of the "land tenure system" prevalent in Nepal. Ergo, it follows as a corollary that it has actually propped up governmental claims on the lands used by the "unsystematic settlers" and "landless people" for their livelihood activities in the Tarai. The Act is mainly implemented by the Home Ministry, Chief District Officer, and police personnel and consequently, landless and marginalized peasants have zero role in the entire process of its implementation (i.e management of the issues apropos of unsystematic settlement and landlessness). If trenchantly critiqued, the Act has accorded top priority to the federal government (Nepal government) in both decision-making and implementing processes for land acquisition and has openly flouted the federal provisions under the new constitution (because even the provincial and local governments have to take total support from the Nepal government for the decision on the land acquisition needed for them).

Prescriptively, the Act needs to be immediately amended as per the National Land Policy (2019) with the incorporation of new provision legally permitting the "unsystematic settlers", "trust land tenants", "informal tenants", "landless people" (living in any governmental land) for "right compensations" to be paid and "land to be exchanged in lieu of acquired land". There is indeed a need for a separate act also for the preservation of lands with religious, cultural/archaeological, and historical importance (including such lands of "autochthonous tribes") to be taken care of in the process of land acquisition for the public work. Finally, it is advisable to amend it fully or scrap the Act and replace it with a new act that can address many of the issues raised above in the context of federalism. In either case, the basic principle of its formulation must be the promotion of social justice.

From the perspective of political economy, the Act can diametrically be termed as "anti-peasant" because the land acquisition act of the government has been the trigger factor for the "commodification of the land resource" in all areas where the government is hell-bent on "land acquisition" (of private lands) for the public work, triggering

the further possibility of the "dispossession of peasants" for the development of urban, semi-urban and peri-urban areas (due to nature of the development of public works).

Land Revenue Act, 1978

Succinctly put, this Land Revenue Act has two major objectives as follows: (i) collection of land revenues, and (ii) reclamation of land. Relatedly, the enactment intends: (i) to provide administrative services for general people in the regime of tax submission of inherited/used land to the state and private registration of lands in names of individuals; (ii) to maintain records of governmental, public and community lands, and (iii) to provide a recommendation to Nepal government (Government of Nepal, 2019). Notwithstanding this fact, the general people have no easy access to the land revenue and land reform offices because of their location in one place in a particular district.

Some salient relevant provisions of the Act comprise as follows: (i) maintenance of the official record of landowners in all places (including in areas where cadastral survey has not been conducted through the use of existing land records); (ii) making official effort for conducting cadastral survey of lands left under the Land (Cadastral Survey and Measurement) Act (2062) and registering such lands; (iii) rendering services for land registration, transfer of land ownership (in other names/s), and adjusting land records; (iv) sharing information by land revenue office on the change/s in landownership official record under tenancy or excess land above ceiling (set by government) with land reform office; (iv) remission of land tax by the Nepal government to the peasants (landowners) in the events of the damage of land caused by river or landslide and failure or depredation of main crop triggered by drought or other natural calamities upon the field investigation made by land revenue office and its subsequent recommendation for remission; (v) prohibition on the private registration of governmental, public or community lands (but exceptions were there for the use of governmental land for any work/purpose considered appropriate by Nepal government, public land for public purpose, and community land for any work/purpose considered appropriate by the community); (vi) prohibition on reclamation of unregistered governmental land

for human settlement (exception was there for reclamation of such lands with the approval of a government-constituted committee for such purpose or such lands sold/distributed as per the prevailing resettlement law); (vii) incarceration of a culpable person and his/her accomplice for three years or imposition of NRs. 3,000 as fine or provision of both punishments in the event of registration of governmental land or public land in his/her name or reclamation of such lands, etc. (Government of Nepal, 2019). Institutionally, land revenue offices, local units, and courts have been the implementing agencies of this Act.

Critically speaking, CSRC activists have also had empirical observations on the difficulty of landless people and small-holders in accessing services of land revenue offices because of their location at district capital as indicated above. More specifically, despite the decision on the delegation of authority to local units for handling issues related to land tax, branches of the land revenue office have still stationed at the district capital. Practically speaking, landless people and small-holders have to face a myriad of hassles in most land revenue offices involving a high level of transaction costs for seeking the services from a "rent-seeking" bureaucracy. It follows as a corollary that there have been allegations of corruption leveled against the land revenue officials in most districts as revealed by CSRC representatives working for land rights and agrarian movement. Despite the onset of digitalization of the land statistics at a few land revenue offices, maintenance of unsystematic land records (in hand-written form) is ubiquitous. On the whole, the spirit of the Act has been on land registration, land revenue collection, settlement of land disputes, etc. No substantive action has been discharged by the local units hitherto vis-à-vis the Land Revenue Act barring an exception to land tax collection. Despite the specification of the conservation and management of governmental, public, and community lands in the Act, these lands seem to be utilized by powerful elites (both economic and political) as observed by CSRC activists at the grassroots level.

Prescriptively, the process of establishing the branch of land revenue in every local unit needs to be expedited by the federal government. Equally important is the urgency of the expedition of digitalization

of land ownership statistics in all districts including land surveys. From the perspective of social and economic welfare, the record of all cultivable governmental lands, public lands, and community lands should be updated by local governments and such lands should be provided to peasants deprived of land rights (i.e genuine landless people) at a minimum price for their settlement and so that they can earn their livelihoods from agriculture. Finally, in the upcoming amendment of the Act, an important provision of joint registration of land in the names of married couples has to be incorporated.

From the perspective of political economy, Land Revenue Act has always promoted the "commodification of land" through its transaction between the "buyer" and "seller".

Privatization Act, 1994

After the democratic resurgence in Nepal in 1990 due to the urban-based popular movement led by disgruntled opposition leaders from the democratic and left forces and the subsequent general election, the Nepali Congress government was formed which adopted overarching neo-liberal economic development policy officially for the country. It followed as a corollary that the government enacted the Privatization Act in 2050. Although the Act is not directly related to the regime of land acts and policies, it has serious implications on the "dispossession of the peasantry" in Nepal. The preamble justifies the enactment of the Act. It underscores that the Act has been desirable for the overall economic development and management of state-owned enterprises through privatization from the national perspective to augment the productivity by enhancing the capacity of such government-invested public institutions, reduce the financial and administrative costs of the Nepal government, and enhance the participation of private sector in their operation (www.lawcommission.gov. np n.d, p.1).

There was a provision of constituting a Privatization Committee headed by the Finance Minister or State Minister which was empowered to make a recommendation to the government on the processes of privatization after carrying out the detailed studies of state-owned enterprises. The Nepali Congress government's move triggered the privatization of

nearly two dozen state-owned enterprises mostly established with the financial and technical support of friendly countries under bilateral cooperation. The then government was alleged that these enterprises were privatized on nominal cost incurring huge losses to the state (because the land resource and the infrastructure had the potential of generating a substantial amount of financial resources for the state). Indeed, the privatization move ended in a fiasco. Contextually, in 2018, ex-Finance Minister Dr. Yuba Raj Khatiwada declared in a speech to the Federal Parliament that "privatization has failed in Nepal". Unveiling a much-awaited White Paper on Nepal's economy, Dr. Khatiwada said that the privatization policy was adopted 'whimsically' in 1992 and without proper assessment of its relevance to Nepal. Dr. Khatiwada also said that privatization had failed to increase productivity, create more jobs and deliver better services because its modality, valuation, and the process were unrealistic (Nepali Times, March 30, 2018).

In such a context, a student of political economy must acknowledge the fact that the state under the Panchayat regime (between 1960 and 1990) had forcefully acquired substantial swathes of most fertile land both in Kathmandu valley and outside by paying a very low amount of compensations to peasants. On the one hand, peasant households were turned "landless" forcing them to survive on their labor power as a commodity and on the other, no one in the government involved in privatizing state-owned enterprises ever raised the moral question of the state's misuse of land forcefully acquired from peasants. Indeed, when the land forcefully acquired for "state-guided industrialization" was institutionally misused by the successive neo-liberal governments since the early 1990s in the name of privatization, the welfare of peasants who had lost their lands to the state should have been thought of. This would have been possible in one of the two ways, that is, returning the land to the same peasants for their livelihood or additional compensations would have been paid to them (saying "sorry" to peasants for the misuse of their lands). All this is indicative that capitalism (capitalist modernization) never thinks of the welfare of peasants. Rather its every move is geared toward their "proletarianization" and a handful of so-called industrialists or economic elites benefit from "accumulation by dispossession of peasants". Even the present left government, which ostensibly claims to be a champion of socialism, is largely a neo-liberal government

dictated by the Bretton Woods institutions (such as WB and IMF). The glaring example is its policy announcement for the implementation of "land bank" and its preparatory work for implementation by developing its concept through the Ministry of Land Management, Cooperative and Poverty Alleviation at the federal level.

Bonded Labor Prohibition Act, 2002

In a society rapidly moving toward the direction of capitalist development, the abolition of bonded labor in Nepal by the parliament in 2002 (which was largely dominated by the presence of the landlords) was indeed historically a welcome move. Such a remnant of slavery in the 21st century was highly condemnable. To the best of the researcher's knowledge, the bonded labor prohibition was a function of the people-centered advocacy with the facilitation and support of civil societies (both national and international). Indeed, the "conscientization of the bonded laborers" by the indigenous activists and the civil society agencies built immense pressure on the then government for declaration of its prohibition. The preamble of the Bonded Labor Prohibition Act (2002) specifies three objectives as follows: (i) prohibition of bonded laborers; (ii) rehabilitation of freed bonded laborers, and (iii) improvement of the living standard of the freed bonded laborers from the perspective of social justice (Government of Nepal, 2002, p.196).

The Act defines a few important terminologies. For instance, "bonded labor" means to "provide the labor or service to the creditor without wage or at bare minimum wage" for the following reasons: (i) payment of debt taken by himself/herself or by his/her family or payment of its interest; (ii) payment of debt taken by ancestor or payment of its interest, and (iii) payment of bonded laborer's debt by being a "guarantor of the bonded laborer" in front of a creditor. Succinctly put, "bonded laborer" means " a laborer who works without wage or at bare minimum wage under any of the above-specified stipulations" in the domains of agricultural operation, livestock-raising, and domestic drudgery (by girl child) (Government of Nepal, 2002).

A few salient features of the Act comprise the following: (i)

emancipation of working bonded laborer, and (ii) prohibition on the employment or use of bonded laborer by anyone; (iii) exemption of the bonded laborer from the debt of the creditor; (iv) annulment of written or unwritten understanding concluded between the creditor and bonded laborer on "bonded laborer's debt" (taken in the form of cash or kind); (v) return of the property taken by the creditor within three months (after the onset of Act) on mortgage or as a collateral while providing the credit; (vi) constitution of a "Freed Bonded Laborer Rehabilitation and Monitoring Committee" by the Nepal government in the designated districts (charged with responsibilities for updating the records of freed bonded laborers, making necessary arrangements for their rehabilitation, implementing government's approved programs, maintaining surveillance in communities on the use of bonded laborers, making recommendations for freed bonded laborers to Nepal government, banks, or financial institutions for initiating income generating enterprises, maintaining coordination with various agencies or institutions for their housing, education, employment training or skill, and working for promoting their rights and well-being) (Government of Nepal, 2019). Succinctly put, the Act has underscored their "settlement", "management of employment" and "income generation". Institutionally, "Freed Bonded Laborer Rehabilitation and Monitoring Committee" constituted by the Nepal government in the designated districts is the prime implementing agency of the Act where there is the representation from the government's district-level branches of the Line Ministries of Home, Education, Forest, Land Reform, Labor, and Agriculture. Similarly, there is also the representation of district-level banks, peasants' organizations, trade unions, civil society organizations (working in the sector of bonded laborers), etc. Interesting is the provision for the representation of two freed bonded laborers in this committee in each district which is basically operated by a Welfare Officer designated by the Nepal Government.

Sociologically speaking, the major loophole of the Act has been the omission of the specific provision for the "modality of the allocation of the cultivable land" (be it governmental land or excess land above the ceiling to be appropriated by the government) to these freed bonded laborers for their "re-peasantization" and subsequent "economic

empowerment". The omission of such provision in such an emancipatory Act can be understood as the creation of "reserve footloose agricultural laborers" in the local labor markets largely controlled by capitalist farmers (including traditional landlords). A myriad of local reports on the return of these freed bonded laborers to their traditional landlords (creditors) for their bare survival have emerged in the villages of five Tarai districts (viz. Dang, Banke, Bardiya, Kailali, and Kanchanpur) during the last 18 years—a function of the failure of the effectiveness of the faulty Act and Nepal government's lack of genuine commitment for their "re-peasantization", and "economic empowerment".

Nepal Trust Act, 2008

After the declaration of Nepal as a republic state in 2006, there was a hue and cry from the public about the property (movable and immovable) of late king Birendra, his late queen, and their late family members. As a result, an Act was framed in 2008 and implemented for bringing all their property under the trust for its use in national interest through its proper management. As a result, the details of the property were prepared for institutional ownership and control.

Succinctly put, the establishment of Nepal Trust as an autonomous institution (with perpetual succession) has been an important provision for the enjoyment, disposition, or management of movable and immovable property in any way. The property of the trust comprised the property held by them during the time of their demise (as decided by the cabinet), any incremental and inheritable property (including the ones kept in others' names or any other property without the names of the claimant/s), any other property to be received in their names even after the implementation of this Act, any property provided occasionally by the government of Nepal, any other property available within the country or outside the country during the onset of the implementation of this Act, etc. Other important provisions of the Act comprise: (i) use of the trust property in the national interest that can accrue comprehensive and optimal public benefits (more specifically, use of the trust property for the establishment and operation of educational and academic institutions such as schools,

colleges, universities or make donations for their operations without any adverse effects on general public, operation of tourism-related and commercial works in the trust property that is in accordance with national interest which promotes benefits to the trust and establishment and operation of hospitals or health posts for public use); (ii) role of the trust management committee which is legally responsible for the promotion and protection of trust property and income generation by implementing activities as specified in the Act; (iii) prohibition on the sale of the trust property and provisioning it to anyone on the usufructuary rights; (vi) sale of trust property by trust management committee for specific purpose for promoting the national interests as approved by the cabinet, etc. (www.lawcommission.gov.np.n.d).

One of the provisions of the Act has been often debated as "controversial" in the public domain which, under the recommendation of Nepal Trust, legally mandates the Nepal government for the extension of the contract to the leasee prior to the end of the existing contact with the same temporal dimension provided the leasee wants to use it by maintaining the existing structure of the property with additional capital investment and the Nepal government is pretty sure of potential economic benefits from such move. Institutionally, the patron (i.e the Prime Minister), trust management committee, trust office, and Nepal government have been responsible for the execution of the Act.

Critically speaking, the Act is surprisingly silent on the issue of cultivation of land (brought under the trust ownership) under tenancy arrangements. In the past, during the Panchayat regime, the large swathe of land under big royal resort such as Gokarna Resort of Kathmandu had been established through forced acquisition from indigenous peasants (by paying nominal compensations) which resulted in their massive "dispossession of land" which was vital for their livelihood. This dimension of economic disempowerment of peasants has been downplayed in the entire Act. Neither such "dispossession of peasants" has been a concern for the Nepal government.

Prescriptively, legal provision has to be added to the existing Act that entitles any peasant cultivating trust land to claim "tenancy right". Granted this new provision, the trust should lease the agricultural land to its tillers. Otherwise, the marginalization of tenants (peasants)

continues to be unabated because the enactment of this Trust Act has also directly impacted upon the "commodification of land" (under which trust land is offered to the moneyed leasee with the highest competitive bidding). Under capitalism, "commodification of land" is the principal trigger of "peasants' displacement" (given the fact that land is regarded as a commodity for exchange value, not for traditional use-value). The provision legally permitting the Nepal government's cabinet to give approval for the sale of trust property for a specific purpose (such as for promoting national interest as specified above) must be scrapped. Rather, the trust management committee should utilize such land productively for public benefit through the formulation of a suitable work plan.

Industrial Enterprise Act, 2016

Two major objectives have been specified in the relatively recent Industrial Enterprise Act. Indeed, they indicate the underlying ideological position of it. These comprise: (i) to increase national productivity and employment opportunities by making the country's industrial environment investment-friendly equipped with necessary infrastructural facilities, and (ii) to develop an efficient, dynamic, competitive, and production-oriented economy through industrial development by using the available natural, physical and human resources optimally and underscoring "import substitution" and "export promotion" (Government of Nepal, 2016).

Major provisions pertaining to the land issues mentioned in the Act are: (i) self-purchase of the necessary amount of land by the entrepreneur himself/herself for the industry registered as per this Act or other prevailing laws (however, in the event of the failure of purchasing the necessary amount of land for the industry, he/she can request the industry registration agency which will work for coordination and facilitation for land purchase or making land available) ; (ii) making governmental land available for establishing and operating the industry of national priority on lease after six months of the formal application of request (the entrepreneur is required to pay the lease amount and comply with other terms and conditions as specified in contracts concluded between government of Nepal and management

of industrial enterprise), and (iii) exemption of maximum upper limit of land ceiling for industrial enterprise as fixed by the prevailing laws (provided an enterprise has excess land above set governmental ceiling and entrepreneur formally requests with application for registering such excess land in its ownership and government can exempt it as per the necessity of the enterprise) (Government of Nepal, 2016).

Critically speaking, the self-purchase of land by the entrepreneur or land purchased by the entrepreneur with the facilitation of the government agency may lead to the "dispossession of peasants' agricultural lands" for the establishment of industrial enterprise/s. The government must not make peasants' agricultural land available for such a purpose so that the severity of adverse impacts of land acquisition can be reduced to a considerable extent. Prescriptively, the federal government has to make such governmental land available to industrial enterprises on the basis of the currently approved Land Use Plan.

Right to Food and Food Sovereignty Act, 2018

Ideologically speaking, the Right to Food and Food Sovereignty Act framed and executed in 2018 was armed with two major objectives as follows: (i) to implement the constitutionally guaranteed citizens' fundamental right to food, food security, and food sovereignty, and (ii) to develop an appropriate mechanism for such implementation and ensure citizens' access to food (Government of Nepal, 2019,p.286). This is the first Act of this nature in the legal history of Nepal.

Interestingly, the Act defined a few terminologies often used in Nepal. For instance, the term "peasant" (Kisan) has been defined as "a citizen who has made agriculture as his/her main occupation or profession". The term also includes "his/her dependent family members" or " agricultural laborer for six months or more" or " a citizen who produces agricultural implements" or "his/her dependent family members". "Food" means " a consumable processed, semi-processed or unprocessed material for human--derived from the biological source which is culturally acceptable" and this term also denotes "the raw material used for such consumable material in its preparation,

processing or production". "Food sovereignty" means the following rights to be enjoyed or exercised by the "peasant" in food production and distribution system: (i) participation in food policy formulation process; (ii) choice of any profession concerning food production or distribution system; (iii) selection of cultivable land, seeds, technology, and machinery, and (iv) protection from the adverse effects from the globalization or commercialization of agricultural profession. "Food security" is meant to be "every person's physical and economic access to food necessary for the maintenance of active and healthy human life" (Government of Nepal, 2019, pp.286-87).

A few salient provisions of 'right to food' and 'food security' under the Act comprise the following: (i) ensuring right to food and food security to every citizen by ensuring food supply through the reciprocal coordination among Nepal government, provincial government and local government units (constituents of right to food and food security include: regular access to sufficient, nutritious and quality food without any discrimination; freedom from hunger; security from risking life due to food scarcity; sustainable access to food and nutritional assistance to person or family with risk of hunger or food insecurity, and use of culturally acceptable food); (ii) prevention and control of hunger through the reciprocal coordination among Nepal government, provincial government and local government unit (by maintaining record of persons or families with risk of hunger or food insecurity, managing necessary quantity of food to deal with situation, distributing it, and adopting immediate, short-term and long-term measures for hunger prevention and control); (iii) identification of target households with food insecurity by local unit of government (which is to be integrated and updated by the provincial governments); (iv) issuance of food assistance identity card to target households based on their updated records (who are entitled to get food free or at subsidized price); (v) ensuring emergency food and nutrition (during the time of disaster/calamity); (vi) prioritization of the distribution of locally produced traditional food in the process of management food and nutrition, etc. (Government of Nepal, 2019, pp.287-291).

The important part of this Act is the provision on the "protection and promotion of food sovereignty". More specifically, each peasant shall

have the "right to food sovereignty". Legally, each peasant shall have the following rights (without having adverse effects on the general public): (i) right to identity and dignity for every peasant or food producer; (ii) right to participation in food and agricultural production; (iii) right to means and resources necessary for agricultural work; (iv) right to choice of local seeds, technology, machinery, and agricultural species and protection of its "intellectual property";(vii) right to preservation of traditional and indigenous food, and (viii) right to protection against the exclusion from the agricultural occupation in a discriminatory way. Emphasis has been laid on the protection of agricultural occupation and promotion of living standards of the peasants based on the available resources through the reciprocal coordination among the Nepal government, the provincial government, and the local government unit. More specifically, they would work for: the increase of investment in the sector of agriculture and food production, expansion of sustainable use and access to agricultural inputs, prioritization to cash crops or exportable crops, expansion of simple and easy seed, crop or livestock insurance to peasants, enhancement of peasants' access to agricultural markets, protection of peasants from the farming of genetically modified organism , decisions to be made to offer support prices to crops (which can be stored for long), promotion of sustainable agricultural system based on biological diversity, agricultural commercialization, industrialization, modernization, and mechanization for the protection of agricultural occupation, expansion of the women farmers and agricultural landless households' access to cultivable land and agricultural implements, fixation of the support prices to agricultural products based on production costs, etc. One of the important provisions has been the "classification of peasants" through their identification (as per government set criteria) and on the basis of which local units are legally authorized to issue "peasant identity cards". On the basis of peasants' classification, they are entitled to receive subsidies, remissions, facilities, and contributory pensions (as per the prevailing law) from the state. The Act has also provisions on sustainable use of agricultural land, promotion of local crop and livestock production (Government of Nepal, 2019). The federal ministry of agriculture and livestock development, provincial government, local units (rural municipalities and municipalities), national food council, provincial food council, local food coordination committee, etc. have been the designated institutional structures for the implementation of the Act.

The Act is progressive for ensuring the right to food and right to food sovereignty which has been framed by considering the international context too. Despite the good attributes of it, the Act is also the manifestation of neo-liberal capitalism in agricultural development because one of its major foci has been on "agricultural commercialization, industrialization, modernization, and mechanization for the protection of agricultural occupation". From the perspective of political economy perspective, it fails to make a distinction between "peasants" who produce for the "use value" and the "farmers" who produce for the "exchange value". Hence, its generic use of the term "Kisan" has conceptual ambiguity which means anyone who works on the farm (i.e a farmer). When the emphasis is on capitalistic agricultural production, small-holders (peasants) cannot compete with the "farmers" (capitalist growers). Legal provisions for lease farming, and contract farming under the Act merely promote the interests of capitalist farmers, not that of the peasants. For conceptual clarity, Zang and Donaldson (2010)'s study on 'China's peasant differentiation, labor regimes, and land rights institutions' seems relevant. Adopting the approach of H. Friedmann (1980), Zang and Donaldson (2010) describe two attributes of "peasants" such as "household as a unit of production" and " dependence on non-commoditized relations for the household reproduction". They describe "(simple) commodity producers" as "farmers" who happen to be "commercial farmers", "entrepreneurial farmers" and "contract farmers".

Forest Act, 2019

Ideologically speaking, the Act has been enacted for contributing to national prosperity through the management of systematic forest, forest protection area, community forest, joint partnership forest, leasehold forest, and religious forest and promotion of private, public, and urban forest as well as protection, promotion and utilization of the environment, watershed, and biological diversity. Three definitions

are important for the paper. For instance, it defines "forest" as "an area with fully or partially covered with trees or bushes". It defines "forest area" as "an area with forest boundary or an area covered by forest without boundary or grassland, pastureland, snow-capped mountain or mountain bereft of snow, road, lake, pond, wetland, river, stream, the sand area along the course of the river, unregistered public land located within the forest excluding the area under private ownership or an area managed by any other prevailing law". "Inter-provincial forest" is stretched from one province to the other geographically and naturally and from the locational perspective, it is to be understood as interconnected national forest". "Users' group" has been defined as a "community of users organized for the protection, promotion, management and utilization of forest for collective well-being" (Government of Nepal, 2020, pp.143-144). The Act has categorized the forest of Nepal into seven as follows: (i) government-managed forest; (ii) community-managed forest; (iii) jointly-managed forest (by users and government); (iv) leasehold forest; (v) religious forest; (vi) public and private forests, and (vii) urban forest.

Given the fact that the paper is fundamentally concerned with land resources, only relevant provisions have been discussed here. These comprise: (i) the ownership of national forest vested with Nepal government (i.e land use change of the national forest, transfer of the usufructuary right of national forest to any other person, mortgage or exchange of such land or transfer of right in any way without the cabinet decision of Nepal government); (ii) acquisition of public or private land including the physical structures by the Nepal government in case of its need for forest protection in the process of boundary demarcation of national forest (however, in the case of private land and structures built in it, the affected party would be paid compensations as per the prevailing law of land acquisition); (iii) prohibition on the registration of national forest land in people's names (in addition, any illegal registration of forest land in the past would be automatically considered as "null and void" after the onset of the implementation of this Act which also rules out any ownership claims); (iv) power vested with the Nepal government for the formulation of land use plan for sustainable forest protection, management and maintaining equilibrium between environment and development in any designated

area of national forest (and this provision is apparently commendable provided it is realistically implemented), and (v) prohibition on the settlement or resettlement within the forest area (after the onset of this Act) (Government of Nepal, 2020).

Under the community forestry section of the Act, two provisions are particularly commendable. These comprise commencement of economic activities related to forest-based industry and tourism by the forest users' groups (FUGs) as per their operational plan approved by the Divisional Forest Officer, and contractually handing over any designated area of community forestry to the user households living below the poverty line by FUGs for their income generation through the development, protection, and utilization of forest. Under the leasehold forestry section, Divisional Forest Office can, for the poverty reduction purpose, formulate an operational plan to hand over the part of the "degraded forest" (with 20 % crown coverage only) to households living below the poverty line for their income generation on leasehold basis through its protection and development. Institutionally, the Nepal Government, Ministry of Forest and Environment (at the federal level), Forest Department and its divisional offices, concerned ministry at the provincial level, FUGs, marginalized people's groups living below the poverty line, forest-related civil society institutions, etc. have their role in the implementation of this new Act.

Critically speaking, the entire Act is framed under the capitalistic framework because each category of the forest seems to be geared toward the protection of the forest ecosystem and its commodification through the exploitation of forest goods and implementing various economic activities as identified above. Apparently, it looks fine but CSRC views that the very definition of "forest area" provided in the Act seems problematic. Repetitively, it defines, ""forest area" as "an area with forest boundary or an area covered by forest without boundary or grassland, pastureland, snow-capped mountain or mountain bereft of snow, road, lake, pond, wetland, river, stream, the sand area along the course of the river, unregistered public land located within the forest excluding the area under private ownership or an area managed by any other prevailing law" (Government of Nepal, 2020). CSRC holds the view that if all the areas included can be called 'forest areas', then

it is observable that such areas are not protected and utilized (except the area covered by the forest crown cover). Including abandoned public land and unregistered public land under the forest area is not an equitable decision in a country where millions of landless people including freed bonded laborers have been asking for such land for their livelihood activities. This is very serious from the perspective of economic empowerment of the landless people because such legal provision further aggravates land inequality.

Trenchantly critiqued, there has been a substantive contradiction between the Forest Act 2019 and 8th amendment of the 1964 Lands Act. The 8th amendment of the Lands Act states the "management of unsystematic settlers" (unsystematic settlers living in any unregistered governmental land or any other government land or forest area at least for 10 years through reclamation/cultivation at the time of the onset of the implementation of this Act would be made available for once not exceeding the specified land ceiling). But Forest Act has the stringent provision for the prohibition of the registration of any stretch of national forest land in the name/s of a person/s. Hence, such legal hurdles are to be sorted out at the central decision-making levels for the benefit of the marginalized peasants at the earliest.

Prescriptively, the inhabited land, albeit included in the forest area in the record, has to be institutionally taken out from it by demarcating new forest boundary and it has to be legalized for giving ownership to the genuine landless people (through rigorous screening process). Additionally, the forest area has to be optimally utilized for the livelihood of the community of people traditionally residing in the area through the formulation of a land use plan of forest area. Otherwise, the commodification of forest ecosystems and initiatives for forest-based entrepreneurial activities would only benefit the economic elites under the neo-liberal framework of development.

Land Use Act, 2019

Ideologically speaking, the preamble of the Act states that it has been enacted for the optimum and sustainable benefit through the classification of land, integrated use, and effective management

(Government of Nepal, 2019). In a way, the Act looks progressive in the context of neo-liberal economic development framework but is deeply flawed in its content if analyzed from the perspective of political economy.

One of the important provisions of the Act has been the "classification of land use areas" into 10 different types as follows: (i) agricultural area; (ii) residential area; (iii) commercial area; (iv) industrial area; (v) area of mines and minerals; (vi) forest area; (vii) area of river, stream, lake, wetland; (viii) area of public use; (x) area of cultural and archaeological importance, and (xi) any other area designated by Nepal Government as per necessity. There is also the legal clause for the further sub-classifications of this major "land taxonomy" (Government of Nepal, 2019). It can be anticipated that the "agricultural land" may be protected from being rampantly used for residential purposes by the burgeoning real estates both in Kathmandu and outside it. Indeed, it has been a serious concern for long among land use specialists, rational economists, and land rights activists. Concisely put, the upcoming Nepal government's land use program as per the Act may contribute to the preservation of land resources and yielding of public benefits.

Other two salient provisions of the Act comprise the following; (i) preparation of land-use area map by the federal ministry for every local unit and handing it over within a year after the onset of this Act which can be updated periodically by "Local Land Use Council" through the consideration of its necessity, and (ii) formulation of land use plan by Nepal government, the provincial government and local unit after the preparation of long-term land-use plan approach paper through the detailed study of the land situation, population growth rate, the necessity of food and housing, and demand of land for economic development and infrastructural construction (such land use plan of the Nepal government, the provincial government, and the local unit have to be approved by the "federal land use council", "provincial land use council", and " local land use council", respectively). More importantly, a land use plan must be prepared with the clear visibility of the following areas: (a) industrial corridor; (b) special economic zone; (c) national project; (d) inter-provincial project; (e) natural

and physical properties of national importance worth preserving; (f) religiously and culturally important sites with international identity and human belief; (g) school or other educational site, and area of road, health institution, and irrigation canal; (h) sensitive site from the perspective of national security; (i) disaster-prone area; (j) protected area for environmental cleanliness and conservation of biological diversity, and (j) other necessary areas. However, other arrangements concerning land use plan take place as specified by the Nepal government (Government of Nepal, 2019).

Similarly, there is also a specific provision for updating the land owners' records and certificates of land ownership by the local unit within its territory in accordance with the land use classification map. There is also the prohibition on the change of land use (nonetheless, in the event of the necessity of a change of land use, the concerned party needs to apply to the "local land use council" with reasonable explanations which is then forwarded to "provincial land use council" which after the development of technical report by experts sends the reasonable recommendation to the "federal land use council" which is legally mandated to make changes in the existing land use). Interestingly, in the case of the insecurity of the settlement due to disasters, the local unit is legally mandated to change the land use to shift the local population of disaster-prone areas to other appropriate areas for safe and systematic settlements.

One of the important legal provisions of the Act is on "control of land fragmentation and land consolidation". It articulates to set the necessary criteria and necessary standards to control land fragmentation and regulate land plotting. The federal ministry, provincial government, and local unit have been legally mandated to implement land consolidation programs in the specified areas for modernization, mechanization, commercialization, cooperative farming, collective farming, and public farming in agricultural land (i.e capitalist development of agriculture). These agencies have also been legally mandated to design and implement special facility programs for encouraging the program of land consolidation. The Act also has an important but very controversial provision on "land bank". The Act specifically states, "Nepal government will establish

land bank at the local unit as per necessity for the implementation of the system concerning the land use classification and enhancing productivity through the optimum utilization of land" (Government of Nepal, 2019, p.314). There has been a serious concern among the land civil society activists and professionals working in the land sector about this provision. The concern is that such provision may benefit the corporate agricultural sector, not the small-holder peasants as implementation concept note on land bank prepared by the federal ministry recently gives space for the former. It specifically writes, "Applications shall be invited from the willing individual, organization, institution, cooperative, and company" (Ministry of Land Management, Cooperative and Poverty Alleviation, Aug-Sept 2020, p.9). Equally important is the concern that such provision pushes the agenda of scientific land reform enshrined in the constitution of 2015 to the periphery.

As indicated above, the institutional structure for implementing this Act comprises the following: federal land use council, provincial land use council, local land use council, and land use implementation committee at the local level (to assist local land use council). The Act has also the provision of nominating experts to the federal land use council or provincial land use council by following the criteria of social inclusiveness. Only proper coordination among all the governments of three levels can ensure its smooth and successful implementation.

2.4 Strategies

Agriculture Development Strategy (2014) prepared by the Project Preparatory Technical Assistance (PPTA) team for the Nepal government for a period of 20 years (2015-2035) with the assistance of more than a dozen of international organizations (bilateral, multilateral, and UN agencies) has been the successor of Agriculture Perspective Plan (APP) prepared for 20 years (1995-2015) with the assistance of Asian Development Bank (ADB) which was indeed the first macro strategic plan for agriculture sector under the overarching neo-liberal economic development framework of the government introduced in the early 1990s. The overriding emphasis of the APP

was on "commodity production" in the agriculture sector (as an engine of growth) with an open market-oriented approach through the involvement of the private sector (APROSC and John Mellor Associates, 1995). The evaluation for APP showed that it could not achieve its growth targets and 10-year old armed conflict (1996-2006) has majorly been attributed to its underperformance and underachievement, inter alia.

The primary foci of ADS (2014) have been on: (i) commercialization and competitiveness in the agriculture sector, and (ii) process of agricultural transformation. Its vision is "A self-reliant, sustainable, competitive and inclusive agricultural sector that derives economic growth and contributes to improved livelihoods and food and nutrition security" (MOAD, 2014, p.4). Its strategic framework is for the acceleration of agricultural sector growth through four strategic components related to "improved governance; productivity; profitable commercialization, and increased competitiveness" (MOAD, 2014, p.4). There has been an emphasis on the inventiveness of the private sector and the adoption of a competitive and pro-poor approach with the recognition of the role of private and cooperative sectors (public-private partnerships). It has also recognized farmers' rights and provides institutional mechanisms to ensure farmers' participation in the planning, decision-making, implementation, and monitoring of the strategy and ensures the establishment of a high level fully authorized and permanent type of Farmers' Commission to help advance farmers' rights (which has come into effect a couple of years ago). There has also been the recognition of the critical importance of farmers' access and control of the means of production (i.e land). Interestingly, it has developed a category of farmers, namely, commercial farmers, subsistence farmers, and the landless, and discussed different approaches of institutional support to them. It has also asked the government to adopt the formal decision (policy statement) to review or implement the existing legislation and policy pertaining to the land reform (with a focus on the level and enforcement of land ceiling, the adjudication, and registration of pre-1964 tenancy rights and the adjudication and determination of the dual ownership case). Leading stakeholders of its implementation comprise farmers, cooperatives, and the private sector (agro-enterprises) and their associations (National Peasants' Coalition, the National Cooperatives Federation, the Seed Entrepreneurs Association, and

the Dairy Industry Association). Women's access to land has also been underscored (MoAD, 2014).

On the whole, it has principally strategized for the acceleration of "agricultural capitalism" (with a focus on profitable commercialization and increased competitiveness as indicated above. It follows as a corollary that a number of activities for their promotion have been prescribed as follows: (i); enactment of contract farming act (to promote agri-business operations); (ii) land bank establishment (to facilitate the land leasing of the currently unutilized land); (iii) enactment of land lease act (as a viable alternative to the share-cropping and as a basis for agri-business farm arrangements that provide fair lease contracts, measures to prevent the acquisition of tenancy rights in long-term lease relations, and ability to secure long-term leases by agri-business for farming), and (v) implementation of secured transaction act (MoAD, 2014,pp. 94-111).

Critically speaking, it is ludicrous to argue on "competitiveness" and "inclusiveness" in a strategy that is principally designed for the transformation of the agricultural system through "agricultural commodity production" (i.e production for "exchange value" in the markets for profits). Subsistence and marginal producers (peasants who produce mainly for domestic consumption) can never compete with the larger commercial farmers in the regimes of production and market. Given the fact that state's institutional inputs have been historically in favor of the large commercial farmers or bigger landlords (a function of their power nexus with the politicians and bureaucrats who also represent the landed class), the same trend continues in the days to come, for sure (because all benefits of all epoch-making political events in Nepal since 1951 have been largely captured by the bourgeoisie- be it in the rural or the urban space). Questioning this ideological position is tantamount to the rejection of the empirical reality in broad daylight. Large commercial farmers, simultaneously, work as producers, agro-traders, agro-entrepreneurs, and agro-transporters but subsistence and marginal producers cannot play these roles simultaneously due to their relatively poor economic condition and hence, they are exploited by same large farmers who monopolize the agro-markets. Given the fact that the focus of the strategy is on "profitable commercialization" (i.e production for exchange value

for profit) which is possible from competitive farmers but is mute on the strategy for disincentivizing the "depeasantizing process" under the emerging agricultural capitalism because all the activities such as contract farming act, land lease act, land bank, etc. will eventually "depeasantize" a large population of peasants (which is historically and contemporaneously valid in the global agricultural sector). Albeit it argues for addressing the tenancy issues of the registered tenants, it is silent on the genuine scientific land reform scheme. Finally, in 70 years, what Nepal has done with the support of generous donor community is the "utter destruction of our traditional/indigenous sustainable agricultural system irreversibly" (Uprety, 2021) but it neither analyzes this serious wrong-doing of the past nor proposes any measure for revitalizing it with needed transformational support (of intervention) suitable to the ecology and local indigenous culture. ADS has also difficulty in being implemented even in the present neo-liberal context because it does not have any strategy for working in the federal context of Nepal (given the fact it was finalized prior to the promulgation of 2015 constitution).

2.5 International Frameworks

A total of four relevant international frameworks have been reviewed in the context of inditing this paper. These comprise international covenant on economic, social, and cultural rights (2066), United Nations (UN) declaration on the rights of indigenous peoples (2007), voluntary guidelines on the responsible governance of tenure of land, fisheries, and forest in the context of the national food security (2012), and UN declaration on the rights of peasants and other people working in rural areas (2018). An analysis with brevity vis-à-vis natural resources has been furnished hereunder. Indeed, member states have their obligations to work as per these frameworks by entertaining them in their national legislative systems. Critically speaking, these have been prepared in the context of the capitalist development model adopted after World War 11 in which the past colonial powers of the west with their hegemonic perspective have had their preponderance in shaping these frameworks or documents.

International Covenant on Economic, Social, and Cultural Rights, 2066

Concisely put, the international covenant on economic, social, and cultural (ICESC) rights mainly contains the right to self-determination, non-discrimination, gainful work with just conditions at work, social security, health, education, food, water and sanitation, housing, and cultural rights—all essential for one to live a life both with dignity and freedom. The essence of the preamble of ICESCR (1966) also emphasizes the recognition of the inherent dignity and of the equal and inalienable rights of all where the human family is the foundation of freedom, justice, and peace. More importantly, it also recognizes that the ideal of free human beings enjoying freedom and want can only be achieved if conditions are created whereby everyone may enjoy his/her economic, social, and cultural rights, as well as his/her civil and political rights (UN General Assembly,1966). More specifically, as indicated above, all people under ICESCR have the right to self-determination which allows them to make their own decisions politically for the free pursuit of their economic, social and cultural development. People have the freedom to dispose of their wealth and resources. They cannot be deprived of their means of subsistence under any circumstance and the state parties are required to promote the realization of the right of self-determination. Emphasis has also been placed on the progressive realization of the rights by the adoption of legislative measures (for the enjoyment of rights without discrimination). The effort to undertake to ensure the equal right of men and women to the enjoyment of all economic, social, and cultural rights has been prioritized. Article 11 of ICESCR writes that the state parties are required to recognize the right of everyone to an adequate standard of living for himself/herself and his/her family, including adequate food, clothing, housing, and to the continuous improvement of living conditions to ensure the realization of this result. It also recognizes the fundamental right of everyone to be free from hunger for which the state parties, at times individually, and at times through international cooperation, must adopt the measures including reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources. Article 15 recognizes the right of everyone to enjoy cultural life/rights (UN General

Assembly,1966, Uprety, 2016, pp.4-5, and Uprety, 2018, pp.247-48). The covenant, if scrupulously implemented by member states, can have positive impacts on marginalized communities (including womenfolk) in the progressive realization of these economic, social, and cultural rights which is ostensibly monitored through the submission of reports on the observance of rights to UN General Secretary. Critically speaking, there is no punitive measure mentioned to be used against the non-conforming member states. The document has been prepared with the predominant role of capitalist countries (with their colonial histories) and hence has been mute on the growing "dispossession of peasants" by the state and non-capitalist actors which has threatened their traditional livelihood/survival.

United Nations Declaration on the Rights of Indigenous Peoples, 2007

United Nations Declaration on the Rights of Indigenous Peoples was adopted by the General Assembly of United Nations on 13 September, 2007. Concisely put in the context of the present theme of the paper, the Declaration has explicitly underscored the following: (i) equality of indigenous peoples; (ii) their freedom from discrimination of any kind in the exercise of their rights; (iii) recognition of the historic fact of their injustice as a result of their colonization and dispossession of their lands, territories and resources; (iv) recognition of the urgent need to respect and promote the inherent rights of indigenous peoples vis-a-vis their rights to their lands, territories and resources; (v) positive impacts of the control by indigenous peoples over developments affecting them and their lands, territories and resources on enabling them to maintain and strengthen their institutions, cultures and traditions, and to promote their development (as per their aspirations and needs), and (vi) role of respect for indigenous knowledge, cultures and traditional practices on the sustainable and equitable development and proper management of the environment. The Declaration has 46 articles but the essences of the relevant ones are only analyzed. Succinctly put, member states institutionally required to prevent any action which may result in: (i) dispossessing them of their lands, territories or resources, and (ii) forced population

transfer. More specifically, the Declaration bars the member states from removing the indigenous peoples from their lands or territories and relocating them without free, prior, and informed consent. Their right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves, has been recognized. More importantly, it recognizes their right to the lands, territories, and resources (traditionally owned, occupied, or otherwise used or acquired by them) which must be legally recognized and protected by the states. In so doing, indigenous peoples can enjoy their right to own, use, develop and control the lands, territories, and resources that they possess for their individual and collective interests of livelihood. Finally, it has duly recognized their right to redress (through restitution, just, fair and equitable compensation in the case of confiscation of lands, territories and resources which they have traditionally owned or otherwise occupied or used without their free, prior and informed consent). Compensation can be lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress. Their right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources is also recognized (UN General Assembly, 2007, pp. 1-15). Apropos of the gaps, there has been no mention in the articles how the rapacious capitalism (more recently neo-liberal capitalism) has been on the aggressive onslaught on the remaining natural resources (such as forests) in Latin America (such as in Brazil) and Asia (such as in Indonesia) where logging companies are destroying the tropical forests- the main habitats of indigenous peoples. More importantly, the non-legally binding nature of the document (with human rights discourse), indeed, creates its implementation highly questionable because the declaration, albeit passed by a majority of 144 member states with 11 abstentions, was vehemently opposed four major settler-states with brutal colonial histories (namely, Australia, Canada, New Zealand, and Unites the States of America). These colonial powers later reversed their original positions with reservations. They called the declaration "aspirational document" which has no legal effect on the state, to the degree that it contravenes democratic processes, legislation, and constitutional arrangements (Moreton-Robinson, 2011). Albeit indigenous peoples have been understood as self-governing communities, they have

not been recognized as independent sovereign nations (distinct sovereign communities). There have been arguments that the human rights discourse has been appropriated by states to facilitate further colonization through "assimilationist tendencies". And there has been violence on indigenous knowledge (Henderson, 2014).

Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries, and Forest in the Context of the National Food Security, 2012

In 2012, Food and Agriculture Organization (FAO) had issued 'voluntary guidelines on the responsible governance of tenure of land, fisheries, and forests in the context of the national food security'. FAO writes, "The purpose of these Voluntary Guidelines is to serve as a reference and to provide guidance to improve the governance of tenure of land, fisheries, and forests with the overarching goal of achieving food security for all and to support the progressive realization of the right to adequate food in the context of national food security. These Guidelines are intended to contribute to the global and national efforts towards the eradication of hunger and poverty, based on the principles of sustainable development and with the recognition of the centrality of land to development by promoting secure tenure rights and equitable access to land, fisheries, and forests (p.iv)". It further writes, "These Voluntary Guidelines seek to improve governance of tenure of land, fisheries, and forests. They seek to do so for the benefit of all, with an emphasis on vulnerable and marginalized people, with the goals of food security and progressive realization of the right to adequate food, poverty eradication, sustainable livelihoods, social stability, housing security, rural development, environmental protection, and sustainable social and economic development." (p.1). Characteristically, the guiding principles of responsible tenure governance require member states to recognize and respect all legitimate tenure rights holders and the people of their rights; safeguard legitimate tenure rights against threats and infringements; promote and facilitate the enjoyment of legitimate tenure rights; provide access to justice when tenure rights are infringed upon, and prevent disputes, violent conflicts, and

corruption. Non-state actors (including the business enterprises) have a responsibility to respect human rights and legitimate tenure rights (FAO, 2012, pp.3-4).

The Guidelines have also their principle of implementation which comprises: human dignity, equity and justice, gender equality, holistic and sustainable approach, consultation and participation, rule of law, transparency, accountability, and continuous improvement. They have also specified the legal recognition and allocation of tenure rights and duties. More specifically, there has been the emphasis on the governance of tenure of land, fisheries, and forests with regard to legal recognition of tenure rights of indigenous peoples and other communities with customary tenure rights, and the initial allocation of tenure rights to land, fisheries, and forests that are owned or controlled by the public sector (FAO, 2012,p.11). Emphasis has also been laid on the acknowledgment of the informal tenure to land, fisheries, and forests where it exists (FAO, 2012, p.15). There has been a discussion on the transfer or reallocation of existing tenure rights and associated duties through markets, transactions in tenure rights, land consolidation, redistributive reforms, etc. There is also the prescription for member states to prevent undesirable impacts on local communities, indigenous peoples, and vulnerable groups that may arise, inter alia, land speculation, land concentration, and abuse of customary forms of tenure. Responsible investments should do no harm, safeguard against the dispossession of legitimate tenure right holders and environmental damage, and should respect human rights (FAO, 2012, pp.19-21). Where appropriate, states may consider the establishment of land banks as a part of land consolidation programs to acquire and temporarily hold land parcels until they are allocated to beneficiaries. States may consider expropriation of private land, fisheries, or forests for a public purpose. States may consider land ceiling as a policy option in the context of implementing redistributive reforms (FAO, 2012, pp.24-25).

Notwithstanding the issuance of these guidelines for compliance which may potentially ensure the national food security (as its outcome), there are innumerable cases of the violations of tenure rights through intimidations and evictions by both the states, non-state-actors and landed elites (who mostly control the governments) in the FAO

member countries which is more pronounced in the least developed countries (Uprety and Basnet, 2017.p.1). What is discernible in the member countries is the "relentless dispossession of the peasants" and their "concomitant proletarianization" (depeasantizing) in the current neo-liberal capitalist development framework including in agriculture despite the fact that there is the safeguard against the dispossession of legitimate tenure rights holders (by investments). The inclusion of the notion of "land banks' is indicative of the fact that Guidelines are heavily influenced by the neo-liberal agenda (despite their many elements of good land governance for ensuring the national food security among small-holders, tenants, indigenous/tribal peoples, women, farmers, nomadic pastoralists, fisher-folk, etc.). Finally, the voluntary nature of Guidelines poses a serious question of implementation by states in the absence of mandatory enforcement mechanism (which needs to be addressed for the larger interest of peasant populations of the world).

United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, 2018

Review shows that seventy-third session agenda item 74 (b) resolution was adopted by the United Nations (UN) General Assembly on 17 December 2018 on the report of the Third Committee by welcoming the adoption by Human Rights Council in its resolution 39/12 of 28 September 2018 the "United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas" which comprised of 28 articles in the Annex to this resolution. Concisely put, the declaration had been grounded in the context of "human rights" as enunciated by the charter of UN, all international conventions for the elimination of all forms of racial discrimination, the international covenant on economic, social, and cultural rights, as well as civil and political rights, other relevant international conventions and legal instruments and UN Declaration on the Rights of Indigenous Peoples. Characteristically, it recognized the attachment of peasants to land, water and nature (on which they depend for their livelihood), their right to adequate food and food security, increasing challenge for rural people for access to land, water, seeds, and other natural resources;

full and complete sovereignty over all their natural wealth and resources, and the concept of food sovereignty, tenure rights, access to natural resources, and the need for the formulation of appropriate national strategies for agrarian reform (UN General Assembly, 2018). Interestingly, the declaration defines, "a peasant is any person who engages or who seeks to engage, alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labor and other non-monetized ways of organizing labor, and who has a special dependency on and attachment to the land" (UN General Assembly, 2018, pp.4-5).

Analytically speaking, this declaration is riveted on the full realization of the rights of the peasants for which state actors have been asked to take necessary measures in this regard by involving the non-state actors without any discrimination. It has prohibited states for the arbitrary dispossession of peasants' land, any form of forced sedentarization or population displacement, arbitrary and unlawful forced eviction, and the destruction of agricultural areas. States have been asked to legally recognize land tenure rights (including customary land tenure rights), protect legitimate tenure and recognize and protect the natural commons and their related systems of collective use and management and take appropriate measures to carry out agrarian reforms to facilitate equitable access to land and other natural resources. Landless peasants are to be accorded priority in the allocation of public lands. Furthermore, states are also asked to promote the participation, directly and/or through their representative organizations, of peasants and other people working in rural areas in decision-making processes that may affect their lives, land, and livelihoods. Finally, all specialized agencies, funds, and programs of the United Nations system and other inter-governmental organizations, including international and regional financial organizations have been asked to contribute to the full realization of the present declaration (UN General Assembly, 2018).

As indicated in the FAO voluntary guidelines, the gaps discernible in the declaration are: (i) its deliberate silence on the growing "dispossession of the peasants" and their "concomitant proletarianization"

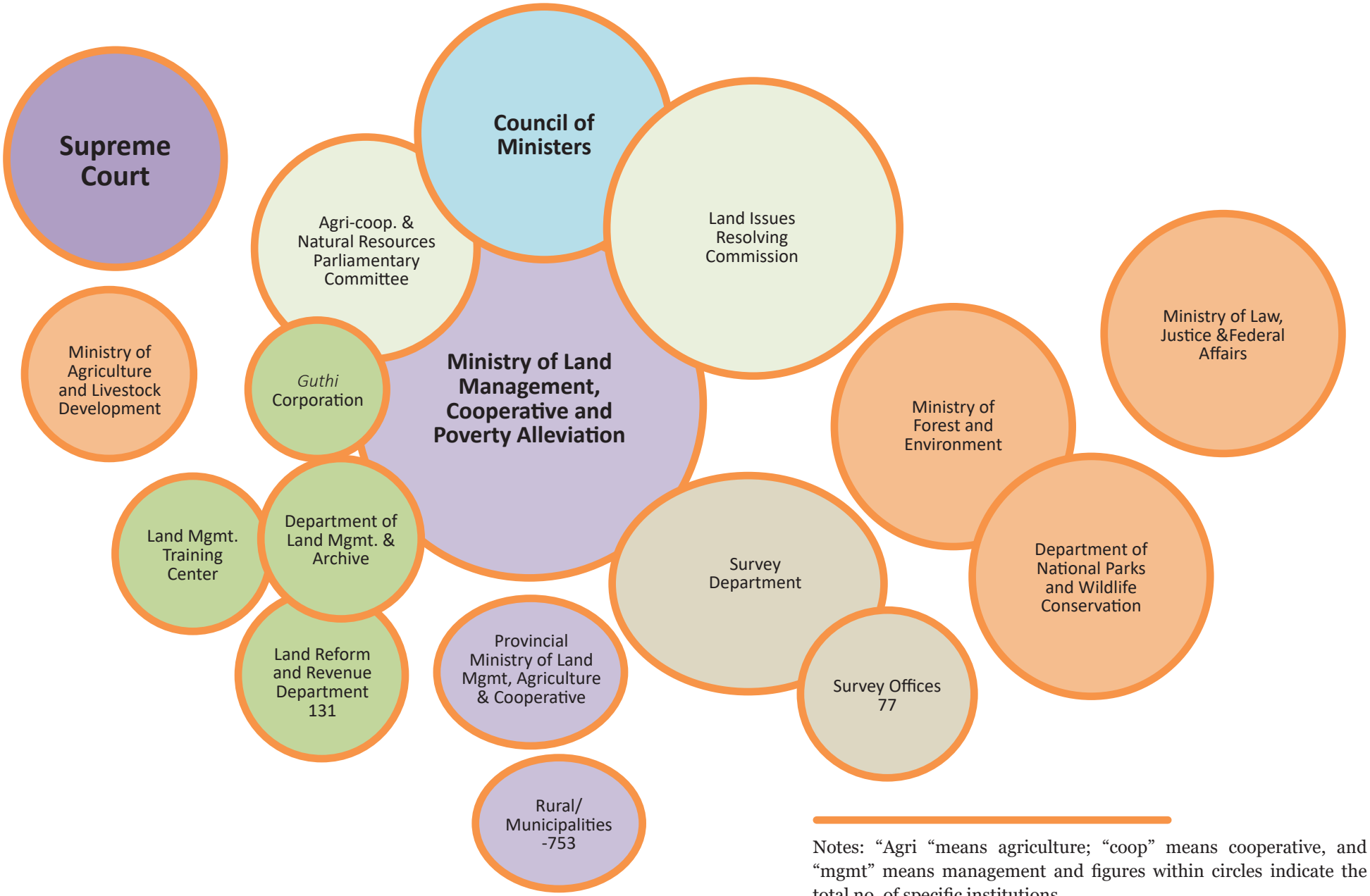
(depeasantizing) in the current neo-liberal capitalist development framework including in agriculture, and (ii) the voluntary nature of its implementation by states in the absence of mandatory enforcement mechanism which needs to be addressed for the larger interest of peasant populations of the world.

2.6 Comprehensive Understanding on Land Related Government Institutions

With a view to generating a comprehensive understanding of government land-related institutions, participants of two-day-long mini-review workshop organized by CSRC on Nov.1-2, 2020 brainstormed to identify a major list of such institutions, ascertain their relative power and importance and their interrelationships between and among themselves. In so doing, they used a Venn diagram as a tool for generating such understanding. In their analysis, a total of 17 major land-related institutions were ascertained which comprised: (1) Ministry of Land Management, Cooperative and Poverty Alleviation; (2) Council of Ministers; (3) Land Issues Resolving Commission; (4) Ministry of Forest and Environment; (5) Ministry of Law, Justice and Federal Affairs; (6) Survey Department; (7) Survey Offices (77); (8) Department of National Parks and Wildlife Conservation; (9) Provincial Ministry of Land Management, Agriculture and Cooperative; (10) Land Reform and Revenue Department; (11) Land Management Training Center; (12) Department of Land Management and Archive; (13) Ministry of Agriculture and Livestock Development; (14) Guthi Sansthan (Guthi Corporation); (15) Agriculture, Cooperative and Natural Resources Parliamentary Committee (of the federal parliament); (16) Supreme Court, and (17) Rural Municipalities and Municipalities. Theoretically speaking, the Venn diagram has to be comprehended in terms of three important considerations as follows: (i) the size of the circle is indicative of the relative power and importance of a particular land-related institution, (ii) the overlapping of the circles is indicative of the close relationship between and among these institutions, and (iii) the relative distance of the circles is indicative of lack of relationship which is inclusive of

poor relationship and lack of institutional coordination (see Figure 1 below). More specifically, the federal 'Ministry of Land Management, Cooperative and Poverty Alleviation' is the major land-related institution with its all powers to formulate national land policy, and frame lands act, land use act and enact integrated land law. Two other institutions are also considered as powerful due to their power and importance. These include 'Council of Minsters' and 'Supreme Court'. The 'Council of Ministers' headed by the Prime Minister can reject or modify or accept the bill proposal prepared and registered by the line ministry at its secretariat. The Chief Secretary of the government of Nepal leading the secretariat can include the registered bill in the list of discussion proposals for the council of ministers or delay in doing so. Similarly, 'Supreme Court ' can issue 'stay order' and 'prohibitory order' on any land-related governmental decision, initiative, policy, and legislation in the circumstance of filing of case/s against them by public litigants on grounds of their potential negative impacts on public interests and contradictions with the existing constitution and related acts. It can also annul these decisions, policies, initiatives, and legislation on the same grounds. The relative power and importance of all other land-related institutions and their interrelationships can be seen from Figure 1 below which is self-explanatory.

Figure 1: Mapping of Land Related Government Institutions



Notes: "Agri "means agriculture; "coop" means cooperative, and "mgmt" means management and figures within circles indicate the total no. of specific institutions.

3.0 IMPLICATIONS AND DOMAINS OF CHANGE

3.1 Policy Implications

International Policy Context

A recent study completed by International Land Coalition and its partners on November 24, 2020, has shown that since the 1980s, *land inequality results from large-scale industrial farming models supported by market-led policies and open economies prioritizing agricultural exports as well as corporate and financial sector investments in food agriculture and the weakness of existing institutions and mechanisms to resist growing land concentration*. The study further shows that it is estimated there are approximately 608 million farms in the world, and most are still family farms. *However, the largest 1% of farms operate more than 70% of the world's farmlands and are integrated into the corporate food system, while over 80% are smallholdings of less than two hectares that are excluded from global food chains*. The study has also identified the unseen drivers of land inequality through the analysis of agricultural corporate entities and investment funds. The study argues that the less visible forms of control of land do not necessarily require ownership. It shows that contract farming, for example, can incorporate the land into supply chains, creating new dependencies and perpetuating extractive models (Anseeuw and Baldinelli, Nov. 24, 2020, pp. i-ii). These international findings have complete relevance to Nepal.

National Policy and Legal Context

As indicated in the framework of the study, all legal, regulatory, and policy frameworks and strategies adopted after 1951 democratic political change have been geared toward "capitalist development" (including in the agricultural sector). Put in other words,

"development or modernization in Nepal has been equated with capitalist development" (regardless of the government leadership by democratic and left political parties). The spirits of all these instruments have been hell-bent on "commodification of land, and forest ecosystem", and " utter destruction of sustainable indigenous Nepali agriculture" (Uprety, 2019 and Uprety, 2021) in the name of "agricultural modernization" (the heart of agricultural capitalism). The ADS adopted by the Nepal government for 20 years (with a focus on commercial agriculture based on competitiveness) beginning from 2015 will further marginalize "small-holder peasants" because they cannot compete with large commercial farmers. "Commodification of land" means further "dispossession of peasants" and "intensification of infrastructural development" means further "displacement of marginal peasants". The author, candidly speaking, takes an "anti-capitalist position" in the development sector because capitalism, historically and globally, has exacerbated the existing inequalities in the name of "masqueraded development", triggered "ecocide" through the plundering of natural resources and destruction of natural ecosystems, engendered massive "dispossession of peasants" in the process of rampant urbanization through "commodification of land", eliminated "sustainable indigenous agriculture" (including the seed saving culture of indigenous communities), triggered unprecedented exodus of young peasants to urban centers of Nepal and India as well as peripheral capitalist countries for remittance, engendered urban slums, promoted "consumerism", destroyed the fertility of the soil through the use of pesticides, herbicides and chemical fertilizers produced by the agri-munltinatonals (the "poison cartels" in the language of world renowned ecological thinker and activist Dr. Vandana Shiva), etc. Albeit we may not have answers to all these problems at a time, development partners and professionals working in Nepal can work in tandem for halting the adverse effects of capitalist development and indigenize the "Nepali development model" by saving "small-holder peasants", their "eco-friendly sustainable economy", and "repeasantizing" all "dispossessed peasants" through radical agrarian transformation. We can begin developing sustainably only "if the food bowls of Nepali citizenry are filled with foods indigenously produced by our small-holder peasants". Conversely, any other capitalist development model imported from outside is unsustainable. Only "indigenous capital

formation" and its use for "indigenous agro-based industrialization" may lead us to the trajectory of our "indigenous development".

Learning from Immediate Neighbor India

The afore-mentioned analysis can be amply clear from the ongoing protest of the Indian Farmers' Union against three bills passed by the government of India that largely favor corporate agriculture at the cost of small-holders. These three bills (drafted and passed for the intensification of agricultural capitalism) comprise Farmers' Produce Trade and Commerce (Promotion and Facilitation) Act, 2020; Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020, and Essential Commodities (Amendment) Act, 2020. Regarding the potential adverse impacts of these laws on small and marginal producers (peasants), Promod Mishra, Director of Institute for Development and Communication, Chandigarh, India wrote in The Indian Express:

> ... Nearly 86 percent farmers, who are small and marginal, would be left at the mercy of the corporates, with reduced collective bargaining capacity. The central government's argument is that these acts are intended to empower farmers and ensure the doubling of their incomes. Farmers' organizations are critical of these laws as they believe that they will lead to the privatization of agriculture, reduce agriculture to subsidiary activity, make way for removing the protective cover of government-led procurement, minimum support price (MSP), Agriculture Produce Market Committee, and other safety nets. The reality is that the free market does not have the solutions to improve the well-being of the people living on the margin. The assumption that the market shall protect and multiply farmers' income is misleading. The new farm laws have direct implications for the livelihood and survival of people engaged in agriculture or dependent on agriculture, food security of the poor, and food sovereignty of the country. No doubt, with these laws, agricultural operations may become more efficient, but they threaten to lead to the marginalization of the farmers. In other words, *agriculture may flourish, but agriculturalists could perish*. Outsourcing agricultural operations to big corporates and legitimizing contract farming amounts to a virtual abandonment of the Prime Minister's *Atmanirbhar Bharat Project*. The market works for those whose signals it can hear but the voices of the poor farmers remain inaudible. It is pointless to hope that the market will accomplish what it was cut out to do (Mishra, Dec.8, 2020).

Given the fact farmers' organizations have understood these adverse effects, they have been vigorously staging protests and the initially reluctant and repressive central government was bound to sit for dialogue with the representative of the Farmers' Union. Despite several rounds of dialogue, as of now, progress has not been made yet because farmers have one unanimous demand, that is, *repeal all these anti-farmer bills at one go* but the government has also not budged even an inch. There has been growing support of a larger section of society for the farmers including the opposition political parties for fishing in the troubled waters. There have been allegations also that these protesting farmers are already capitalist farmers. We have nothing to comment on these diverse opinions *but what we can learn from the farmers' protest from India is that the laws favoring corporate agriculture simply destroy the "peasant economy" because it cannot compete with the former, that's for sure*. Perusal of national land policy, national agro-forestry policy, land use act, ADS, and all laws related to land, the annual budget speech of the ex-Finance Minister, and initiative of Ministry of Land Management, Cooperative and Poverty Alleviation for introducing "land bank" has clearly shown that Nepal government (regardless of the leadership by any mainstream political parties) has unquestionably followed the trajectory of "capitalistic agricultural development" which has already begun producing the sociological bearing, that is, "depeasantization". As Promod Mishra has aptly said in the Indian case, I can couch, " *Agricultural capitalism in Nepal may bring efficiency in Nepali agriculture but it will not work for the well-being of peasantry".*

Policy Implications: Need to Re-think on the Outdated Capitalist Development Model vis-à-vis Land and Agriculture:

Given the fact that rhetoric is easier said than done, every development actor in Nepal including the civil society cannot escape from the neo-liberal framework of development adopted by the government and agreed by all major political parties. Hence, everyone needs to work within this specific national context which is wholeheartedly supported by all development partners (be they bilateral, multi-lateral, and other international organizations). Granted this political and economic reality, and learning from the world and neighboring India, all development actors have an important role in revisiting/reformulating existing legal/regulatory/policy/strategic frameworks vis-à-vis land and forest that largely favor capitalist or bigger commercial farmers or owners of agricultural corporates. Hence, the new institutional initiatives have to be taken in the interests of "small-holder peasants", "landless agricultural workers", "marginalized indigenous peasants", and "marginalized women peasants".

In this context, it is worth reconsidering the concept of "peasant". According to UN General Assembly, "*a peasant is any person who engages or who seeks to engage, alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labor and other non-monetized ways of organizing labor, and who has a special dependency on and attachment to the land*" (UN General Assembly, 2018, pp.4-5). Contextually, as indicated above, saving the "indigenous agricultural system", "re-peasantizing" the dispossessed peasants and landless agricultural laborers (be they footloose laborers or freed bonded laborers) through the government's land redistribution program, and institutional disincentivizing the "accumulation of capital by a few capitalist elites through the dispossession of peasants" need to be accorded high priority, etc. The introduction of "land bank", a new liberal economic program in land, may largely benefit the corporate agriculture and so will be the case of "contract farming"

through its extractive models and perpetuation of dependencies (for which the Nepal government is underway for enacting the necessary law as articulated by the ex-Finance Minister during the last annual budget speech for 2020/21 in the federal parliament). Hence, the Nepal government must rethink such programs with a rational mind.

We need to learn from the world that any agricultural development system that produces only for the "exchange" of commodities in markets eventually produces grave inequalities. This is temporally and spatially valid in the context of capitalist development (whether it was in England in the 18th century or Latin America during colonial time). The entire agricultural and land development program must work to promote the interest of "small-holder peasants" for augmenting their production to meet household consumptions and limited exchange for buying commodities that they cannot produce domestically. Learning from the historical experience, we can begin *rethinking our "development model*". "Shifting the population from traditional agriculture to other modern productive sectors has been historically considered as an indicator of development by western development economists and sociologists". The same is followed in Nepal. For instance, we can see the preamble of the 1964 Lands Act which has the same content. Historically and globally, such a development model has suffered a serious setback. On the one hand, the rural agricultural population was pushed out of their traditional agriculture through the dispossession of their land (a sense of security), and on the other hand, they were forced to be the "reserve army of industrial laborers/ footloose laborers/ workers for informal and formal sectors" in the urban area with labor power as their only "commodity to sell". This has led to the extreme precariousness of the living conditions of these people forcefully driven from the rural hinterlands. We were never tired of chanting such a process as a "genuine development process". This has been proven empirically wrong in the context of the ongoing pandemic of COVID-19 also because its prevalence and adverse impact on the lives of people have been disproportionally higher in urban sectors with a high density of population (of which *pundits* of classical capitalist development were proud of). Repetitively, the option lies in saving our "small-holder peasants" through a "re-thought-development framework" in the rural ecosystem for supporting

their "indigenous agricultural systems" and incentivizing the "re-ruralization" (de-urbanization) in the open rural ecosystem with minimum urban amenities. These "small-holder peasants" also need to be fully supported by the state for their "family health", "children's education" and their own "social security" so that they would have the option of not being migrant workers abroad for the same purpose (a fundamental substance of an egalitarian society within the social democratic political system such as in the Nordic countries which are globally appreciated for their democratic culture, progressive taxation and strong social security system with equity considerations) . In this context, the Nepal government must, in collaboration with civil society organizations such as CSRC and its allies campaigning for land rights and agrarian movement, revise the existing national land policy, lands act and land use act for addressing "land inequality" and "empowering small-holder peasants". Contextually, "land inequality" has been treated as complex and multidimensional as shown by the recent study of the International Land Coalition and its partners. It also considers land inequality as central to other forms of inequalities and overcoming wider inequality is impossible without addressing land inequality ((Anseeuw and Baldinelli, Nov.24,,2020). This shows that there is urgency for institutionally working in Nepal against "peasants' dispossession of agricultural lands" (be it in the name of corporate farming or industrial activities). Platitudinously, the prosperity of Nepal fully hinges on the "prosperity of small-holder peasants", not on the unregulated capitalist development in land and agricultural resources. It is ludicrous to question this "ideological position" because the global capitalist development in land and agriculture resulted in "land expropriation of marginal agricultural households", and "depeasantization" and conversely, "bigger farmers" or "commercial farmers" or "owners of agricultural corporates" and "agro-multinationals" have been tremendously benefitted.

3.2 Domains of Change

In addition to specific prescriptions put forward in the main text of the paper under the assessment/discussion section of each legal and regulatory framework, policy, and strategy, a litany of domains

of change has been prescribed as enumerated underneath from the perspective of CSRC. These prescribed domains of change must eventually lead to the reduction of the "accumulation of capital by dispossession of peasants" (in the language of David Harvey) and promotion of the interest of "small-holder peasants" to a considerable extent.

3.2.1 Major Legal Reforms at Federal, Provincial and Local Levels

(i) *Need to respect the jurisdiction of the province by the federal government in the domain of Guthi management and develop a common forum for the federal, provincial, and local governments to resolve any outstanding issue vis-à-vis land resource through the development of common understanding:*

As indicated in the preceding section, the constitution of Nepal (2015) has delineated the list of authorities of the federal, provincial, and local governments. But the practice has clearly shown the contradictions in the exercise of the authorities. For instance, annex six of the constitution has given the authority to the province for the *Guthi* management (p.176) but the federal government has already made an abortive effort to enact *Guthi* Act at the federal parliament. The bill was withdrawn from it after a series of protests launched by the indigenous *Newar* community of Kathmandu valley backed by opposition political parties. A naïve question to be posed is: why did the federal government encroach the authority of the province for *Guthi* management? Given the fact that the practices of federalism are new to Nepal, there is a need to develop a common forum for the federal, provincial, and local governments to resolve any outstanding issue vis-à-vis land resource through the development of common understanding and in so doing, the federal government has to take the initiative.

(ii) *Create an ambiance at the level of the federal government to take suggestions from the provincial and local government units in*

the process of formulating national policies and enacting laws vis-à-vis land (including in their revisions):

It has been revealed from the interaction with the multi-stakeholders that the federal government did not give needed space for the lower units of the government in soliciting their suggestions or inputs in the process of the formulation of National Land Policy (2019) and enactment of Land Use Act (2019). This means that the federal government did not create the ambiance for the provincial and local governments to have a "sense of ownership" on these documents. Indeed, as per annex six of the Constitution of Nepal (2015), it is the power of the province to work for the "land management and the maintenance of the land records" (p.176) in addition to the imposition of fees for house and land registration. As per annex seven of the Constitution, the domain of "land policy and related act" is categorized as the concurrent power of the federal government and provincial government (p.176). This is demonstrative of the fact that there is a need for co-work between the federal and provincial governments while preparing National Land Policy and enacting Land Use Act. Annex eight of the Constitution (p.179) shows that local governments have the power over local taxes (wealth tax, house rent tax, land and building registration fee, land revenue collection, distribution of house and land ownership certificate). This shows that the local governments have indeed a major role on the issue of land-related local taxes. Therefore, their representative voices must also be heard by both federal and provincial governments through their federation in the process of formulating land-related policies and enacting acts to ensure their "sense of ownership". Participation of both provincial and local governments in the revision process of such policies and acts is equally important and hence, the initiation of such practice is highly recommended for the days ahead (in the process of formulation, reformulation, or revision of afore-mentioned policies and acts).

(iii) *Need to formulate land policy and enact land act at the level of local government by following the approach of context mapping or contextual analysis:*

Representatives of the local governments, first of all, must carry out the *context mapping* or *contextual analysis* for understanding the agrarian and land rights-related issues with the technical support of experts (working on the agrarian and land issues) for their institutional capacity building and be effortful to craft the local level specific land, agriculture, housing, and food right/sovereignty policies, and enact legislations as per these policies on the basis of the compelling empirical evidence adduced from *context mapping* or *contextual analysis*. *Although separate land, agriculture, housing, and food right and sovereignty policies and acts would be more relevant in the local context to work specifically for better program outputs, their interrelationships must be clearly articulated because land and agricultural issues are inextricably interlinked. Contextually, there have also been voices for the formulation of integrated policies and acts on the afore-mentioned domains, and understandably, the choice of specificity or integration can also be left to the specific local government units (as per their contexts because they are the sovereign decision-making bodies for the larger benefits of its peasants and farmers).* Capacity building for framing policies and enacting legislation holds its paramount importance in the present context for the sustainability of the local government institutions. This has been recommended because a burgeoning trend has been discernible among most local government units in capitalizing the external support in the entire process of enacting legislation without the indigenous initiative for contextual analysis which, in turn, will eventually trigger unseen/unanticipated problems in the process of their execution.

(iv) *Sensitize the provincial governments to immediately initiate their institutional effort in enacting legislation on "land management, maintenance of land records and Guthi management" as specifically authorized in annex six of the Constitution of Nepal, 2015:*

Analysis of the trend of legislative works of the provincial governments of the past three years is demonstrative of the fact that no institutional effort has seriously been made to

initiate enacting legislations on the afore-mentioned domains as constitutionally mandated. They seem to be pretending that they have been debarred from moving ahead in the absence of integrated land law to be enacted by the federal government. Neither they are institutionally willing and determined to launch advocacy campaigns for influencing the federal government for turning it to be positively supportive in the provincial legislative effort such as in the hotly debated issue of '*Guthi* management' (which has already been in the form of draft bill preemptively crafted). Contextually, anyone can pose a question to all seven provincial governments, that is, "why have they not taken the initiative to draft *Guthi* management bill"?.

(v) *Sensitize the federal government for expediting the process of formulating integrated land law to address the profusion of contradictory clauses/provisions and different definitions on the same concept:*

There is, indeed, the need of such integrated land law with transformative provisions and outdated laws such as the land acquisition act, lands act, revenue act, and other land-related old acts need to be reformulated as per the spirit of the constitution and new national land policy so that the legal reform may lead to the realization of socialism as enshrined in the preamble of the constitution.

(vi) *No need of introducing the 'Land Bank' concept as a government program in the form of neo-liberal agenda:*

CSRC and NLRF have positioned themselves against the concept of the 'Land Bank' officially introduced in the annual budget speech of the ex-Finance Minister Dr. Yubaraj Khatiwada for the year fiscal 2077/78 (2020/2021). They are of the opinion that the peasant organizations belonging to different political parties have been weak in pressurizing the government for not introducing such a program (albeit the peasant organization belonging to the ruling Communist Party of Nepal had spoken in its press statement labeling it as a neo-liberal agenda). The entire program of the 'Land Bank' as conceptualized by the current

government has legitimized the ownership of the uncultivated land in the names of the owners which is against the spirit of the scientific land reform as enunciated in the constitution of 2015. More trenchantly, in a recent position paper prepared by CSRC through the incorporation of the unanimous perspective of NLRF, the peasant organization, it has taken its position strongly against the concept of 'Land Bank'. CSRC writes, "Land Bank would only further drive inequality between landlords and tenants by safeguarding the control that land-owners have over the land. The policy was an example of the regressive step taken by the government…it diverted the debate from real land reform and that it would fail to ensure the rights of the landless, tenants, *Haruwas, Charuwas*, ex-Haliyas, and ex-*Kamiyas*… The approach taken seems in opposition to that taken by the pro-tiller land reform. Paradoxically, the Land Bank could have the effect of promoting, rather than reducing remnants and unjust practices of the feudalistic land system… Such outcomes would further foment conflict, exacerbating existing ideological disagreements on land reform in Nepal. The country could move closer to neo-liberalism and away from the brand of socialism envisioned in the constitution" (CSRC,2020, pp.1-3). More specifically, they have also critiqued the untimeliness of the governmental initiative in the context of the constitution of the 'Land Issues Resolving Commission' which has already kick-started its work. They have also further argued that the concept of Land Bank was in the past implemented in the developed world such as in the United States of America and Europe to address the urbanization-related problems and in developing world such as South Africa to address the agricultural problems and suggested for carrying out in-depth study for model and its suitability. The concept also triggers the commodification of land and serves the interests of the corporate agro-organization. Succinctly put, they have suggested the two major actions as follows: (i) to solve the question of scientific land reform by ending the dual ownership over the land for the benefits of peasants which discourages the absentee landlordism, and (ii) settle concerns related to tenancy.

3.2.2 Support to the Federal, Provincial and Local Governments in Integrated Land Law Formulation Process

Federal Level

CSRC as a civil society organization with the experience of agrarian and land rights of two and half decades can contribute to the federal government in the formulation process of integrated land law by preparing a 'review paper' on each existing land-related laws. In so doing, the essence of both existing strong and weak dimensions of such laws would be critically assessed and a litany of suggestions would also be made for the upcoming integrated land law with the "transformative agenda" geared toward the promotion of equity in the land resource. In so doing, CSRC would also be effortful in reviewing the international practices of integrated land laws embedded with the objective of drawing implications for the Nepalese case.

Provincial Level

CSRC can support the provincial government in enacting its integrated land law through the provisioning of legal experts available in preparing the draft bill (by remaining within the limits of federal integrated land law). Senior CSRC professionals can contribute to the process by sensitizing the governments to initiate the process of bill preparation, and commenting on the draft bills with reasonable and necessary feedback, and supporting professionally in their finalization together with the technical support of the legal experts.

Local Level

Once the federal and provincial governments finalize the enactment of the integrated land law, local governments can also formulate their integrated land law. In this process, CSRC can support them in a number of fronts as follows: (i) review of federal land policies/acts and share the major findings with local governments (such effort can also be made once provincial governments also prepare their land

policies/acts under the upcoming integrated land law); (ii) assist them institutionally in the agreed land law formation process by facilitating the process of carrying out context mapping or contextual analysis on land, agrarian and agricultural issues by initiating one pilot scheme in one rural municipality or municipality of each province through the appointment of an overall coordinator in each province, and (iii) facilitate the process of documentation of the learning of the processes of context mapping or contextual analysis and local law formulation. The learning generated from one pilot scheme of each of the seven provinces can be shared through the federations of rural municipalities and municipalities for wider dissemination.

3.2.3 People-centered Policy Advocacy

CSRC has historically been instrumental in leading the agrarian movement in the Nepali context with the adoption and internalization of people-centered advocacy. Therefore, there is a pressing need to streamline this people-centered advocacy on the agrarian and land rights issues embedded with the objective to contribute to realizing the goal of socialism enshrined in the constitution of Nepal (2015). In the process of making recommendations in the regime of people-centered advocacy, due consideration has also been given to the value of CSRC's five-year strategy for the land and agrarian movement (2020-2025) in the relevant thematic context. In this context, a litany of recommendations has been made as follows:

(i) *Cultivate an institutional culture to lead the agrarian movement with an approach of "micro-meso-and macro linkage" in the new federal context of Nepal:*

More specifically, the people-centered activists have to scrupulously pay attention to how the federal laws/acts, and policies/plans impinge upon the provincial laws/acts and policies/plans and in turn, how these provincial laws/acts and policies/plans impinge upon the local laws/acts and policies/plans. And armed with such robust understanding, the NLRF, a peasant organization, with the facilitation support of CSRC, can

design and implement advocacy activities to change laws/acts and policies/plans of all three levels which seem as impediments in the transformation of the inequitable power relationships in the context of "access", "use" and "ownership" of land resource. More importantly, local issues vis-à-vis "access", "use" and "ownership" of land resources will have their connections to provincial-level legislation and plans which will have their federal level legislation and programs. Granted this possibility, the peasant organization must be further strengthened by the institutional support of CSRC so that it can work efficaciously for promoting the *approach of "micro-meso-and macro linkage*. The *raison d'etre* of such position is: "agrarian and land rights movement is crowned with success in those areas where the peasant organization is institutionally strong".

(ii) *Strengthen an institutional culture within the CSRC structure to create the "new knowledge" for the influence of the policies at all three levels of land governance apropos of "access", "use" and "ownership" of land resource (for the marginalized peasants):*

This recommendation has been made with the generally agreed assumption that "people-centered advocacy can be fruitful provided it is entirely based on robust evidence vis-à-vis "access", "use" and "ownership" of land resource. In so doing, CSRC professionals and leaders of the peasant organization have to be cognizant of three important variables: (i) how have the policies/legislations/plans vis-à-vis land been shaped or formulated?; (ii) what changes have they induced on the lives of the marginalized peasants (landless, tenants (both formal and informal), and small-holders)?, and (iii) how have the government implementation practices of these policies/ legislations/plans vis-vis-land and advocacy practices of CSRC and peasant organization brought changes on the lives of the marginalized peasants?. People-centered advocacy can be successful only if CSRC professionals and leaders of peasant organization have the proper understanding of these variables. Institutionally speaking, the CSRC's strategy for the land and agrarian movement (2020-2025) has specified "contributing to knowledge production" its second strategic priority (with its

emphasis on learning from action and generating knowledge and theories). Hence, the effortfulness for "knowledge production" has to be diametrically streamlined in the days to come (p.14).

(iii) *Prepare an institutional ambiance within CSRC to have a professionally qualified team that is to be fully assigned the institutional responsibility to carry out evidence-based research for the generation of "new knowledge" at local, provincial, and federal levels:*

In so doing, the peasant organization has also to be involved actively in the process of knowledge generation at all three levels of land governance and agricultural development. On the one hand, this institutional initiative builds the capacity of the peasant organization at all three levels and on the other, there is always a "sense of ownership" in the entire research process. If the peasant organization is institutionally capacitated in the process of knowledge generation in the domains of land, housing/settlement, and agriculture development at all three levels, it will be a learning model organization for other community-based organizations working in the regime of natural resources management. Such organizations can also contribute to generating policy discussions on land and agriculture. Institutionally speaking, the CSRC's strategy for the land and agrarian movement (2020-2025), in its knowledge production strategic priority, has categorically specified the notion of " bringing people's organizations into centers for learning" through critical reflections on land and agrarian situations and connecting actions to discourses in wider circles including the academia (p.14). One of the elements of the third strategic priority is "building the capacity of leaders to engage in policy debate" on land and agriculture issues (p.15).

(iv) *Strengthen the institutional culture within CSRC and the peasant organization to initiate and continue the dialogue with wider actors or multi-stakeholders for triggering a more comprehensive transformation in the domains of "access", "use", and "ownership" of the land resource among the marginalized peasants:*

The *raison d'etre* of multi-stakeholder collaboration is that "collective effort is more instrumental in addressing the transformative agenda" for the marginalized peasants. Broadly speaking, this prescription is along the line of nurturing constructive dialogues, partnerships, and agreements with other stakeholders for the 'clarity of the needs of the land and agrarian movement, positionality of the movement and strategy' to be taken as enunciated under third strategic priority entitled "generating policy discussion and good governance" (CSRC,2020,p.15).

(v) *Strengthen the CSRC institutional culture for the credible publication of the findings of new research which may have both theoretical and policy implications:*

The existing culture of publication of whatever materials on agrarian and land rights need to be professionally standardized because CSRC has now passed the formative stage of its institutional development. Again this prescription is along the line of one of the elements entitled "publishing to maximize learning" as mentioned under CSRC's strategy for the land and agrarian movement 2020-2025 (p.14).

(vi) *Create the institutional culture of CSRC and peasant organizations to lead the people-centered advocacy campaigns in such an effective way that compels the governments of three levels to invite them in the upcoming process of formulating the laws/policies/plans which may largely benefit the marginalized peasants:*

The *raison d'etre* of this prescription is that both CSRC and peasant organization do have the potential of developing and presenting alternatives on state actions and policies for result-based action and progressive policies and working critically and creatively with all three levels of governments as clearly articulated in the CSRC's five-year strategy (CSRC, 2020).

GLOSSARY

Bigha	=	0.67 ha
Birta	=	Tax-free land granted by the state
Charuwa	=	Cattle herder
Chut Guthi	=	State trust under private management
Dartawala	=	A person/persons with legal usufructuary right/s who has/have personally or collectively registered the pastureland in his/her/their name/s for paying the revenue or grazing fee
Devasthal	=	A kind of shrine
Dharmashala	=	Traditional rest house
Guthi	=	Trust land
Haruwa	=	Ploughman
Jagir	=	Land given by the state to officials in lieu of their emoluments
Jhora	=	An area under settlement and cultivation through the reclamation of forest as legally mandated
Jimidari	=	Landholding under *jimidar* who used to be responsible for collecting land taxes at the level of the village in the *Tarai* region
Kamiya	=	Bonded laborer
Kamalari	=	Girl child domestic helper in household drudgeries

Kipat	=	Communal land tenure among indigenous people such as *Limbus, Rais,* etc.
Kisan	=	Peasant
Kut Tero	=	Fixed agricultural rent
Matha	=	A kind of shrine
Panchayat	=	Party-less political system with absolute monarchy (1960-1990)
Pati	=	Shelter
Pauwa	=	Inn
Raj Guthi	=	State trust
Raiti	=	A person who has reclaimed land in *Jhora* area or a person settling in the same place by cultivating land through the use of the family labor
Raikar	=	Private land taxable to state
Rakam	=	Services provided by the denizens of a village as assigned to them by the government on a regular basis as per governmental requirements and lands cultivated by them were given the status of *Rakam* tenure
Tarai	=	The plains
Ukhada	=	A type of *jimidar* landownership in Nawalparasi, Rupendehi, and Kapilvastu districts in which peasant-tillers were required to pay gound-rent in cash.

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ANNEX

Annex 1: List of the Participants in the Mini-Review Workshop on "An Assessment of Land Related Laws and Policies" at Jhule Organic Farm, Kathmandu

District : Kathmandu		Place: Jhule					Date: 30 October - 2 November 2020
N/A if not applicable							
S.N	Name of Participants	Sex (Ö)		Affiliated Organization/ Agency	Position/ Title	Contact Number	Email Address
		M	F				
1	Laya Prasad Uprety	Ö		Independent	Social Science Researcher	9803040103	upretylaya@gmail.com
2	Jagat Deuja	Ö		CSRC	Former ED	9851015145	deujaj@csrcnepal.org
3	Jagat Basnet	Ö		CSRC	Advocacy, Research, and Policy Advocacy	9851081197	jagatb@csrcnepal.org
4	Kalpana Karki		Ö	CSRC	Campaign Manager	9851140474	kalpana@csrcnepal.org
5	Dharm Raj Joshi	Ö		CSRC	NES Facilitator	9851264101	nes_nepal@landcoalition.info
6	Geeta Pandit		Ö	CSRC	Admin and Finance Coordinator	9851041070	geeta@csrcnepal.org
7	Gopal Krishna Basnet	Ö		CSRC	Advocacy Officer	9854045724	gopal@csrcnepal.org
8	Kumar Thapa	Ö		CSRC	Program Coordinator	9851224282	kumar@csrcnepal.org
9	Sundip Shrestha	Ö		CSRC	Program Officer	9860215854	sundip@csrcnepal.org
10	Sristi Shrestha		Ö	CSRC	Finance & IT Officer	9849060384	sristi@csrcnepal.org