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Review of Land Policies in Nepal *An Analysis of their Present Status*

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REVIEW OF LAND POLICIES IN NEPAL

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Author's Introduction

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Review of Land Policies in Nepal

(Assessing the impacts of National and International Policy Frame and Legal Instrument that guides the Land rights and land tenure practice on peasants communities in Nepal)

Presently, the discussion on land issue is wide at both regional & global levels mostly in relation to increasing hunger and food insecurity in the world. But it is proven from the past experiences that most of those top down discussion has not yield positive results towards ensuring rights of producers i.e. the peasants, indigenous people and landless. Contrastingly there is an increasing voice against those attempts having hidden interest of global capitalist regime to commoditize and privatize land for its profit motives. Therefore understanding politics of land through policy review is important both from critical as well as constructive approach towards resolving the land problems and identifying potential threats. At global level in one side some instrument like peasants declaration are on the UN table and other such as FAO voluntary guideline on tenure of land, forest and fisheries are already in existence as positive signs but on the other hand powerful actor like World Bank and IMF are proposing guidelines of land management in the name of Responsible Investment in Agriculture and concept of Land Bank as a tool of land pooling. Land grabbing, climate change, chemicalisation and desertification of land, deforestation and degradation, land encroachment due to industrialization and urbanization, population pressure and WTO prescriptions has increased the risks in land and agriculture. In a context, where there still exist historical problems of land management regarding unequal distribution and control and access over land, the growing unnecessary and vested interest of various actors encroaching natural wealth, such as land, forest, water, fallow and wet-lands, high neppe valleys and meadows in the name of development and private property are some of other problems that has raised walls of problems.

Being a country where two out of three of her population depends on agriculture for their livelihood, land has still a substantial value for majority of Nepalese population. Besides the historical problems of exclusion, deprivation and denied access to land of especially women, indigenous communities, and lower caste group new issues has challenged their rights to land. In Nepal, there have been many attempts from government through policy reforms to resolve land issues since 1950s. Attempts have been made initially to end feudalism, the dual ownership of land, patron client relation etc and then recently in the name of increasing agricultural production. But not all reforms have been successful. Rather in recent cases, it has further fragmented agrarian land, forced rural to urban migration, increased privatization of land, land grabbing and land pooling as well as put serious risk on farm land further displacing and marginalizing the small peasants and landless communities from their territories. This paper attempts to review most of the important national and international policy frame and instruments that guides the land governance and tenure in Nepal.

Defining Land: A Holistic Approach

Generally land is defined in a very narrow sense. Either it is taken as a property or the productive resource. In a wider perspective, land is the source of livelihood as well as politico-economic and socio-cultural resources. It has multi dimensional notion. In its widest meaning covers all the area of the earth except those covered by water. Since water is also a natural resource and also productive in many ways, the understanding of land as natural resource or a productive resource is not specifically clear. We, humans since the origin are living on land and land is the fundamental resources for the existence of human as well as many other living organism on the earth.

Land can be divided into many groups based on its use or any other criterion such as its productivity. Land may be fertile and infertile. We should include forest land as one of the major portion of land even for food supply. Snow peaked mountains, settlements area, mines, industrial area, playground and public spaces and the concrete jungles are land with its different natural and social features. And off course, the land is the means of production, the most important place for food production for humans and other creatures.

Land is the principal economic resource for South Asian where almost two out of three are food producers. In Nepal and anywhere in the similar context, land issues are agendas of both socio-cultural and political forum because almost everything in our society revolves around land. It is not only simple source of food and shelter but also a matter of prestige and identity in socio-political power sharing pattern. Land has been, therefore, the major property asset to grab and accumulate, which compels small peasants become more and more vulnerable and landless. The political elites and the land owning classes continue to control the land historically and at present.

Marxist Interpretation of Land

As Devid Seddon in his book "Nepal a state of Poverty" has examined the roots of poverty and inequality in Nepal from the socio-economic point of view. He advances his argument as: although social discrimination on the basis of caste, ethnic and gender differences plays a significant part in maintaining social inequality in Nepal, nevertheless the roots of social inequality and therefore of social deprivation, lie within the structure of the agrarian economy, characterized essentially by unequal control over land and other resources and by archaic forms of exploitation.

Similarly, Ghai & Rahman, observe close relationship between landownership and rural poverty. As they state: Since land is a major source of income in the rural areas ... differences in landownership translate directly into differences in income distribution. The structure of landownership is therefore, a major contributory cause of rural poverty.

L. Caplan in 'Land and social change in east Nepali' describe the changing pattern of private ownership of land from communal ownership and explain the evolution of unequal distribution of land.

In his key work, Capital, published in 1867, Karl Marx explained that “the expropriation of the mass of the people from the soil forms the basis of the capitalist mode of production”. He explained that the capitalists found that people would not sell their labour if they could make a living from the land.

The Marxist-led 1917 Russian Revolution was victorious under the slogan of “Bread, Peace and Land”. Therefore, Marxists would recognise the land question as genuinely resolved and the land returned to the people only in a socialist society where all forms of exploitation are ended and even the idea of private property in land falls away. This will require the nationalisation (or socialisation) of the land and the collectivisation of farming (i.e. democratically organising labour to ensure that farming is as productive, efficient and humane (in the case of raising livestock) as modern technology and techniques allow).

But neither the theory nor the slogan will solve the problems. As most of the socialist state formed after revolution followed, land reform is a must task for just society. This effort needs policy frame and clear legal provisions. Here we will review some of those tools and instrument that has positive and detrimental impacts on land tenure and land rights in Nepal.

Land Tenure and Land Rights: Global and Local Context

Land resource is limited for the growing human population and thus every moment land to human beings ratio is decreasing. More seriously, various activities of human beings such as industrialization, mining, making roads and other development infrastructure, human settlement etc are putting serious challenge on the limited land we have in this earth. Specially talking about agriculture, the farm land, the precious land producing food, is also used for other purposes and this has huge impacts all around including food security and hunger. The conversion of farm land into other not only takeaway the livelihood resources of producers forcing them to displace but also has serious impacts on food production and agricultural development.

Unfortunately, the natural gift has not been evenly distributed to the people. Historically, the origin of class societies and establishment of structural inequalities based on various natural and human features, few people has used this resource to exploit, oppress and rule the majority of working class. Therefore, whether it is feudal society of underdeveloped countries or the capitalist societies dominated by bourgeoisie, the higher class has captured the public resources creating multifarious social, cultural, economic, political, environmental and humanitarian problems. Paradoxically, the peasants and small food producers, the indigenous and tribal people, people dependent on forest etc whose only source of livelihood is land, they either have limited or no access to this resource. Shamelessly, the case of grabbing this resource, dislocation and displacement of communities, denying the access of communities has become a common phenomenon of this so called civilized world of our time. This is happening by various local and global faces of the system and in various given names.

Rights, access and control of people to the land is defined by various natural, socio-cultural and legal systems. Traditionally many communities around the world were sharing this common resource for their common goods. Then the privatization and accumulation forcing majority to marginalization

started. As Karl Marx stated, Land dispossession was necessary for capitalism to create a class of wage workers, the exploitation of whom is the source of all capitalist profit. Marx description of land dispossession (or “primitive accumulation”) as capitalism's “original sin” has come true to understand present context of land problems. The problems of land tenure and access to land has been increasing day by day.

Recently, there have been some attempts both at the ground and from the top, to address land problems. At global level in one side some instrument like peasants declaration are on the UN table and other such as FAO voluntary guideline on tenure of land, forest and fisheries are already in existence as positive signs to ensure rights of communities over land but on the other hand powerful actor like World Bank and IMF are proposing guidelines of land management in the name of Responsible Investment in Agriculture and concept of Land Bank. In many cases, it has gone bad to worst. Besides the already existed problems in land tenure and management, new problems of sustainability and environmental dispute are also emerging. The growing unnecessary vested interest of private sectors, corporations and state on natural wealth, land has raised walls of problems in the existing problems. In developed countries industrial farming, land grabbing, displacement of people from the land and territory and access of producers to the land has been a major issues. The attack on land can be seen from various aspects but the perspective on land as an investment resource rather than a source of livelihood is the major cause. Land grabbing, climate change, chemicalisation and desertification of land, deforestation and degradation, land encroachment and conversion into non productive resource due to industrialization and urbanization, population pressure, World Bank and its concept of land bank and WTO prescriptions has increased the risks in productive land.

Land tenure or ownership has been now formalized. As Karl Polanyi pointed in 1940s the capitalism, ignored the practices in the non western world and went on business of prescribing formalist economic approaches of defining resources and tenure practices. From the narrow ethnocentric view of land ownership without considering that there exist more informal, substantive and socio-structural practices defining access and control of resources, started to shrink the rights of communities. In this course, the policies as the outcome of politics has been used by ruling class to use the land in their favor undermining the livelihood issue of people. Therefore, policies became the guiding principles and law and act, the legal instrument, to use land for the benefits of elite and ruling class. Many progressive Networks such as La Via Campesina has stated that not only land policies, but in many cases such as water, seeds etc policies and act has been used by capitalism to limit the people's practices and system of managing the resources (LVC, 2013).

Feudalism has been a major challenge of land in Nepal for long. The struggle of the working class peasants replaced oligarchic feudal Rana Regime to established democracy in Nepal in 1950. But the feudal practice couldn't ended. After a decade long struggle of peasants to ensure land to the tillers, have respectful life, and end oppression of feudal landlord, the reform of 1964 was made. The 1964 land act is the crucial policy frame of the past and present that guides the land tenure in Nepal. Some attempts were made after that and some new instruments are coming recently which is yet to come to practice.

Traditionally, the resource governance in Nepal was collective, communal and co-operative based in many cases. The Kipat practice of Eastern Hill among indigenous Rai and Limbu People was the

reflection of primitive communism where all the community use to have shared contribution for production and share benefits. Private property and formal policies started to destroy this collectivism since 1854 after the establishment of modern Nepal. After the eradication of Malaria in Southern Terai, the public policies encouraging migration of people to freely grab land not only destroyed the forest land but converted the public resource in to private property. The meadow, pasture land, shrub land has been now already encroached. Thousand of hectare of farm land has been used in making roads, industrial area, settlement etc purposes.

There has been many changes in land tenure and access to resources in recent years. The land use map of Nepal reveals that cultivable land covers about 20% of the total land, forest, grassland and shrub lands together making 46% and other categories like rocks, unused land, and snow peaked Himalayas and settlements make up the rest. Still there is considerable number of landless is Nepal. In urban areas, it is more challenge.

The Constitution of Nepal 2015 provides the progressive and sustainable land tenure and reform guidelines. The scientific land reform and right to food sovereignty are also guaranteed in Constitution. Land rights can be acquired by inheritance, purchase, government land allocation, or tenancy in Nepal. But the donor's interest, privatization and development policies especially backed by WB, ADB, WTO puts challenge to implement this rights.

International Policy Frame and its Impacts in Nepal

Summary table on international treaties, principles and legal tools that impacts the land tenure in Nepal

Treaties, principles and legal tools	Features	Impacts
Universal declaration on Human rights (HR, 1948) and International Convention of economic, social and cultural rights (ICESCR, 1966)	Defines right of people on land as a properly and provides rights against its takeover	Especially on farm land it has Negative impacts which allows use of farm land for any other purposes. Even counter productive to indigenous and tribal people rights.
UN HABITAT	UN body to ensure security of tenure especially for urban people	There are millions of landless and homeless people around the world because it has not been ensured
International Conference of Agrarian reform and rural development (ICARRD, 2006)	UN FAO Conference emphasize the role of agrarian reform to combat hunger and poverty	Positive tools but not a Binding. This tools could not yield positive results to peasants communities

Voluntary guidelines on the responsible governance of tenure of land, fisheries and forests in the context of national food security (VGGT, 2012)	This is another UN FAO tools which has many positive provisions guiding land reform and rights of the producers on productive resources.	Due to its nonbinding character and lack of awareness among people, it has less impacts
United Nations Framework Convention on Climate Change (UNFCCC)	UNFCCC is an international environmental treaty adopted on 9 May 1992. UNFCCC provisions are useful to stop land and soil degradation and reduce the impacts of climate change on land and soil fertility.	The developed countries are not committed to implement the provisions of treaty. There is almost no impacts at the grounds of the convention and its provision of security of land.
Declaration of rights of peasants and other communities living in rural areas	On UN Table	Is a big achievement of peasants and rural people but due to its non binding character, it may not be implemented.
WB frame on Responsible Agriculture Investment developed in Committee on food security	The CFS Principles for Responsible Investment in Agriculture and Food Systems – Known as RAI – acknowledge that the starting point for defining how responsible investment in agriculture and food systems can contribute to food security and nutrition is the recognition and respect for human rights. They are a set of ten principles that apply to all types and sizes of agricultural investment including fisheries, forests and livestock.	Negative impacts on people and communities. MNCs and Investors applied as a tools to grab land -However in Nepal due to peasants resistance, there is still no foreign investment on agriculture and land
Land Bank model by WB	This concept has also been used by investors and state to pool land of people and distributed unevenly.	The negative impacts can be seen in west Bengal, India and other countries. The concept has been somehow resisted by Peasant movement in Nepal.
Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (1988)		This rights has been violated in many areas of Nepal-India Boarder (FIAN, 2016)

Land Policies, Plan and Acts in Nepal: Retrospect and Prospects

Chronology of land Policy Development and its impacts in Nepal

Policy reform	Feature of Reform	impacts/Effects
Legal ¹ Code 1854 ¹ AD	The National Code was an effort to accumulate the legal arrangements which were existing earlier. However, the oral order of the Rana rulers also was a good as law and the provision of National Code had to be restricted, reserved, suspended, or amended by such orders from time to time as per the whim of the Rana rulers.	The right was transferable and inheritance principle uses used in land holding and tenancy. It formalized tenure form of land: Raikar, Guthi, Kipat, Rajya, Jagir, Sera a crown land since before Rana regime land was administrated by the Royal order (Lalmohar, Kukka, Sanad, Sabal, Istiyar, Hukum Pramangi etc.) and costumes and values were taken by them.
Deputation of Investigation Commissions , 1951AD	On the basis of the report of these commissions, mobile courts were also set up and deputed to some district for immediate settlement of disputes over arbitrary evictions, extra impositions on tenants, etc. These ad hoc measures could not contribute anything to solve the problems rooted deep in the age old institutions of agrarian economy.	Couldn't be implemented
Tenancy rights Acquisition Act 1952 AD	In August 1952, a Land Reform Commission was constituted to deal with tenancy right, land revenue, agricultural credit, cooperative societies, Beth Begar and Salami system, and collection of relevant statistics. The major recommendation of the commission include, among other thing, the following: (i) Tenancy Rights (ii) Extra Imposition on Tenants: (iii) Debt Determining (iv) Jaimindari Abolition (v) Imposition of tax on all Birta land; (vi) An immediate scheme for settlement of landless labourers in the hills as well as in the Madhesh was also recommended.	The act was not concerned with tenancy right in Birta land.

¹ Also known as Muluki Ain of 1910 B.S is the first legal code of land during Rana Regime highly based on Feudal and theocratic values

Land and Cultivators' Records Act 1954 AD	Land and Cultivators' Records program was initiated	
Lands Act, Royal Announcement 1955 AD	Following were the main provisions contained in the Royal Announcement: (a) Fixation of maximum rent at 50% of the produce of land; (b) Fixation of maximum rent of interest at 10% of the loan in cash and in kind; (c) Prohibition of Salami and other extra charges on tenants; (d) Grant of tenancy rights to and tenants cultivating land continuously for two years. Such tenants should not be ejected so long they paid the due rent; (e) Restriction on landholders to keep their land as cultivable waste for three years without any justifiable reasons. (f) Prohibition of sub leasing land to subtenants (tenants at will) without the consent of landholders; (f) Nullification of land tax at 10% of the produce of land as announced in the Gazette; (h) Imposition of tax on incomes from Birta land at varying rates; (i) Provision of a "Joint Fund" of tenants and landholders.	
1956 AD promulgation of the thirteen-point program	promulgation of the thirteen-point program to address land issues	
Abolition of Birta Land Act 1957 AD	The salient features of the Act are (i) Abolition of Birta system from the data at commenced, ending there by all rights and authority relating to the ownership of Birta holder of their Birta land; (ii) Conversion of all such Birta land into Raikar land delineating thereby the ownership of such land to the government; (iii) Abrogation of all Ain, Sawal, Sanad and other written documents relating to the ownership rights and authority of private individuals over their Birta land.	
1959AD		Peasants movement on rise, land to the tillers, Land reform discussion initiated by Nepali congress government
Promulgation of the Land Reorganization Act 1962 AD	A Royal Land Reform Commission was constituted in 1962. The Commission was to submit it report to the government recommending measures for necessary changes in the existing land system, specially in the following aspects; (i) Defect and shortcomings in the existing land systems and their reform in the interests of community at large' (ii) collection of necessary statistics on land under different system such as Guhi, Birta, Kipat, etc.; (iii) Problems of landless class; (iv) Problems of cultivable waste land; (v) Organization or rural credit; (vi) Problems eviction; (vii) Becessart changes in the existing laws relating to land; and (viii) Suggestions for a country wide uniformity in the prevailing land and revenue systems	Royal Land Reform Commission. It is reported that the commission duly submitted it report to the government. The report has not yet been released for information of the people.

1963 AD The Land Act	The Land (Measurement and Inspection) Act sets out the classification of land and requirements for land survey and registration;	
1963 AD The Agriculture Act	(New Arrangements)restates earlier legislation abolishing intermediaries and landlord systems of tenure	
The Land Administration Act 1963 AD	establishes district-level land administration offices and sets procedures for maintaining land registration records; and	
Land reform act 1964 AD	The Land Act (1964, amended eight times): (a) abolishes the system of intermediaries collecting taxes from tenants by transferring control over taxation to District Land Revenue Offices and Village Development Committees (VDCs); (b) transfers land managed by the state into private land (raikar); (c) imposes ceilings on agricultural land (ceilings were set at 16.4 hectares in the Terai, 4.07 hectares in the foothills and mountains, and 2.4 hectares in Kathmandu Valley); (d) limits rent to a maximum of 50% of gross annual production of main crop; (e) requires tenant certification, i.e., registration; (f) institutes a compulsory savings program; and (g) establishes a Commission on Land Use Regulation to address consolidation and fragmentation of land and incentivize farm cooperatives.	

<p>Land Administration Setup After 2021 B.S. to 2046 BS (1960-1990)</p>	<p>In 1964 a Ministry of Land Reforms was set up (replacing Mal Addas) with three directorates: (i) the Directorate of Land Reform, (ii) The Directorate of Cooperative, and (iii) the Directorate of Cadastral Survey. In July 1965 the Ministry was enlarged to include there more directorate: (iv) the Directorate of Food, (v) the Directorate of Cooperative, and (vi) the Directorate of Land Administration. In 1970 it was split up into two Ministries: (i) The Ministry of Panchayat, Home and Land Reform which regrouped the other Directorates. Within the later Ministry, the Land Reform and Land Administration Directorates are more directly responsible for the implementation of the Act of 1964.</p> <p>After 2024 BS the district level Land Administration Office was established.</p> <p>After 2034 BS when Land Revenue Act was issued the Land Administration Office abolished and the function of that office distributed to (i) Land Revenue Office under the Ministry of Finance with land administration function. The Office of Treasury and accounts was merged to the Land Revenue Office. This a Land Revenue Office had two functions: The land tax collection function of Office of Treasury and Account and the land administration function of Land Administration Office. The Land Revenue Office was under the Ministry of Finance. (ii) The District level Land Reform Office under the Ministry of Land Reforms with land reform function.</p> <p>In 2043 BS the Land Revenue Office was merged to Ministry of Land Reforms from Ministry of Finance. In 2047 BS 4 district level Land Reform Offices were dismissed and the jurisdiction of those offices was merged to land Revenue Office. In 2058 BS two departments: Land Reform Department and Land Revenue Department were unified and the new department has named the Department of Land Reform and Management.</p>	<p>The District Land Administration Office, first set up in 1996 m then becomes responsible to : (a) Register all transactions in land, viz., transfer, transmission, mortgage, gift and division of ancestral property: (b) Entertain and settle complaints relating to cadastral survey, land encroachment and tax evasion; (c) Prepare Tax Assessment roll, Tenancy Register and issue (i) Ownership Certificates and (ii) Tenancy Certificates; and (d) To implement the land reform program in these districts where the data survey is over and land reform office merged with District Land Administration Offices.</p>
<p>Land Reforms Commission After 2046 BS</p>	<p>High Level Land Reforms (Badal) Commission was Constituted in 2051 BS. This commission was submitted the report in 2052/5/8 to the government. This commission has analysed the overall aspect of the land use and the management. It has analysed the</p>	<p>In 2058 BS fifth Amendment on the Land Act 1964 was declared. This amendment reduced the ceiling of land holding (Annexes).</p>

	<p>Dualistic control (ownership) on land a suggested to end this dualistic control of landed property. The report highlighted the following problems on dualistic control - (i) Failure of protection of tenancy right (ii) failure of increment of productivity of tenancy land due to: a. lack of encouragement in promotion of productivity due to the inefficiency of the fixed rent system b. tendency of low productivity of tenancy land c. Lack of resource to invest in agricultural enterprise (iii) Failure of sustainable development of land (iv) Tenancy to remain passive of a capable person (v) Failure to mobilize the surplus (vi) Decrease in national agricultural product because of untilled land (vii) Creation of situation to provide employment to non Nepalese (viii) Being the policy of different five years plans to abolish dual control system (ix) Commitment made by the main political parties to abolish the dual control system.</p> <p>It also analysed Guthi tenure and suggested either to abolish or to manage the Guthi land as of the Raikar land. Analyzing the ceiling on land the report suggested decreasing the land ceiling to increase the agricultural production, to maintain the social justice, to establish the infrastructure for industrialization, to improve the environmental condition</p>	
The Peace Agreement 2063 BS	<p>Nepal is in the process of revising its legal framework governing land rights, with adoption of a new framework expected in 2011. The legal framework is expected to be governed by principles set forth in the</p> <p>2007 Interim Constitution, the 2008 Comprehensive Peace Agreement, the 2008 Common Minimum Program of the National Consensus Government, and the Ministry of Land Reform and Management's Three Year Interim Plan (2007/08–2009/10) (GON Interim Constitution 2007a; GON and CPN Peace Agreement 2006; GON Common Program 2008; GON Interim Plan 2007 b).</p>	
Land reform discussion after 2006 change	<p>(1) nationalization of forests, conservation areas, and other lands that Nepal's monarchies had controlled; (2) end of feudal land ownership, establishment of a Land Reform Commission and adoption of a program of "scientific land reform;" (3) adoption of policies to provide land to landless and disadvantaged groups; (4) prevention of the ability to obtain land through corruption within government offices; (5) support for</p>	
	<p>IDPs; (6) prohibition against illegal seizure of private property; and (7) support for principles of nondiscrimination (GON Peace Agreement 2006)</p>	

Agricultural Perspective Plan (APP)	Nepal's Agricultural Perspective Plan (APP) (1995–2015) outlines a strategy for agriculture in Nepal that includes plans to ensure food security, management of natural resources, and support for the commercialization of agriculture. The priorities of the APP are to support high-value cash crops and livestock production, agribusiness, and forestry to accelerate growth in agricultural output for improved food security and for poverty alleviation and sustained economic development. The Food and Agriculture Organization (FAO) is working with the GON to operationalize the APP with numerous projects ranging from providing policy assessments to the provision of inputs for vulnerable communities to technical assistance to a community livestock development project (Karkee 2008; FAO 2010).	Negative impacts on land tenure and agricultural development due to its faulty growth model
Gajurel Commission of 2065 BS	With the objective and slogan of Scientific land reform creating all Opportunity for agriculture and peasants, the Gajurel commission highlighted the two major aspects of land reform, Social Justice and productivity.	Attempted to reduce the land ceiling
Basnet Commission, 2066 BS	Two major features	
Land Vision, 2068 BS	With the vision of equitable access and quality land information and service, the land vision of 2011 was prepared by ministry of land reform.	
ADS, 2015	May be the first and historical documents made with the participation of peasants Ensured land reform Right to food sovereignty Peasants rights as one of the pillar of agricultural development	Still to implement
Constitution of Nepal, 2015	Guarantee of Right to food sovereignty, Scientific land reform, implementation of land use policy	Also talk about land as property of individual and their indispensable right
Land Use Policy 2015	Categorization of land as settlements area, mines, industrial area, playground and public spaces, agricultural land unused lands etc and also speak about the importance of protecting farm land	Still no implementation due to lack of act

Act on food and Food Sovereignty right, 2018	Very recently passed by Parliament Ensure the right to food sovereignty of the people	Just passed Impacts yet to see
Ministry of Land Reforms and Management Policies	(1) land allocations for the poorest; (2) reorganization of land administration, development of a land information system and digitization of the cadastre and land records; (3) half-price land registration for women and marginalized groups members; (4) development of a legal framework that includes leasing and cooperative farming; (5) review of the role and scope of the Guthi (Trust) Corporation and arrangements made for administering guthi land through revenue offices; (6) capacity-building for land officials; and (7) removal of the backlog of pending land disputes cases by reviewing legislation, regulations, procedures and establishing a tribunal to clear cases, including applications for land registration, tenancy, and ceilings	

Problems of Neo-liberalism and Private Ownership

Land has also become a private property. Due to neo-liberal policy there is increasing pressure of urbanization and industrialization on Land. Nepal's land-sale market is active in both rural and urban areas, but the bulk of sales transactions are in urban land. Land values have been rising, particularly for the last two decade. Land pooling and land plotting is a new economic as well as social phenomenon and a new business in urban areas. Over the last five years, land prices in Kathmandu valley soared an unprecedented 300 percent affecting most of town all over country where the land price is growing at similar rate. With urbanization and massive internal migration in to Kathmandu valley (39.65 percent of Kathmandu population is migrant). Real estate business in Kathmandu has witnessed an uptrend in the last decade.

Donor Interventions on Land

USAID has supported programs in agriculture, natural resource governance, and the rule of law in Nepal. The main focus of USAID's agricultural programs has been to contribute to increased sustainable production and sales of forest and high-value agricultural products. Current programs are focused on improving the business environment for private-sector-led growth and increasing competitiveness and exports in selected agricultural and non-agricultural commodities and services. USAID funding has helped establish agricultural value chains in 18 districts, increased the cumulative sales of high-value crops by US \$28 million, and increased annual household incomes in project areas by over 50% per year (Karkee 2008; ARD 2006; USAID 2010; USDOS 2009).

The Asian Development Bank (ADB) is supporting the GON's modernization of its land administration system by helping upgrade the land information system with modern technology and increasing access to public records. With the support of Finland, FAO's Open Source Cadastre and Registration Project (OSCAR) is piloting low-cost open-source software to develop and maintain a cadastre and land records in Nepal. ADB and FAO are providing support for the GON's development of a comprehensive land policy and new legal framework governing land rights and land reforms (ADB 2007; Narendra 2010; FAO 2010).

The World Bank is funding a 6-year (2009–2015) US \$23 million Project for Agriculture Commercialization and Trade (PACT). PACT will work with farmer groups, cooperatives, and agribusinesses in 25 districts to improve competitiveness of small farmers through sub-projects designed to improve market access for selected commodities and reduce obstacles to agricultural and food trade (World Bank 2009c).

The GON, International Organization for Migration, and donor countries have facilitated the large-scale resettlement of Bhutanese refugees living in camps in eastern Nepal. As of late 2009, over 20,000 Bhutanese had been resettled in third-party countries. Tens of thousands of Bhutanese refugees remain in Nepal (UNHCR 2009).

Land issues in Nepal

The history of the struggle for land rights in Nepal is the struggle for human rights, equity and social justice. Social exclusion and denial of individual's rights to productive resources, failure in providing for basic needs, lack of justice and insecurity of livelihoods and violation of other forms of universally recognized rights cause the poverty in Nepal. The existing socioeconomic structure is not conducive for poor and marginalized people, as it widens the gap between the haves and have-nots and perpetuates the state of poverty (Basnet, 2004)

Patron Client Relation and Agro-labor

Out of the 440 million wage-employed workers in agriculture worldwide, 2 millions are the ingredients from Nepali agriculture. This two million includes both market agriculture labour force and fully informal agro labour force. But overwhelming majority of them is in casual & irregular employment. Almost 300,000 agricultural workers are in long-term labour relation and approximately 1.7 millions are in casual labour relation. Of the workers under long-term labour relation, debt bondage is estimated to cover 50 % of the labour force. Even under casual relation, there are various forms of bondage scattered here and there.

There are various categories of agriculture laborer,

- Having no ownership but totally depend on farm based activities for their livelihood
- Peasants without entitlement of land, crop sharing or any other options of farm product sharing
- Marginal peasants with land based settlement but livelihood on farm labor of others
- Those all small and community farmers who suffer from food crisis for the major period of the year

They are facing various problems as a scattered class, unskilled and lack training, unorganized, have low social status, demand and supply of labor is irregular /untimely, have less bargaining power and have to work on the bidding of the landlord, and unrecorded, unmanaged, unsystematic and divergent.

Patron–client systems are organized by people of power, both men and women, who build and keep the loyalty of people of more humble position. In spite of the claims of our governments, many people in the modern Nepal still live in this systems, patron–client systems. Patron–client systems focus on holding leaders and followers together through a regular exchange of personal favors, support, and protection. In patron–client systems an individual's main preoccupation is building personalized attachments either to powerful superiors or to supportive inferiors. Every arrangement, benefit, penalty, law, and appointment is negotiable. Everything can be purchased and everything can change. The Bonded labour in Nepal is one such form. There are roughly a million landless waged labourers in Nepal. A significant fraction of them work as permanent labourers under wide varieties of terms and conditions. Due to low wages and poverty, debt bondage is common among them. This bondage is used to not only extract excessive labour but also as labour service imposed on family members. Most widespread debt bondage labour systems are the Haliya/Haruwa system and the Kamaiya system.

The Haliya system is practiced in the hill districts of Nepal. The labourers are given a small loan at the beginning of the contract and they continue to work for the same employer until the loan is repaid. Such labourers are required to do all the ploughing work of the employer, and are paid an annual wage for the work. Usually, the amount taken as a loan is much larger than the annual wage, and is beyond the capacity of the labourers to pay back.

The Haruwa system is prevalent in the terai (plain) districts of Nepal. In this system, no advance is taken at the beginning of the contract. Labourers do incur debt within the contract period, but such debt is generally paid back within the contract period - through the share of the harvest from the plot of land allocated to them as part of the wage payment. Within this contract, however, family members, in particular wives, must also work for the same employer and are paid a fixed daily wage. In peak farming season this wage is lower than the market wage rate. Thus, they have to forgo the opportunity of earning higher wages, at least in the peak seasons.

The Kamaiya system is a bonded labour system within agriculture in the western lowlands of Nepal and it is almost solely the burden of the low caste ethnic group called Tharus .Within this system, a Kamaiya binds himself and his family to cultivate a landowner's land in return of an annual payment. While, in principle, this system is based on a voluntary contract, in practice, the Kamaiya often becomes deeply dependent on the landowner. He lives in a hut on this land that makes the landowner the landlord as well. As the debts are inherited from father to son some Kamaiya families are tied to the same landlord for generations. What differentiates this from the other systems though is that, if the Kamaiya unable to repay his loans at the end of the contract period the landlord can exchange his Kamaiyas with another landlord who is willing to repay the Kamaiya's debt. This sales transaction makes this system similar to slavery. Surveys have estimated about 15,000 Kamaiya households with 46% of Kamaiya of them being homeless. Besides adults, there are roughly 13,000 children working under this system. On 17 July 2000, the Government of Nepal made an historic announcement wherein it abolished the Kamaiya

system. Despite this, thousands of former bonded labourers are today living from hand to mouth with no means to support themselves or their families. In all the above cases, families are deprived of basic human freedoms, of mobility, freedom to choose employer, and to take decisions about their work. Excessive hours, low wages and the requirement of family labourers to work for the same employer, constrain them and make their exit from these systems impossible.

Child labour also remains a major economic and social phenomenon in Nepal. According to the National Child Labour Survey undertaken in 1997, 1.660 million children (26.6 per cent) out of the total 6.225 million children aged between 5 and 14 years in the country are economically active. Among the 1.660 million economically active children, boys (54 per cent) outnumber girls (46 per cent). Many of these children do not go to schools (14.54 per cent of the boys and 25.96 per cent of the girls). The large part (94.7 per cent, 1.576 million) of the economically active children are engaged in the agriculture sector, mostly as unpaid family workers and partly as forced labour attached to their parents under debt bondage or similar other exploitative labour. Besides agriculture, working children are mainly involved in the services sector (27,000) and communications and transportation sector (26,000). IPEC Time-Bound Programme (TBP) estimated that there are 127,143 children working in the worst forms of child labour — as bonded labourers, rag pickers, porters, domestic workers, in mines, in the carpet sector, and being trafficked. In rural areas, children work mostly in the agricultural sector, while in urban areas, they can be found in almost all kinds of work requiring manual labour. The supply side of this is characterised by illiteracy of the parents, lack of access to as well as low perceived value of education, disharmony and diminishing family support, subsistence livelihoods that push families, particularly in rural areas, to send their children to work. Nepal is the world's 6th child labour country. Of all the child labors, nearly 60% are girls. More than 10,000 girls are trafficked every year and 20% of the sex workers in Nepal are under age of 16.

Land Ownership and Women

Under the formal law, women in Nepal can access land through inheritance, land purchase, leaseholds, and government land allocations. The 2007 Interim Constitution provides that all Nepali citizens are equal under the law and forbids gender-based discrimination. The Interim Constitution states that daughters and sons have equal rights to inherit ancestral property, and the constitutional mandate of equality takes precedence over inconsistent traditions, custom, and practices (GON Interim Constitution 2007a). Under Nepal's Civil Code (1975), known as Muluki Ain, women have the right to own and partially control their own personal property, to marry freely, and to remarry following divorce or widowhood. The Civil Code also contains biases against women's property rights by emphasizing the rights of the kin group (the husband's lineage, including ancestors) to land and limiting inheritance rights. Women's rights to inherit property are determined by marital status and age. Unmarried daughters under age 35 do not inherit their parents' property. Unmarried daughters over the age of 35 inherit equally with sons. If the daughter subsequently marries, she must transfer her inheritance share to the other heirs. Widows can inherit property from deceased spouses but must share any inheritance with their sons (FWLD 2002; Land tenure. Info 2008; Gilbert 1992). The Muluki Ain codified and formalized an orthodox, upper-caste strand of Hinduism. Women's ability to exercise rights to land vary

within different customary traditions. For example, Sherpa customary family laws are more favorable to women's property rights than the formal law (Gilbert 1992).

Ownership of land, which is still a main form of property and means of rural livelihoods and social and economic securities, has largely been governed by patriarchal norms and values in Nepal under which parental property is transferred through male lineage. Accordingly, women have been denied their rights to property. Women until recently are supposed to derive their rights to property through their husband if married. As a result, they are insecure in their lives which has led to, in many cases, acceptance of exploitation and subservient position vis-à-vis male in the society. Women constitute 51.1% of the total population (23151423) in Nepal (CBS, 2001). According to 2002 census, only 17.13 % of women have ownership of property, and only 10.84 % of women have ownership over land. Likewise 1% of women have ownership over buildings (house) against total families in Nepal. Women contribution to agriculture is 60.5%, but of total landholding women own only 8.1%. And the average size of their land is just two thirds of that of male holders. Likewise only 4% of the households have female ownership of both house and land (Chitrakar, 2005). Existing unequal gender power relations are the product of existing landownership pattern. Men are enjoying greater power as a result of ownership of 92% of land. If there is no land or insufficient land, men will migrate. Women have to face hardship for her family requirements or household security. Women from such background have higher chances of being accused of witchcraft and trafficked away to foreign brothels. Girls from landless or semi landless households have almost nil opportunity to complete their primary education. Women's land ownership is highest in urban areas in the eastern part of the country. In 30% of the households in Kathmandu and Kaski, women own some land (GON 2004; Alden Wiley et al. 2008). A GON 2006/07 directive waived land registration fees for land registered in the name of women, the disabled, and members of disadvantaged groups. Land registration in women's names more than doubled following the adoption of the directive. In 2008, 33% percent of land holdings registered in 11 districts were in women's names (Alden Wiley et al. 2008).

Furthermore, there is also a wide diversity among the women – based on caste, class and location, tradition and the like. The role of land for the livelihood security of these divergent women's groups is also different. In most cases, it is important that marginal women's access or ownership of land is more important because educated women might ask for their rights if it is incorporated in the laws and policies. Therefore, dalit and underprivileged janajati women, physically and mentally challenged women, women of minority groups, women engaged in work attracting social stigma such as sex work and those living with illness that attract social stigma such as HIV and AIDS need to be emphasized in land reform programs. How far these groups have access to land and how land ownership, if any, is helping them to maintain livelihood needs to be understood. Lack of rights to land property also means denial of other opportunities for women like education, business and trade, mobility or migration, and the like.

Land Tenure with Reference to Law Enforcement and Implementation

There are various departments under the MLRM. Similarly, about 3,000 staffs are involved in the survey and registration of private land under the Ministry of Land Reform and Management. These ministries are mainly responsible for policy formulation and coordination, and the

Departments under them are responsible for program and policy implementation. Under the ministry of Forestry and soil conservation, one of the largest Departments is the DoF, which has about 7,000 forestry staff operating from Kathmandu to patrolling the forests on the ground. The District Forest Offices (DFOs) are responsible for both extension and law enforcements. They are also involved in the sale of forest products, monitoring of forests and forest products. The DNPWC has about 1,700 staff. The Wardens under the DNPWC enforce laws to protect the National Parks and Reserves. About 4,000 personnel from Nepal Army also protect the National Parks and Reserves. The Ministry of Land Reform and Management (MLRM) has two Departments: Department of Land Administration and Management (DLAM) and the Department of Survey (DoS). These two departments are offices in all the districts and the total budget of the budget is less than 0.5 percent (equivalent to US\$ 19.6 million) of total budget of Nepal.

Ministry of agriculture and co-operative and ministry of irrigation also has various departments in regard to administration works. The Ministry of Agriculture and Cooperatives is responsible for the agricultural sector and includes the Department of Agriculture, Department of Livestock Services, Department of Cooperatives, and the Department of Food Technology and Quality Control.

The ministry of land reform and management is responsible for all land related issues. There are various departments and offices at national and district level under land reform and management ministry. The division within the Land Reform Directorate are (i) Planning Evaluation, Budget and Publication, (ii) Savings (iii) Administration, and (iv) Coordination/Inspection. A Director, except the last one, which has two Directors, headed each of them though the directorates of Land Reform and Land Administration are separate agencies at the headquarters, they share the same staffs at the field level, which mostly operate under on roof.

At the field level, there is one District Land Reform/ Land Administration Office in each of the 75 districts. In each office there are two sets of officers and staff. One set is concerned with saving and loan operation and the other with the remaining part of the program which includes (a) resumption of 'excess' land, its allotment, (b) tenancy and rent, (c) maintenance of records and registration of all mutations, and so on. Ministry of forest and soil conservation looks after the issues in forestry and nature conservation but there is no coordinating body among the various institutions and department working on land issue.

Public land including forests, shrubs and rangeland are under the jurisdiction of DoF and DNPWC. National Parks and Reserves of the Terai and Siwaliks are managed by the DNPWC with active patrolling by Nepal Army. They are strictly preserved mainly for biodiversity conservation. Local people do not have any access rights to these areas. Conflicts between the Parks and local community are common phenomena. The direct and opportunity cost of maintaining them as forests is extremely high. Although Buffer Zone Regulations have a provision of providing 30 to 50 percent of the park and reserve revenue to local communities through Buffer Zone Councils, the councils are heavily influenced by the wardens. Moreover, locking up such a huge resource without any inputs of the local communities in making decisions is a very costly conservation strategy. The other Parks, Reserves and Conservation Areas of the hills and mountains are more people friendly, and the local communities have some access rights over the natural resources of these PAs. As mentioned before, about 37 percent of total forests and

Shrublands are managed under some form of de facto and de jure institutional arrangement. The remaining 63 percent of the forests and Shrublands are officially owned by the government, but de-facto, they remain open access resources. They constitute about 3.7 million hectares, but are mostly located in the Terai, Siwaliks, and mountains. Illegal harvesting and forest encroachment is rampant in the forests of the Terai and Siwaliks. Recurrent fire and unregulated grazing have further retarded the regeneration and growth of these forests.

Land Governance with Reference to Conflicts and Contradictions

Nepal has a high volume of land disputes. Land disputes are the largest category of cases brought in Nepal's court system. The high number of land cases is attributed to the lack of reliable land records, high amounts of migration during the conflict period, and pressure on land and access to natural resources. In addition, a substantial number of land disputes relate to disagreements within families over land partition and the order of succession. In the period 1999–2003, 40,000 cases brought in formal courts (31% of those filed) were land disputes. The courts also have high numbers of separately classified landlord-tenant disputes and family law cases, which could involve property disputes. Nepal's Three-Year Interim Plan noted that there was a backlog of 103,000 land cases awaiting resolution (ADB 2007; USDOS 2010; Alden Wiley et al. 2008; Upreti n.d.).

Land cases usually take at least one year to resolve in the formal court system and often several years. Adjudication of rights within the formal court system, which includes district courts, appellate courts, and a Supreme Court, requires a substantial investment of time, knowledge of the system, and financial resources. The poor and marginalized tend to pursue claims in other more accessible forums, including District Revenue Department offices and, in isolated cases, "People's Courts" that Maoist rebels established to handle claims. The Local Self Governance Act, 1999, gave the VDCs the power to handle 13 different types of disputes, including some land-related matters such as boundary issues and encroachment. The extent to which VDC courts are operating is unknown (Alden Wiley et al. 2008).

Conflicts and Contradictions among Legislations: Several legislations and regulations have conflicting jurisdiction and authority over the use of land, forest and water resources. Even the act promulgated in regard to land also overlap or sometimes contradict (Chapagain et al. 1999).

Nepal Mines Act 1966, Mines and Minerals Act 1985 give the authority of extracting and licensing of minerals underneath the land to the Department of Mines and Geology. For small scale mining activities, renewable of mining license is made by the DDC. However, the Forest Act mentions that soil and land under the forests have to be used or conserved as per the Forest Act of 1993. Recently, the construction of infrastructure has boomed in urban areas of Nepal and adjacent border areas in India. This has created a lot of demand for sand, stones, and gravels. Siwaliks hills are being excavated to supply these materials to India. The extraction and unregulated export of these materials have increased so much that the Natural Resources and Means Committee (NRMC) of the Parliament has recently asked the government to stop the export of these materials to India. On the other hand, Stone and Gravels Traders Federation of Nepal has issued public notice against the ban on the export of these materials to India on the following premises:

The contradictions between the forest act and these two acts have also accelerated the depletion of forests around Kathmandu, and in Siwaliks. The excavation and extraction of stones and gravels in the Siwaliks has become so haphazard and risky that the NRMCA has to take a bold step of banning this activity to save the Terai from sedimentation and flooding during the rainy seasons.

The Public Roads Act, 1974 gives the department of roads an authority to build roads in the forests and private land. The act also provides the department an authority to excavate and utilize the soil, stone or sand lying nearby roads for construction and maintenance of roads. These rights and authorities conflict with the provisions of the Forest Act and agricultural policy.

Water Resources Act, 1992 empowers the state to use water without affecting the environment. However, the forest act defines forest products as anything including water that lies within the jurisdiction of forest area. This conflict in jurisdiction and authority between the Ministry of Water Resources, and the Ministry of Forests and Soil Conservation has affected the conservation of forest. This conflict of interest will be more pronounced as the government carries out more hydro-electricity dam construction in the mountains and hills of Nepal. The recent expansion of Bardia National Park and the establishment of new Gaurishanker Conservation Area will create a conflict with the prospects for a dozen hydropower projects, including the 45-MW Bheri-Babai Multi Purpose Project and 456 MW Upper Tamakoshi Hydro Power project.

Forest and Water Act in Nepal

Policy, Act, Rules, Regulations and Guidelines related to the DoF

The Master Plan for the Forestry Sector, 1989 is considered as a basic policy document. The following are the major documents related to the Forest policy, Act, Rules and Regulations.

- 📄 National Conservation Strategy 1988
- 📄 Master Plan for the Forestry Sector Nepal 1989
- 📄 Forest Act 1993
- 📄 Community Forestry Directives 1994
- 📄 Forest rules 1995
- 📄 Revised Forestry sector Policy 2000
- 📄 Leasehold Forest Policy 2002
- 📄 Five- year Periodic Plans (Current 10th: 2002- 07)
- 📄 Operational Guidelines (revised) 2002
- 📄 National Biodiversity Strategy 2002
- 📄 Monitoring and Evaluation concept and strategies 2002
- 📄 Collaborative Forest Management Guideline 2003
- 📄 Forest Products Auctioning Procedure 2003
- 📄 Non Governmental Service Providers Guideline 2003
- 📄 Terai Arc Landscape-Broad Strategies 2004
- 📄 Forest Nationalization Act 2013 Bikram Sambat(B.S.)
- 📄 Plant Protection Act 2029 B.S.

- Environment Protection Act 2053 B.S.
- National Parks and Wildlife Protection Act 2029 B.S.
- Local Self Government Act 2055 B.S.
- Land Act 2019 B.S.
- Plant Protection Rules 2031 B.S.
- Environment Protection Rules 2054 B.S.
- Local Government Rules 2056 B.S.
- Forest Inventory Guidelines 2057 B.S.
- Land Revenue Act 2034 B.S.
- Procedural Guidelines for the sale of Forest Products 2060 B.S.
- Non-Government Service Provider's Service and Procurement Guidelines, MFSC, 2004
- Wetland Policy 2059 B.S.
- IEE/EIA Review Guidelines for Forestry Sector 2060 B.S.
(DoF, 2018)

The review shows that before 1957 the Nepalese government's focus was on conversion of forestlands to farmlands, and extraction of timber for export. After the nationalisation of the forests in 1957 until 1976, policy-making efforts were oriented towards national control of forests through stringent laws and expansion of the forest bureaucracy. This approach failed as evidenced by widespread deforestation and forest degradation across the country during the 1960s through 1980s. Early efforts of the government and donor agencies to rectify the problem through reforestation and afforestation also largely failed, but these efforts paved the way for subsequent initiation of the participatory approach to forest management in the late 1970s. Since then, community-based forest management evolved continuously under the aegis of supportive forest policies and legislations. The present community forestry program has met with notable successes in some areas. However, the program has been confronted with some contentious issues in recent years including a policy debate over the suitability of forests in the southern lowlands (the terai) for community management and sharing of income obtained from community forests.

Forest Act of 2049 BS is the major act that provided foundation for community forestry despite having some gaps especially in the management and benefits of forest to the people.

Water Laws in Nepal

Right of people to the water has been also affected by privatization and liberal policies adopted by the state especially after 1990.

Year		Name	Key Features/Areas directly or indirectly related to water environment	Source
English	Nepali			
1955	2012	Essential Commodity Protection Act 1955 (2012 BS)	Deems drinking water an essential commodity and strictly protects drinking water.	Water Aid Nepal, 2005
			Prohibits any unauthorized use or misuse, stealing, damaging etc. of	
1963	2020	Muluki Ain 1963 (2020 BS)	Sets out the order of priority of use of water for irrigation	Water Aid Nepal, 2005
			Regulates traditional farmer managed irrigation systems	

1982	2039	Soil and Watershed Conservation Act, 2039(1982)	Defines "Soil and Watershed Conservation" as acts to prevent or save any area from being destroyed from natural calamities such as flood, landslide and soil-erosion and keep the volume and flow of water in a normal condition or keep on maintaining cleanliness by preventing the flow of water from being muddy.	Original text
			The Act permit to carry out by a conservation officer to maintain the soil fertility and the cleanliness of water and environment in a balanced manner and carry out such other soil and watershed conservation related acts as prescribed by Government of Nepal.	
			Classification of lands within conserved watershed area	
			Farming to be done by following land use system	
			Prohibit acts of throwing away solid wastes or similar other detritus contaminating the environment or build a site for collecting or keeping such solid wastes or detritus.	
			Powers to shift industry, business and settlement of habitation within a conserved watershed area or to acquire the land where such industry, business and settlement of action is situated	
1987	2044	Solid Waste (Management and Resource Mobilization) Center Act 1987 (2044 BS)	Establishes the Solid Waste Management and Resource Mobilization Center as the responsible authority for the management of solid waste.	Water Aid Nepal, 2005
			Deals with the pollution of water by solid waste.	
1989	2046	Solid Waste (Management and Resource Mobilization) Regulation 1989 (2046 BS)	Deals with the collection, transportation and disposal of solid waste.	Water Aid Nepal, 2005
			Deals with the provision of public toilets and bath houses.	
1989	2046	Nepal Water Supply Corporation Act 1989 (2046 BS)	Establishes the Nepal Water Supply Corporation as the perpetual, autonomous government controlled corporation responsible for the supply of drinking water. Prohibits certain acts and provides penalties/punishment for violation.	Water Aid Nepal, 2005

1990	2047	The Constitution of the Kingdom of Nepal 1990 (2047 BS)	Guarantees the right to life and property.	Water Aid, Nepal 2005
			Provides for the acquisition of property under certain circumstances and for compensation.	
1992	2049	Water Resource Act 1992 (2049 BS)	The umbrella Act governing water resource management.	Water Aid Nepal, 2005
			Declares the order of priority of water use.	
			Vests ownership of water in the State.	
			Provides for the formation of water user associations and establishes a system of licensing.	
			Prohibits water pollution.	
1992	2049	Electricity Act 1992 (2049 BS)	Governs the use of water for hydropower production.	Water Aid Nepal, 2005
			Establishes a system of licensing	
1992	2049	Industrial Enterprises Act 1992 (2049 BS)	Requires permission for the extension and diversification of environmentally sensitive industries.	Water Aid Nepal, 2005
			Provides financial incentives for industrial enterprises that minimize harmful effects on the environment.	
1993	2049	Forest Act, 2049 (1993)	The trees cannot be felled in such a way that it may cause significant adverse effect in the environment or damage or loss publicly or soil erosion in the watershed area.	Original text
			Government of Nepal may impose restriction on collection, cutting, consumption, transportation sale, distribution or foreign export of the prescribed forest products for the protection of bio-diversity and environment upon publishing a notice in the Nepal Gazette	
1993	2050	Water Resource Regulation 1993 (2050 BS)	The umbrella Regulation governing water resource management.	Water Aid Nepal, 2005
			Sets out the procedure to register a Water User Association and to obtain a license.	
			Sets out the rights and obligations of Water User Associations and license holders.	
			Establishes the District Water Resource Committee.	

1997	2053	Environment Protection Act 1996 (2053 BS)	Defines "Pollution" as the activities that significantly degrade, damage the environment or harm on the beneficial or useful purpose of the environment, by changing the environment, directly or indirectly.	Original text
			To carry out Initial Environmental Examination or Environmental Impact Assessment	
			Prohibition on Implementation of Proposal Without Approval	
			To submit Proposal for Approval	
			Prevention and Control of Pollution (Nobody shall create pollution in such a manner as to cause significant adverse impacts on the environment or likely to be hazardous to public life and people's health)	
			Designate Environmental Inspectors to inspect as to whether or not the acts of mitigation, avoidance or control of pollution have been carried out in accordance with this Act or the Rules framed under this Act.	
			Protection of National Heritage	
			Declare Environment Protection Area	
			Establishment of a laboratory to help in the activities related to environment protection and pollution control.	
			To allow collection of samples to study, examine or analyze the pollution, sound, heat and wastes to be or likely to be generated from any industry, factory, machine, vehicle etc.	
			Establishment and operation of environment protection fund Power to constitute environment protection council	
			Punishments (e.g., cash penalty up to one hundred thousand Nepalese Rupees)	
1997	2054	Environment Protection Regulation 1997 (2054 BS)	Lists the water related projects required to conduct an EIA or IEE.	Water Aid Nepal, 2005
			Deals with the control of water pollution and pollution control certificate	

1998	2055	Drinking Water Regulation 1998 (2055 BS)	Regulates the use of drinking water.	Water Aid Nepal, 2005
			Provides for the formation of Drinking Water User Associations and sets out the procedure for registration.	
			Deals with licensing of use drinking water.	
			Deals with the control of water pollution and maintenance of quality standards for drinking water.	
			Sets out the conditions of service utilization by consumers.	
1999	2055	Local Self Governance Act 1999 (2055 BS)	Establishes a decentralized governance structure	Water Aid Nepal, 2005
			Sets out the powers, functions and duties of the VDC, Municipality and DDC in relation to water and sanitation.	
1999	2056	Local Self Governance Regulation 1999 (2056 BS)	Sets out the powers, functions and duties of VDC, Municipality and DDC in relation to water and sanitation.	Water Aid Nepal, 2005
			Establishes the procedure for the formulation of water related plan and project implementation	

2000	2056	Irrigation Regulation 2000 (2056 BS)	Deals with Irrigation Water User Associations and the transfer of projects to Irrigation Water User Associations.	Original text
			The environmental effect evaluation or preliminary environment examination shall be conducted as per necessary under the prevailing law through public hearing in connection with the negative impact on the environment from the irrigation project.	
			In the course of using water for irrigation from any river/rivulet only the remaining water shall be utilized for irrigation purpose upon leaving minimum water in the same river/rivulet after determining so that it will not have negatively effects on the local biodiversity.	
			Monitoring, study and research work in the water quality shall be conducted and water in irrigation shall be conserved effectively without negative impact in the environment.	
			Available ground water resources shall, be developed and utilized as like the surface water reservoirs, and arrangements shall be made for conservation, promotion and control in quality.	
2002	2058	Water Resources Strategy Nepal	Goal: Living conditions of Nepali people are significantly improved in a sustainable manner.	WECS, 2002
			Drinking water is the basic minimum need of all human beings	

			<p>Enact and Enforce Standards and Regulatory Mechanisms for Water Quality and Effluent Discharge.</p> <p>Appropriate sanitation services in rural and urban areas will be provided through community awareness programmes</p> <p>Ensure Compliance with Environmental Regulations</p> <p>Implement and Enforce Equitable</p> <p>Increase the access of the population to drinking water through rainwater harvesting programmes, community-based water supply and sanitation sector projects, Rural water supply projects/water resource management programmes, A small town water supply and sanitation programme, a water quality improvement programme etc</p>	
2003	2059	National Wetland Policy 2003	<p>Defines Wetlands as perennial water bodies that originate from underground sources of water or rains. It means swampy areas with flowing or stagnant fresh or salt water that are natural or man-made, or permanent or temporary. Wetlands also mean marshy lands, riverine floodplains, lakes, ponds, water storage areas and agricultural lands.</p> <p>Goals are 1) to conserve and manage wetlands resources wisely and in a sustainable way with local people's participation and 2) to put the conservation and management aspects of wetlands conservation within the framework of broader environmental management.</p> <p>Regulate the extraction of underground water and prevent water pollution.</p> <p>Make provisions for environmental impact assessment according to prevalent laws prior to approving development programs and activities around wetlands.</p> <p>Ensure environmental protection by regularly monitoring development programs and activities around wetlands</p>	Original text
2004	2060	Rural Water Supply and Sanitation National Policy	<p>Recognizes that all people have a right to access to basic water supply and sanitation services and that these services are necessary for socio economic development and to combat waterborne diseases.</p>	Water Aid Nepal, 2005

2005	2062	National Water Plan-Nepal	The National Water Plan (NWP) has been prepared to operationalize the Water Resources Strategy (WRS) of Nepal , approved by the HMGN in January 2002.	WECS, 2005
			The major doctrines of the NWP are integration, coordination, decentralization, popular participation and implementation of water-related programmes within the framework of good governance, equitable distribution and sustainable development.	
			The NWP includes subsector-wise action programmes in water induced disasters, environmental action plan on management of watershed and aquatic ecosystem, water supply, sanitation and hygiene, irrigation for agriculture, hydropower development, industries, tourism, fisheries, and navigational uses, water-related information systems (Decision Support System for River Basin Planning and Management), legal frameworks, and institutional mechanisms	
			Environment Management Plan, a strategic document for the implementation of environmental protection measures (including downstream water pollution and groundwater quality, erosion/landslide and sedimentation, water pollution and sanitation, effect on aquatic life and wetland ecosystem), monitoring (baseline, impacts, and compliance), environmental auditing and institutional and procedural arrangements.	
2006	2063	Water Supply Management Board Act, 2063 (2006)	Defines "Water supply service" as the provision of water to the users upon processing and purifying the natural water.	Original text
			Defines "Sanitation service" as an act of destroying, discharging, processing or purifying dirty water discharged from human beings or from domestic, trade or industrial use and all kinds of dirty substances mixed with such water.	
			The Board prevents the misuse of potable water and prevent pollution of potable water	

			The Board carry out, or cause to be carried out, study, research and survey on the source, distribution of potable water, and sanitation	
			The Board may punish a person causing adverse effect to the public health by contaminating the potable water, a fine of up to Twenty Five Thousand Rupees in view of the degree of the offence	
2015	2072	The Constitution of the Kingdom of Nepal 2015(2072 BS)	Rights regarding clean environment Right to healthcare Right to food Policies regarding the conservation, management and use of natural resources Policies regarding the basic needs of citizens	Updated by WECS, Nepal

Land Grabbing and Commercial Pressure on Land

As land is a private property, due to neo-liberal policy and increasing pressure of urbanization and industrialization, Nepal's land-sell market is active in both rural and urban areas, and bulk of sales transactions are in urban land. Land values have been rising, particularly since the end of the conflict and the effect of membership of WTO. Land pooling and land plotting is a new economic as well as social phenomenon and a new business in urban areas. Over the last five years, prices of land in many town and cities has been increasing rapidly converting productive land as a commodity of transaction. In Kathmandu valley the prices in last decade soared an unprecedented 300 percent affecting most of town all over country where the land price is growing at similar rate (Bista, 2010). With urbanization and massive internal migration in to Kathmandu valley (39.65 percent of Kathmandu population are migrants) real estate business in Kathmandu and many other cities has witnessed an uptrend in the last decade. A poorly functioning land market has led to several ills including, land speculation, creation of slums and squatter settlements, environmental deterioration, and an inefficient sub-urban development pattern which is increasing the cost of doing business in the city and adversely affecting the urban economy. Governments have been unable to improve the efficiency of land registration systems because of institutional, technical and economical constraints and a lack of political will.

In case of urban area which has most fertile land suitable for farming, rapid urbanization due to migration has put serious pressure on farming communities. As the size and quality of farm land are determinants of poverty in the rural areas and landlessness and very small land holding are already big challenges of Nepal, the present trend of land use has aggravated the problem. The fertile land is being used for urbanization and industrialization and rural land has gone barren. Increasing pressure in land has raised the price of land denying the local communities from their resources and leading conflicts over natural resources. The competition of the investors with the local communities especially the farmers for whom such resources are critical source of livelihood has posed threat to land rights, food security and environment. Despite the wide and long ongoing movements of women, indigenous communities, landless and poor on land rights, urbanization phenomenon of dominance of many houses, shops, industrial zones and nonfarm activities in large towns and cities is rapid in Nepal with the urban growth rate of 6.6 % per year. In urban areas, big farmers or business companies are capturing most of the agricultural lands for non-agro-purposes eg. real states, big apartments, shopping malls and tourist resorts. In this cruel process, small and marginal farmers are driven off the land and farming and often changed into wage labourers involved in the informal jobs and residing somewhere in squatters.

There is a high investment in the housing sector of Nepal but this has been rampant for the last few years. Nepal Rastra Bank (NRB) has already imposed a cap on the exposure of banks and financial institutions to housing and real estate loans, asking them to limit such exposure to 25 percent of their total investment portfolio by the end of fiscal year 2012/13. The total investment of the commercial and development banks alone would go beyond Rs. 200 billion. Similarly, the investment of cooperatives sector is speculated there. Thus, Real Estates (domestic) both in the form of registered company or non-registered entity (individual and family organized in informal ways) have been engaged in land grabbing considering the land as the business entity to grab the speculative benefit. A number of groups including the cadres of political parties found to be engaged in land business (Bista, 2010).

Land Grabbing/Encroachment: State Intervention on Land

In many cases, state and government through legal process acquire a large portion of farming and community land displacing peasant communities. In the name of tourism, in the name of special economic zone, in the name of mining and conservation and others, large portion of land has been already taken from the farmers.

Land use in conservation: Public land including forests, shrubs and rangeland are under the jurisdiction of Department of Forestry and DNPWC. National Parks and Reserves of the Terai and Siwaliks are managed by the DNPWC with active patrolling by Nepal Army. Local people do not have any access rights to these areas. Conflicts between the Parks and local community are common phenomena. The direct and opportunity cost of maintaining them as forests is extremely high. Although Buffer Zone Regulations have a provision of providing 30 to 50 percent of the park and reserve revenue to local communities through Buffer Zone Councils, the councils are heavily influenced by the wardens. The sufferings of local people bore are very painful. They are still unnoticed, unaddressed, unheeded and unheard. It has raised some of the critical difficulties that may loom large to a serious problem in coming days if not paid adequate attention.

Some others problem/issued caused/raised by the conservation strategy are as follows (ANPFa, 2012);

- Conflict for Food and Shelter
- Conflict over Survival Economy
- Right for Animal Herding

- Raw Materials for Domestic Industries

- Issues of Human Right

- Cultural Conflict

- Disturbances in Social System

- The Value of Human Life

- Access to Policy Making Process and Social Justice

Land use in Mining: Nepal Mines Act 1966 and Mines and Minerals Act 1985 give the authority of extracting and licensing of minerals underneath the land to the Department of Mines and Geology. Recently, the construction of infrastructure has boomed in urban areas of Nepal and adjacent border areas in India. This has created a lot of demand for sand, stones, and gravels.

Siwaliks hills are being excavated to supply these materials to India. The extraction and unregulated export of these materials have increased so much that the Natural Resources and Means Committee (NRMC) of the Parliament has recently asked the government to stop the export of these materials to India. The contradictions between the forest act and these two acts have also accelerated the depletion of forests around Kathmandu, and in Siwaliks. The excavation and extraction of stones and gravels in the Siwaliks has become so haphazard and risky that the NRMC has to take a bold step of banning this activity to save the Terai from sedimentation and flooding during the rainy seasons. The Public Roads Act, 1974 gives the department of roads an authority to build roads in the forests and private land. The act also provides the department an authority to excavate and utilize the soil, stone or sand lying nearby roads for construction and maintenance of roads. These rights and authorities conflict with the provisions of the Forest Act and agricultural policy. Water Resources Act, 1992 empowers the state to use water without affecting the environment. However, the forest act defines forest products as anything including water that lies within the jurisdiction of forest area. This conflict in jurisdiction and authority between the Ministry of Water Resources, and the Ministry of Forests and Soil Conservation has affected the conservation of forest and land. This conflict of interest will be more pronounced as the government carries out more hydro-electricity dam construction in the mountains and hills of Nepal. The recent expansion of Bardia National Park and the establishment of new Gaurishanker Conservation Area will create a conflict with the

prospects for a dozen hydropower projects, including the 45-MW Bheri-Babai Multi Purpose Project and 456 MW Upper Tamakoshi Hydro Power project.

Special Economic Zone SEZ project (SEZP), Government Policy

Nepal Government has recently forwarded the idea of Special Economic Zone (SEZ) as a way to create an environment conducive to rapid industrialization as SEZ will be operating outside the traditional administrative arrangements and hence is a policy response towards immediately overcoming the bureaucratic and procedural difficulties associated with FDI oriented export business. The SEZ project (SEZP) was established on 29th January 2004 (15 Magh 2060) and entrusted to draft a SEZ law which will accord various fiscal and non-fiscal benefits to investors within SEZ and construction of various SEZs. Nepal government has declared Export Promotion Zone (EPZ) in Bhairahawa (Western Nepal) and Special Economic Zones in Birgunj, Panchkhal and Trisuli areas. It has already embarked upon construction of an Export Promotion Zone (EPZ) at Bhairahawa and is carrying out various feasibility studies for other sites in the three locations already declared by government. Since legal framework is deemed necessary to establish Special Economic Zones to carry forward the nation's industrialization process and support the pace of social and economic development process, The Constituent Assembly has promulgated this Act according to Interim constitution of Nepal, 2063 (2006), Article 83, sub-article (1). It is sure that if the law is made on SEZ, land grabbing will be a rapid business.

Land-use for the POPs: Poisons in Paradise

More than 70 tons of date expired pesticides, all imported, are stored in seven known locations around Nepal. The largest stockpile in Amlekhgunj contains nearly 50 tons of pesticides including Endrin, Organomercury seed dressing, DDT dust, Lindane granules, BHC dust, Chlordane dust, 2,4-D wet table powder and other unidentified organochlorines. Nepal, a darling of the donors, has received most of these pesticides in the form of aid. At least two containers of dieldrin at the Kathmandu stockpile had "American Consulate, Calcutta" markings on it. The Amlekhgunj stockpile is currently housed in a warehouse that is adjacent to the playfield of a village school and is located within the residential area of the village. German government has already agreed to take most of the pops but it has not been initiated even after a year.

Military Land Grabbing

The military land grabbing to establish barrack and for security reason was common in Nepal during the conflict period. But still these barracks has not been transferred. Still the farm service centers and farm land of peasants even the research centers are grabbed by state for military purposes. Many of the farmers and victims are still raising the voice against the encroachment of their farm land by Nepal Army but their voices have not been heard.

Land Grabbing in the Name of Landless

As political parties have included their slogans to guarantee the land rights to their voters and in covert and overt form, political parties especially the Maoist are grabbing the land either belonging to state or landlords or people to use for its purpose and distribute to its cadres. In clear violation of the Comprehensive Peace Agreement, the Maoists have stepped up their land grab across the country. The Maoist party seized public and private land worth millions of rupees in several districts including Kavre, Sunsari, Dang and Nawalparasi and hoisted the Maoist party flag on the seized lands. Previously by United CPN Maoist and now by CPN-Maoist cadres are grabbing the peasants and farmers land.

The landless people with the support of various political parties and mass movement are grabbing the land in the name of squatters (Sukumbasi). Though it has been noticed when the movement is large, thousands of such people has already grab the state land forest and shrub land especially nearby the highway. Forests and public lands have also been encroached in the name of Sukumbasi (landlessness) in the form of mass movement. In Kailali, Makwanpur, Kathmandu and other places this mass grabbing has been seen. Individual and families are constantly and continuously grabbing the public land near the highway. This also has been a regular case some noticed and some unnoticed.

Land Grabbing by Indian: Highest Point of Imperialism

In many places of Nepal in the border side including SUSTA, KALAPANI, DAS GAJA etc India has already encroached thousands of hectare of Nepals' Land. Land grabbing has been the political issues between India and Nepal since a long time. India establishments are highly criticized for capturing the Nepali land in boarder areas of Nepal. Sometimes, vehement oppositions against the capturing have been observed in Nepal in the form of movement of nationality.

National and Foreign Companies on Land Acquisition

Dabar and other Indian companies are illegally taking a large amount of farm land in Nepal. Even National companies as Chaudhary group has already acquired thousands of hectare of land in various parts of country. Most of those lands have been taken to establish the industrial area but the land has also been used for commercial farming and mono cropping.

Some Issues Affecting/Triggering Land Grabbing in Nepal and South Asia in General

Neo-liberal Policies and Land

Due to neo-liberal policy and increasing pressure of urbanization and industrialization, land values have been rising and Land pooling and land plotting is a new economic as well as social phenomenon and a new business in urban areas.

Diseconomy of land holding size: Disintegration and fragmentation of holding is one of the major systemic problem rural livelihood faces when population is raising fast and smaller farmers having larger family size. It's a matter of pity that the entitlement right over ancestral property is so well grounded in traditions that removal of which is simply unthinkable. Land degradation is due to (a) natural (biogeophysical) causes, (b) human causes, or (c) a combination of both. Fragmentation and parcelling into smaller pieces has been the rising trend as the land prices are in spiral coupled with homestead craze in urban and sub-urban areas. It has negative effect in cereal production as it occupies 85% of agri-outputs (The per capita food production of 376 kg in 1975 has come down to 277 kg in 1995 and further to 230 kg in 2005).

Critical issues of land reforms: Land reform is a complex political and structural issue. There are many critical issues hindering land reform which must be tackled to ensure meaningful land reform for the poor.

- Spreading irrational fear of land reform due to misunderstanding among the landowning (and policy making) elites that land reform simply involves putting a ceiling or cap on land, confiscating it and redistributing it to the landless and squatters.
- Lack of common framework for action: Major political parties have made commitments to "scientific land reform" through the Comprehensive Peace Agreement of November 2006 (which ended the armed conflict) and the Interim Constitution, 2007. But there does not appear to be consensus on the issue, nor a framework to put "scientific land reform" into practice.
- Growing corporate interests: Corporate donors such as World Bank, International Monetary Fund (IMF) and Asian Development Bank are promoting market-led reforms, to serve the interests of landlords, rich people and multinational companies at the expense of poor farmers. This has been the real challenge of scientific land reform in Nepal.
- The Rule of law and property rights: The World Bank and the Asian Development Bank (ADB) and other some bi-lateral organisations set out to defend the property rights of existing landowners rather than pursuing the rights of exploited and marginalised workers. This does nothing but persist the status quo, which is most likely the aim. This attitude has further marginalised and excluded the rural poor, precluding any successful land reform process.

- The focus is on tenure improvement rather than land redistribution: Most of the donor agencies and political parties have given the priority to land administration projects such as computerising records. Without new progressive policies operating in tandem, this cannot transform land administration would serve to cement unequal land ownership and obstruct any future reforms. Some of them are even talking about the tenancy rights, distribution of small plot of public land which is not behalf of land poor people. Without distributing the private land there will be not real land reform in Nepal. Land reform is also the distribution of power and assets.
- No people's participation in policy formulation and implementation: Like in many other areas, the governments of the past, whether autocratic or democratic, never dared to involve the people concerned (the poor and landless) in formulating and implementing land reform policy. First there is no representation of real landless and tenant farmers in policy making process, second, consult real people, whole policy process and at the end rights of the land.

Land Issue in Conflict Transition: Land Disputes and Conflicts

Nepal has a high volume of land disputes. Land disputes are the largest category of cases brought in Nepal's court system. The high number of land cases is attributed to the lack of reliable land records, high amounts of migration during the conflict period, and pressure on land and access to natural resources. In addition, a substantial number of land disputes relate to disagreements within families over land partition and the order of succession. In the period 1999–2003, 40,000 cases brought in formal courts (31% of those filed) were land disputes. The courts also have high numbers of separately classified landlord-tenant disputes and family law cases, which could involve property disputes. Nepal's Three-Year Interim Plan noted that there was a backlog of 103,000 land cases awaiting resolution (ADB 2007; USDOS 2010; Alden Wiley et al. 2008; Upreti n.d.).

Conflicts and Contradictions among Legislations: Several legislations and regulations have conflicting jurisdiction and authority over the use of land, forest and water resources. Even the act promulgated in regard to land also overlap or sometimes contradict (Chapagain et al. 1999). Land has been the most contentious factor in these days of rather uneasy peace process and post conflict transition.

Policy Review on Land Acquisition and Donors Interests

The Interim Constitution of Nepal permits the state to acquire land in the public interest. "Public interest" is undefined. The government must compensate the landholder for any land-taking, including any acquisition in the course of land-reform initiatives. The Interim Constitution provides that the process for land acquisitions and the determination of the amount of compensation shall be set by law (GON Interim Constitution 2007a). Land rights can be acquired by inheritance, purchase, government land allocation, or tenancy in Nepal. Most

rural landholdings are owned; about 72% of urban residents claim ownership of their plots, although their rights may be informal and not recognized by formal law. Most people obtain land through inheritance and the land-sale or rental markets. Roughly 20% of urban landowners obtained their plots through inheritance, and 23% rent their plots (GON 2004; Pokharel 2006; Parajuli 2007). Foreigners cannot own or rent land in Nepal. Foreigners may acquire land in the name of the business entity registered in Nepal; however, they may not acquire land as personal property. It is widely believed that foreigners own and rent land on the informal market (Chapagain 2001; USDOS 2010).

On 23 April 2004, Nepal became a member of the WTO through the negotiation process. During its accession, Nepal has made commitments in the agriculture, goods and services sector which are substantial compared to those made by original members at a comparable level of economic development. In addition, Nepal has also made commitments to make its legal regime compatible with the WTO including that related to intellectual property rights. As per the Legislative Action Plan agreed upon by Nepal during its accession to the WTO, Nepal has agreed to amend/ enact 38 legislations to make its legal regime compatible with the WTO. Nepal has made commitments to comply with all WTO trade rules latest by the end of 2006. For instance, Nepal has made commitment to fully implement the provisions of Agreement on Technical Barriers to Trade (TBT) and Agreement on Sanitary and Phytosanitary Measures by 1

January, 2007.² Due to increasing liberalization and WTO membership, there is increasing donor interest on land. USAID has supported programs in agriculture, natural resource governance, and the rule of law in Nepal. Although, the main focus of USAID's agricultural programs has been to contribute to increased sustainable production and sales of forest and high-value agricultural products, current programs are focused on improving the business environment for private-sector-led growth and increasing competitiveness and exports in selected agricultural and non-agricultural commodities and services. The Asian Development Bank (ADB) is supporting the GON's modernization of its land administration system by helping upgrade the land information system with modern technology and increasing access to public records. With the support of Finland, FAO's Open Source Cadastre and Registration Project (OSCAR) is piloting low-cost open-source software to develop and maintain a cadastre and land records in Nepal. ADB and FAO are providing support for the GON's development of a comprehensive land policy and new legal framework governing land rights and land reforms (ADB 2007; Narendra 2010; FAO 2010). The World Bank is funding a 6-year (2009–2015) US \$23 million Project for Agriculture Commercialization and Trade (PACT). PACT will work with farmer groups, cooperatives, and agribusinesses in 25 districts to improve competitiveness of small farmers through sub-projects designed to improve market access for selected commodities and reduce obstacles to agricultural and food trade (World Bank 2009c). The GON, International Organization for Migration, and donor countries have facilitated the large-scale resettlement of Bhutanese refugees living in camps in eastern Nepal. As of late 2009, over 20,000 Bhutanese had been resettled in third-party countries. Tens of thousands of Bhutanese refugees remain in Nepal (UNHCR 2009).

Resistance and Peasants Movement

The struggle for land and its management in favor of tenant's access to farm resource is going on in contemporary Nepal. But there is still lack of sound land use policy. There were number of causes of rural landlessness; they are demographic pressure, historically defective land tenure system, and ineffectiveness of land reform of 1964, heavy reliance of small farmers on private moneylenders in absence of institutional sources of credit, underdevelopment of non farm sectors and migration of seasonal labourers from India due to the open boarder with it. Thus historically defective land tenure system, unbalances economic development and poor resource endowment of landless households could be identified as the principal causes of landlessness and rural poverty in Nepal. The viewed that problem of rural landlessness should be solved within the broad framework of agrarian reform and planned resettlement, based on non farm activities. Perhaps, due to the noncommittal posture taken by the government and instable government, a number of projects being implemented by Donors in areas that may have some indirect relationship with land tenure. Historical causes of landlessness are caste system, Hinduization of indigenous group, Privatization of productive land by ruling class etc

The status of ICARRD monitoring tools and indicators agreed by the govt. to comply in last 2006 is not used at any level. It is found that government plan and policies are not complying with ICARRD and VGGT principles. Though government had decided to distribute land to bonded labour (Kamaiya) in 2001freely. However the implementation of this was very slow and it is not sufficient for all such tillers and they all have not received the land yet (revealed form the national data).

Government plan and program to eradicated and freed the bonded labour and stopped the child labour with a promulgation of child rights act in 1992 and 2001 and other forms of exploitation and oppression of landless is still a challenge. Though the several existing policies and acts in forest and water management are in place for the sustainable use and delivery of water for the community but the implementation of this provision was found weak. Despite the various legal provisions, communities and farmers are still depriving of free and full access to irrigation. However few farmers are enjoying free and full access. Govt. policies have promoted the fishing as agriculture at individual level and govt's own system. However there are no Govt's policies and programs for a cooperative farming and fishing that promote the access and benefit for the poor farmers and ultra poor. Regarding access to forestry, Nepal's situation is very good position in managing forest resources by the communities, still ultra poor farmers and communities have no free access and are not benefited from forest resources in Nepal.

Still Guthi land is held by religious bodies for religious or philanthropic purposes and is not subject to taxation. Most agricultural land is rented under short-term sharecropping arrangements, known as adhiya. Under adhiya, the tenant provides the labor and landowners supply some percentage of inputs. In principle, the tenant and landowner receive equal shares

of the production, but the tenant rarely receives a half-share, either because he or she is in debt to the landowner or the landowner has supplied all the inputs.

The relation of land ownership with the food sufficiency showed that lesser the land there is more vulnerability of food insecurity and they are searching for the alternatives. The food insecurity is highest in the groups who have least amount of land. The smaller the holding more the off farm activities for livelihood. Thus, they are more vulnerable to food insecurity.

If we look back in the history we would see that the peasantry was the main base for ending a 104 years long despotic family rule of the Rana regime, which ushered a democratic rule into Nepal in 1950 A.D. This was preceded by a glorious period in which the Nepali peasantry defeated the various brutal onslaughts of British imperialists designed to conquer Nepal around the 19th century. The multi-party political system that emerged after the 1950 revolution also did not produce desirable results in favour of the Nepali peasantry. On the contrary, the inaction of the new democratic government in addressing the real issues of land reform forced the peasantry to think of other alternatives. The peasantry had the impression that even the new regime was supportive of feudal interest albeit in a round about liberal capitalist way. The need for a joint struggle was self evident. It was in this backdrop, a fighting force of advanced peasants got organized under the banner of the All Nepal Peasants Association (ANPA) and formally came into being in 1951 as the only forum that advocated peasants' rights.

The Nepali peasantry carries a long and dedicated history of struggle for national independence, democracy, human rights and self respect. The right of the peasants was often undermined and time and again there were fierce peasants' struggles launched against landlordism, such as Ukhada eradication movement, 1953, Routahat farmer's revolt, 1956, Movement for secure tenancy right, 1958 and Khaniya bas farmer movement, 1960. In 1961 the then democratic government was sacked and royal rule under Panchayat regime was forcibly imposed upon Nepalese people. Nepalese farmers were against this regime and launched fierce struggles to re-establish democracy and assert peasants rights to land and livelihood. The major struggles launched by Nepalese farmers are historically famous that include the Nabalparasi peasants' uprising, Jhoda, Sarlahi, and Jugedi farmer's struggles. During the democratic uprising of 1990, the Jaddukoha farmers' uprising, in which nine peasants including two women were shot dead, was a big blow to the autocratic Panchayat regime. After the reestablishment of multiparty democracy in 1990, the All Nepal Peasants Association (ANPA) has led peasant's struggles to force the government to implement land reforms program, but the government has simply amended the earlier land reform Acts instead of framing and implementing genuine land reforms.

Adoption of a comprehensive agricultural development program is the need of the hour. It should include on the one hand policies for land redistribution and tenancy reforms and on the other hand a package of infrastructure facilities such as availability of farm input at a reasonable price, better irrigation facilities, improved transportation network, cheaper

electrification, technical supports for introduction of sustainable farming practices supports, formation of co-operatives for extending both inputs and marketing promotions for landless and marginal farmers etc. In view of the conditions prevailing at present, environment friendly management of water and forest need to be emphasised to boost up the practice of bio-diversity based farming technology. The peasants are well aware that without sustained persuasion and mounting pressure upon the ruling clique, no program is going to come easily in their favour. The hard lesson they have learnt is that, to assert their rights, there is no alternative to strong peasant movements. Therefore, peasants' movements in Nepal are on the rise so have been opposing the prevailing model of agriculture by developing a new concept to address the problems encountered by small agricultural producers. In the course of their struggle against the so-called new development paradigm, based on the policy prescription of the international financial institutions, the peasants' movements have developed the concept of food sovereignty as an alternative policy to agricultural development. Similarly campaign to save agricultural land and rice fields has been also launched in Nepal. In 2012, South Asia Alliance for Poverty Eradication launched a campaign against land grabbing in all countries which was leaded by All Nepal Peasants' Federation. In Nepal, ANPFa is active in this campaign to organize the events.

The present debate in Nepal is on which modality to follow with regard to land reform. The radical land reform as proposed by progressive section of civil society with broadly 'left learning' is to fix the land ceiling, acquire the excessive land, and distribute it to the landless and marginal farmers by the state. Another school of thought argues that the use of 'existing land market' results in best land reform, increases the access of poor and landless to land, and at the same time, reduce social tension between landlord groups and landless groups. Moreover, by adopting 'market - based approach', various irregularities that we have seen in "land distribution" approach like reselling of the land, not cultivating it properly and landlessness of productive class (citation needed).

There has also been a debate as to what should be the appropriate land ceiling at present. The land ceiling have already fixed in the past. The Badal Commission (See annex) indicated that at the most they could get only 306,000 hectares land. By 2006, there is tremendous increase in population. New land ceiling is suggested (Mulyankan, 143, Saun/Bhadra, 2063). It was argued that land beyond ceiling should be nationalized and distributed to the poor and real tenants or cultivators through local agencies. If the maximum land ceiling is just 2 ha, it can be argued that it leads to the survival of mainly the subsistence farming in the country and make the country a country of many but small farmers. One of the most important aspects of land reform is to give space for producers but not to distribute land equally to all which will have negative impacts on production.

After 1990 revolution, various political parties including Nepali Congress and Communist Party of Nepal -United (CPN-UML) had shown some concerns for land reform. In 2001, the Deuba government decided to reduce land ceiling defined by the Land Act 1964. The reduction was

61 percent in Terai, 22 percent in hill and 48 percent in Kathmandu. The then government under the Prime Minister Sher Bahadur Deuba had defined new ceiling and promised its rigorous implementation to diffuse the popularity gained by Maoist rebels. This entailed reduction of ceiling because under the existing ceiling, no land could be acquired for distribution to the landless and marginalized people (Source: Adhikari J. Land reform in Nepal: problems and prospects, 2006).

The constitution of 2015, the 20 years agricultural development strategy and the recent act on food and right to food sovereignty provides a solid policy and legal ground to address the land issues in Nepal. The rule of left in Nepal who are very much trusted to implement those policy and legal frame is another hope for the solution of underlying problems. But the national and international challenges and lack of commitment of few leaders as well as the falling peasant's movement will not ensure the implementation and protection of historical achievement.

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