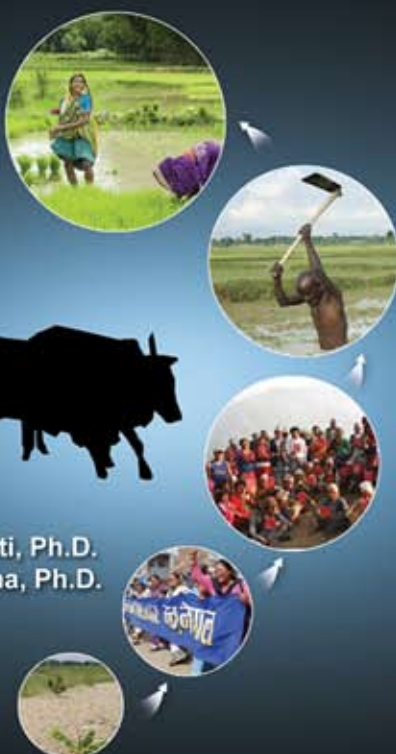


Land Politics and Conflict in Nepal

Land Politics and Conflict in Nepal

Realities and Potentials
for Agrarian Transformation

Edited by:
Bishnu Raj Upreti, Ph.D.
Sagar Raj Sharma, Ph.D.
Jagat Basnet



Edited by:
Bishnu Raj Upreti, Ph.D.
Sagar Raj Sharma, Ph.D.
Jagat Basnet

Land Politics and Conflict in Nepal

Realities and Potentials for Agrarian Transformation

Editors

Bishnu Raj Upreti, PhD

Sagar Raj Sharma, PhD

Jagat Basnet

Publishers

Community Self Reliance Centre (CSRC)

South Asia Regional Coordination Office of NCCR (North South)

Human and Natural Resources Studies Centre (HNRSC), Kathmandu University

Copyright © 2008 in individual authors for respective chapters, and in the publishers (Community Self Reliance Centre, South Asia Regional Coordination Office of NCCR (North-South) and Human and Natural Resources Studies Centre, Kathmandu University) for the book.

All rights reserved. No part of this book may be reprinted, reproduced, copied or stored in a retrieval system, transmitted or utilised in any means- electronic, mechanical, photocopying, recording or otherwise- without a written permission from the copyright holders.

First edition: October 2008

Number of copies printed: 1000

Reprint: May 2009

Number of copies printed: 500

ISBN: 978-99933-810-1-3

Disclaimer

The views and opinions expressed in this book are entirely of the individual authors of the respective chapters and they do not necessarily reflect official views of the organisation with which the authors and editors are affiliated.

Dedicated to:

Hundreds of thousands of farmers, landless people and
peasants who are working in land to feed the Nepalese people

About the Reprint

We had published a book entitled 'Land Politics and Conflict in Nepal: Realities and Potentials for Agrarian Transformation' in the late 2008 as an outcome of the research collaboration among South Asia Regional Coordination Office of Swiss National Centre of Competence in Research (NCCR) North-South, Human and Natural Resources Study Centre of Kathmandu University and Community Self Reliance Centre. As land issue has been one of the fundamental basis of social-political contention and subject of political negotiation, reflected in the Comprehensive Peace Agreement, Interim Constitution and in other many understandings inked by the political actors of Nepal, the demand of the book dealing with the land politics and conflict became much higher. The 1000 copies published in early 2008 were quickly finished and demand for the copies of the book mounted. Realising its relevance and need, South Asia Regional Coordination Office of NCCR North-South has now reprinted this book. In this process, minor editorial errors have been corrected and the format of the book is slightly modified. I hope that this book will more strongly contribute to address the land-based issues and concerns of this country.

Bishnu Raj Upreti, PhD
Regional Coordinator
South Asia Regional Coordination Office
NCCR (North-South)
May 2009

Acknowledgement

Land has always been one of the major causes of armed conflict and structural violence in Nepal. It is also a source of feudal socio-economic structure in the country. Hence, examining land issues from these perspectives is crucially important to initiate fresh debates on the potential contribution of land reform to the transformation process and addressing the problems of landlessness in the changing political context.

This is an effort of researchers and practitioners to examine various aspects of land related issues in Nepal. This work particularly focuses on conflict and exclusion of marginalised people in access to and control over land resources and associated power dynamics in Nepal. This book is a mix of the works of academicians, researchers, activists, journalists and victims of land-based discrimination, and therefore, it offers diverse perspectives. It attempts to bring perspectives and experiences of the *Halis*, *Haruwas*, *Charuwas* and the semi-bonded labourers, discusses the causes of land conflict, land-based theoretical and conceptual issues, land-related experiences of different countries and possible ways for future direction towards progressive (transformative) land reform.

In the course of research, collection of field information and secondary data as well as in the preparation of the book, we were benefited from the guidance, support, suggestions and sharing of information from a diverse group of academicians, practitioners, professionals and farmers. We are most obliged to them and express our deepest gratitude to all of them.

We were greatly benefited from the suggestions, ideas, opinions and comments on the land related issues from Professor Dr. Ulrike Müller-Böker and members of the Consortium of Land Research and Policy Dialogue (COLARP). We also obtained support from PhD and masters level students engaged in land research within the framework of KU-NCCR North South

collaboration. We would like to sincerely thank all of them. Our appreciation also goes to Dr. Binod Luitel, Lecturer of English Language Education under Tribhuvan University, who has helped us edit the language.

We owe much to the informants, *Halis, Haruwas, Charuwas* and other respondents who not only gave valuable information despite their busy schedule, but also offered warm hospitality to us. We are also grateful to Mr. Siddhi Manandhar and Mr. Jagat Deuja for their constructive contribution in bringing the book in its current form. We are particularly grateful to Ms. Lalita Pandey and Ms. Sulava Piya for their hard and tedious work of editing and formating the whole book.

We would like to thank Hotel Chautari, Nagarkot for the service and hospitality provided, when the editorial team spent several days to finalise the contents of this book. We are thankful to CSRC, NCCR North-South and HNRSC, KU for providing congenial environment (resources, logistics and mandate) to publish this book.

This book incorporates the results of various land related research conducted by PhD and master's students and senior researchers, as well as experiences and observations of the practitioners. We hope it will be useful for a wide range of readers including politicians, policy makers, academicians, researchers, land rights activists, students and people interested in land issues. We share the merits of this book with all those who helped us in brining it out in this form, but we would like to mention here that the individual contributors bear the responsibility of any shortcomings in the respective chapters and the editors bear the responsibility of the entire volume. Constructive comments and suggestions from the readers for improvement are highly appreciated.

Editors

October 2008

Abbreviations

ADB:	Asian Development Bank
ANPA:	All Nepal Peasant Association
APP:	Agricultural Perspective Plan
AR:	Agrarian Reform
BUDC:	Barrio United Defence Crops
BI:	Bureaucratic Inertia
CA:	Constituent Assembly
CBD:	Convention of Biological Diversity
CBS:	Central Bureau of Statistics
CDO:	Chief District Officer
CEDAW:	Convention on Elimination of All Forms of Discrimination against Women
CBD:	Convention on Biological Diversity
CPR:	Common Property Resources
CPN (M):	Communist Party of Nepal (Maoists)
CPN (U):	Communist Party of Nepal (United)
CIDA:	Canadian International Development Agency
CSRC:	Community Self Reliance Centre
DANIDA:	Danish International Development Agency
DDC:	District Development Committee
DLRO:	District Land Reform Office
DFID:	Department for International Development
EC:	European Commission

EU:	European Union
FDI:	Foreign Direct Investment
FIAN:	Food First Information and Action Network
FAO:	Food and Agriculture Organisation
GoN:	Government of Nepal
GDP:	Gross Domestic Product
GNI:	Gross National Income
GTZ:	German Technical Assistance Programme
HNRSC:	Human and Natural Resources Studies Centre
HDR:	Human Development Reports
HRW:	Human Rights Watch
ICIMOD:	Integrated Centre for International Mountain Development
ICESCR:	International Convention on Economic, Social and Cultural Rights
INSEC:	Informal Sector Service Centre
ITPGRA:	International Treaty in Plant Genetic Resources for Food and Agriculture
IFI:	International Financial Institution
IFAD:	International Fund for Agriculture Development
ILO:	International Labour Organisation
IMF:	International Monetary Fund
IDA:	International Development Agency
JMC:	Jagaran Media Centre
KCG:	Kamaiya Concern Group
LRMP:	Land Resource Mapping Project
LWF:	Lutheran World Federation

LDC:	Least Developed Countries
LT:	Land Tenure
MGD:	Millennium Development Goals
MLRM:	Ministry of Land Reform Management
MNCs:	Multinational Companies
MNR:	Nationalists Revolutionary Movement (of Bolivia)
MoAC:	Ministry of Agriculture and Cooperatives
MoF:	Ministry of Finance
NCCR:	Swiss National Centre of Competence in Research (North-South)
NDC:	National Dalit Commission
NEFIN:	Nepal Federation of Indigenous Nationalities
NESAC:	Nepal South Asia Study Centre
NGO:	Non Government Organisation
NLRCG:	National Land Rights Concern Group
NLRF:	Nepal Land Rights Forum
NLSS:	Nepal Living Standard Survey
NPC:	National Planning Commission
OECD:	Organisation for Economic Cooperation and Development
OPEC:	Organisation of Petroleum Exporting Countries
ODA:	Overseas Development Assistance
PRSP:	Poverty Reduction Strategy Paper
PP:	Peoples' Participation
PR:	Property Rights
RtF:	Right to Food

RtD:	Right to Development
SAP:	Structural Adjustment Programme
SS:	Support Services
SAARC:	South Asian Association for Regional Cooperation
TA:	Technical Assistance
UN:	United Nations
UNDP:	United Nations Development Programme
USAID:	United States Agency for International Development
USSR:	Union of Soviet Socialist Republic
UDHR:	Universal Declaration of Human Rights
UNESCO:	United Nations Educational, Scientific and Cultural Organisation
UNFPA:	United Nations Population Fund
UNICEF:	United Nations Children's Fund
VDC:	Village Development Committee
WFP:	World Food Programme
WFS:	World Food Summit
WTO:	World Trade Organisation
WB:	World Bank

Table of Contents

Acknowledgement	I
Abbreviation	III
Chapter 1: Land as a Source of Marginalisation and Conflict in Nepal.....	3
- Bishnu Raj Upreti	
Chapter 2: Overview of Land Rights Movements in Nepal ..	23
- Jagat Basnet	
2.1 Historical Background.....	23
2.2 Scenario Before 1950.....	24
2.3 Peasants' Movements from 1950 To 1960	26
2.4 Peasants' Revolution from 1960 To 1990	32
2.5 Land Rights Movement after 1990	33
2.6 Land Rights Movement Facilitated by Civil Society	36
2.7 Conclusion	40
Chapter 3: International Movements on Land Reform: A Bird's Eye View.....	43
- Jagat Basnet	
3.1 Introduction.....	43
3.2 Peasants' Movement in Mexico	44
3.3 Land Rights Movement in Soviet Union.....	50
3.4 Land Rights Movement in China.....	53
3.5 Land Rights Movement in Philippines.....	56
3.6 Land Rights Movement in Bolivia	59
3.7 Conclusion	65
Chapter 4: The Price of Misplaced Priorities: Foreign Aid and Land Reform in Nepal	71
- Sagar Raj Sharma	
4.1 Brief History of International Aid in Nepal	71
4.2 Recent Trends and Characteristics of Foreign Aid in Nepal	73

4.3. Brief Overview of Land Reform Efforts in Nepal	81
4.4 Conclusion	95
Chapter 5: Land and Power Relations.....	99
- Purna Nepali and Kailash Nath Pyakuryal	
5.1 The Context	99
5.2 Theoretical Debates.....	102
5.3 Agrarian Structure and Marxist Framework.....	105
5.4 Jamindari System	109
5.5 Different Agricultural Labourer Systems and Indebtedness	111
5.6 Land Reform and Power Relation	118
5.7 Caste, Dependency and Bonded Labourers	121
5.8 Conclusion	122
Chapter 6: Land and Social Conflict	125
- Bishnu Raj Upreti	
6.1 The Context	125
6.2 State, Power and Land Resource.....	128
6.3 Ownership and Access to Land and Conflict	137
6.4 Property Rights and Land Conflict.....	141
6.5 Land as a Source of Power, Prestige and Identity.....	145
6.6 Land as a Perennial Source of Social Conflict	146
6.7 Conclusion	152
Chapter 7: Women, Globalisation and Land Based Exclusion in Nepal.....	161
- Yamuna Ghale	
7.1 The Context	161
7.2 Resource Concentration and Exclusion of Women.....	163
7.3 Denial of Access to and Control over Productive Resources for Women.....	170
7.4 Religion and Culture: Caste and Gender Based Discriminations	171
7.5 International Provisions: Land, Food and Gender Relations	173
7.6 An Overview of Legal Provisions on Women's Access to Land Resource in Various Countries.....	179

7.7 Land and Globalisation: Brief Observation	181
7.8 Ways Ahead.....	194
7.9 Conclusion	196
Chapter 8: Dalits, Land and Social Exclusion in Nepal.....	201
- Purna Nepali	
8.1 Introduction.....	201
8.2 Context.....	201
8.3 Characteristics of Nepalese Economy.....	204
8.4 Historical Perspectives	205
8.5 Political Changes and Dalits' Land Ownership.....	206
8.6 The UN and Property Rights	211
8.7 Conclusion	214
Chapter 9: Status of Haliyas in Nepal	221
- Jagat Deuja and Nari Ram Luhar	
9.1 Introduction.....	221
9.2 The Beginning of Haliya System.....	221
9.3 Difference between Kamaiyas and Haliyas	223
9.4 Land Deprivation.....	226
9.5 Legal Provisions Related to Haliyas.....	228
9.6 Conclusion	230
Chapter 10: Haruwas and Charuwas of Terai.....	231
- Jagat Deuja, Ganesh Ram and Bishnu Raj Upreti	
10.1 The Context	231
10.2 The Situation of Haruwa and Charuwa.....	232
10.3 Conclusion and Ways Forward.....	241
Chapter 11: Landlessness in Nepal.....	245
- Jagat Deuja	
11.1 Background	245
11.2 Causes of Landlessness	246
11.3 Implications of Landlessness	248
11.4 Government's Efforts for Addressing Landlessness	249

11.5 Landlessness in Eastern Terai.....	252
Chapter 12: Labour Based Exploitation in Nepal in the 21st Century: A Journalist's Perspective	259
- Madhav Dhungel	
12.1 Background.....	259
12.2 Voices Not Yet Heard: Situation of Halis	261
12.3 Silent Cry: Situation of The Haruwas	266
12.4 Conclusion	269
Chapter 13: Transformative Land Reform in Nepal: Ways Forward.....	273
- Jagat Basnet and Bishnu Raj Upreti	
13.1 Background.....	273
13.2 Historical Process of Control of Land.....	275
13.3 Poverty, Power and Access to Land	276
13.4 Land Related Issues since the Maoists' Armed-Conflict to the Constituent Assembly Election	280
13.5 Transformative Land Reform: An Alternative Perspective.....	283
13.6 Contribution of Transformative Land Reform in State Transformation.....	293
13.7 Conclusion	296
Chapter 14: Land and the Incomplete Debate: Towards a Holistic Approach.....	301
- Sagar Raj Sharma	
14.1 Land-Centered Contemporary Debate	302
14.2 Other Alternatives.....	305
14.3 Conclusion	309
About the Authors.....	311
Index	315

List of Tables

Table 1.1:	Distributions of Operational Land-Holdings by Size, Classes and Territorial Zones (1961)	7
Table 1.2:	Distribution of Operational Land-Holdings by Size, Classes and Territorial Zones (1971)	8
Table 1.3:	Distribution of Operational Land-Holdings by Types of Tenure and Territorial Zones (1961)	11
Table 1.4:	Distribution of Operational Land-Holdings by Types of Tenure and Territorial Zones (1971)	12
Table 1.5:	And Tenure Distributions after Land Reform.....	13
Table 1.6:	Distribution of Rental Holdings by Conditions of Tenure and Territorial Zones (1961)	14
Table 1.7:	Distribution of Rented Holdings by Conditions of Tenure and Territorial Zones (1971)	15
Table 1.8:	Size and Area of Holdings	16
Table 1.9:	Number of Tenants and Land Area	16
Table 1.10:	Number of Tenants and Land Area	17
Table 1.11:	Land Ceiling.....	17
Table 1.12:	Land Fragmentation (ha).....	18
Table 4.1:	Government Budget: Summary of Income and Expenditure .	75
Table 4.2:	Major Bilateral Foreign Aid Disbursements to Nepal: 2001-2005	76
Table 4.3:	Major Multilateral Foreign Aid Disbursements to Nepal: 2001-2005	78
Table 4.4:	ODA in South Asia	79
Table 4.5:	Foreign Aid Disbursements by Sectors.....	80
Table 4.6:	Actual Aid Disbursements in the Sub-Sectors of Economic Services	84
Table 6.1:	Provision of Land Ceiling Made By Land Act.....	150
Table 6.2:	Ceiling Proposed by Badal Commission	150
Table 7.1:	Women's Representation in Local Government (1997-2002).....	164
Table 7.2:	Women's Representation in the Parliament (1991-1999) Lower House	165

Table 7.3:	Women's Representation in Civil Service by Class and Level (1991 and 2000)	165
Table 7.4:	Party-wise Gender Composition of Members of Constituent Assembly	166
Table 7.5:	First Past the Post (FTTP) Party Wise Candidates of Constituent Assembly	168
Table 7.6:	Some of the Relevant International Instruments Ratified by the Government of Nepal	177
Table 7.7:	Country-wise Gender and Ethnicity on Access to Land Resources of Selected Countries	180
Table 8.1:	Comparative Socio-Economic Indicator of Dalits with National Situation.....	203
Table 8.2:	Dalits and Land Ownership	206
Table 9.1:	Comparison of Kamaiya and Haliya Systems	224
Table 10.1:	Caste/Ethnic Distribution of Haruwas and Charuwas in the Study Area	233
Table 10.2:	Landownership among Major Groups of Dalits	234
Table 10.3:	Distribution of Households Having Haliya/Haruwa and Charuwa in the Study Area.....	234
Table 10.4:	Categorisation of Haruwas according to Contract Type.....	239
Table 10.5:	Number of Years Living As Haruwa/Charuwa by Caste/Ethnicity	240
Table 10.6:	Distribution of Haruwas by Districts and Number of Year ...	240
Table 10.7:	Percentage Distribution of Haruwa and Charuwa by District	241
Table 11.1:	Major Commissions Formed After 1990's Political Change...	250
Table 13.1:	Tenants and Tenancy 1961 To 2001	279
Table 14.1:	Land Distribution Situation in Nepal	304

List of Figures

Figure 4.1: Real GDP from Agriculture (1988-2004)	79
Figure 7.1: Components of the Right to Food and Some Characteristics of Human Rights Approach to Food Security	173
Figure 7.2: APP and PRSP Priorities.....	179
Figure 7.3: Complexity of Different Groups within the WTO Members	184
Figure 7.4: Power Circle in the WTO	184
Figure13.1: Type of Tenurial Land in 1973	277

List of Boxes

Box 2.1: Major Events of Tenancy Rights Movement	36
Box 2.2: Peasants' Demonstrations against the Direct Rule of the King	39
Box 3.1: Timeline of Land Rights Movement in China	56
Box 7.1: Some of The Legal Provisions Directly Affecting Women's Access to Land Resources.....	189
Box 9.1: Six Generation of Haliyas in Baitadi.....	225
Box 9.2: Atrocities by Landlords.....	225
Box 9.3: Choice between Rights and Livelihood	227
Box 9.4: Struggle of Dalits	227
Box 9.5: Perpetual Exploitation	229
Box 10.1: Haruwa System Interwoven with Religious Culture.....	235
Box 11.1: Shattered Hope of Landless People to Own Land.....	248
Box 11.2: King Mahendra and Land Politics	253
Box 11.3: Power, Nexus and Land Based Exploitation.....	253
Box 11.4: Manipulation of Landlords	255
Box 11.5: Landless and Migration	256
Box 11.6: Don't Eat My Guava	257

Part I

Overview

Chapter 1

Bishnu Raj Upreti

Land as a Source of Marginalisation and Conflict in Nepal

Land has not only been one of the most contentious topics in the political economy of Nepal over the last fifty years, but also become a perennial source of conflict and power struggle. Reformative, transformative, and advocacy approaches are often followed in contemporary land debates. Different land policies have been introduced during this period to address land related concerns, to improve farmer's tenancy rights, and to establish ownership of the tillers. Unfortunately, however, most of these approaches and policies have either been flawed or poorly implemented, and consequently poor and marginal people have suffered heavily. The monarchy that was said to be the protector, promoter and bearer of feudalism, ironically, proved to be the reason behind backwardness, poverty and inequality in Nepal. Hence, the target of various popular movements was to demolish monarchy. Consequently, the 240 year old monarchy formally ended by the first meeting of Constituent Assembly¹.

In Nepal, historically, land was always used as a means of strengthening power. Rulers, regents, state functionaries and landlords used land for maintaining and expanding their position, power and social relations. Even after the overthrow of

¹ The first meeting of Constituent Assembly on 28 May, 2008 (15 Jestha, 2065) decided to end the Monarchy and declared Nepal as 'Federal Democratic Republic'. Out of 564 Constituent Assembly members present in the meeting, 560 voted to end the monarchy, while 4 members (from the royalist Rastriya Prajatantra Party, Rastrabadi) voted in favor of keeping monarchy. The deposed king left the Narayanhiti Royal Palace by organising a press conference.

the Rana Rule in 1951 and the start of the planned development in 1956 (when the First Plan was launched), land was not properly used as means of economic development of poor farmers and tenants. Instead, it was continuously used for the interest of the rulers and elites of various power centres. Various plans and policies developed since 1951 on land and agriculture sector were not able to tackle the problems of landlessness and exploitation by the elites. It has been observed that livelihood of the poor, landless, tenants and farmers is deteriorating (Upreti and Mueller Boeker, Forthcoming). Why? There are certain determinants of this phenomenon. One of the main factors is the conceptual disorientation of policy makers, planners and politicians as they always view land either as a commodity or abuse it for their narrow vested interests. Another important issue is the land-based power structure of the society. In fact, land in Nepal is a basis of survival, means of identity, source of culture and foundation of social recognition. The grossly ill-understood relationship between poor people and land resources is the main cause of tension between the marginalised farmers and the elites of Nepal.

There are numerous flaws and negligence in the land and agricultural sector. For example, government's emphases regarding agricultural policies, strategy and priorities of the Seventh, Eighth, Ninth and Tenth Plans were on the provision of production inputs in irrigated areas for food production; processing of plants for supplying industrial raw materials; concentration of efforts for the production of perishable products such as fruits, vegetables, milk and fish in accessible areas; expansion of irrigation (particularly hill irrigation), forestation through a participatory approach, etc. (NPC, 1985, 1992, 1998, 2003). The provision in the Ninth Plan of a 20-year Agriculture Perspective Plan was simply visualised as an agriculture-led integrated cross-sector development approach. But it did not ensure the access of landless and semi-landless

people to land resources and agriculture inputs to farmers. Moreover, all these policies, plans and strategies were largely silent on land-based power relations. Similarly, the strategy of the Ninth Plan was "Integrated development of agriculture and forestry sectors and sustainable and poverty alleviation-oriented high economic growth with a focus on those sectors" (NPC, 1998:73). However, it was silent in addressing power-skewed land-ownership pattern. The Tenth Plan also made similar provisions without questioning the power centric feudal ownership in agrarian relationships. How feasible is poverty alleviation oriented economic growth from integrated agriculture, without ensuring the access of more than 10% (out of total population) landless people to land resource?

In Nepal, land reform has received the least priority in terms of resource allocation too. Within the agricultural sector (which includes agriculture, forestry, fisheries and irrigation), land reform received less than 1% budget during 1984/85-1994/95. Out of the total amount of Rs. 19,815 million spent on agricultural sector during this phase; agriculture, irrigation and forestry received 38.7% , 43.8% and 16.7% respectively; whereas land reform obtained less than 1% (Chapagain, 2001:8). This also demonstrates the lack of commitment of the government on addressing land related problems and issues. Previous studies (Chapagain, 1999, Chapagain, *et. al.*, 1998; LRMP, 1986; Regmi, 1978 and Zaman, 1973) show that land related problems are multi-faceted, complex and directly related to the power structure of the nation. However, various governments of Nepal did not focus on changing land-based power concentration and associated exploitations. Consequently, inequality, discrimination and exploitation by landlords and rural elites strengthened the feelings of the poor, marginalised, discriminated and exploited people that the state was deliberately ignoring their concerns. The denial attitude of the state put vast majority of Nepalese population into discontent and consequently in a situation of conflict.

From the review of the last ten Plans, it can be argued that the government has not put proper priority on land and agriculture. It is extremely difficult to improve agriculture without addressing the severely skewed land distribution system. Policy prescriptions and programme activities in agriculture, so far, have not addressed the root-causes of the problems. For instance, it can be seen that the 'Liberalisation and Privatisation' approach has outlined the land and agriculture policies and programmes but it does not advocate for making land available to the landless people. High reliance of government on donors regarding resource and policy making is one of the main causes of such a flawed situation in dealing with land issues. More than two-thirds of the development budget (capital expenditure) of the Government of Nepal is obtained from external sources either in the form of grant-in-aid or loan (NPC, 2003). Hence, donors are the main decision makers behind the scene whereas the political parties excessively rely on them. Despite their different ideological rhetoric, political parties have made utmost efforts to increase foreign assistance without considering its potential negative implications. No doubt, Nepal needs foreign assistance, but priority should be determined by the state, not by the donors. Aid conditionality should be operated according to Paris Declaration on Aid Effectiveness.

It has been consistently observed that the mandate and priorities of the donors supporting Nepal are constantly changing without considering the needs and priorities of the host country. Priorities of Nepal are largely determined by international donors who seem to be indifferent to progressive land reform that ensures access of landless people to land resources. International donors, particularly the multi-lateral agencies, are hesitant to work on breaking the unequal and skewed land ownership pattern existing in this country. Rather, they only focus on productivity and commercialisation of agriculture, due

to which Nepal has experienced numerous land conflicts and related complications.

Nepal's land conflict is mainly related to access and control as hundreds of thousands of people are landless and even larger majorities are cultivating other people's land. In the following section, some data and information are presented to contextualise the reality of land debate after the end of the Rana oligarchy and particularly since the land reform started in the sixties.

Table 1.1: Distributions of Operational Land-Holdings by Size, Classes and Territorial Zones (1961)

Size and classes of land-holdings (ha)										
Territorial Zones		Land less	<0.40	0.40-1.0	1.0-2.0	2.0-4.0	4.0-10	>10	>100	Total
Mountain	Area	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
	HH	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Hill	Area		27.87	38.83	21.02	8.46	3.35	0.48		100
	HH	0.28	63.11	27.91	6.98	1.44	0.27	0.01		100
Eastern	Area		23.34	37.00	24.41	10.63	4.12	0.5		100
	HH	0.15	58.57	29.71	9.11	2.06	0.38	0.02		100
Central	Area		30.5	39.88	19.4	7.43	2.7	0.08		100
	HH	0.28	65.22	27.06	6.08	1.18	0.2	0.003		100
Western	Area		31.36	40.26	17.88	6.45	3.02	1.03		100
	HH	0.46	66	26.78	5.5	1.02	0.23	0.02		100
Kathmandu Valley	Area		25.24	48.78	19.9	5.1	0.9			100
	HH	0.23	55.05	36.73	6.94	0.92	0.08			100
Inner Terai	Area		5.17	12.02	13.37	25.17	24.86	19.41	0.56	100
	HH	2.57	35.44	27.56	13.72	12.76	6.28	1.68	0.007	100
Eastern	Area		10.86	16.82	14.27	25.72	20.56	11.77		100
	HH	0.34	51.39	25.54	9.63	9	3.4	0.71		100
Central	Area		4.98	15.35	14.34	27.11	20.92	17.31		100
	HH	0.5	30.17	34.55	14.75	12.97	5.18	1.34		100
Western	Area		0.8	3.61	11.33	22.11	33.66	28.46	1.77	100
	HH	13.09	10.52	14.17	20.6	21	15.8	4.79	0.04	100
Terai	Area		1.51	5.17	13.52	24.67	30.28	24.5	1.65	100
	HH	3.57	17.83	20.1	21.82	21.15	12.19	3.13	0.02	100
Eastern	Area		1.98	6.14	13.87	27.29	31.46	19.37	0.81	100
	HH	3.59	20.39	19.94	20.69	21.26	11.75	2.39	0.01	100
Central	Area		0.9	5.54	15.33	22.35	25.69	30.19	0.58	100
	HH	5.04	10.61	20.59	27.5	21.18	10.95	4.12	0.02	100
Western	Area		0.28	3.52	7.41	13.15	30.03	45.61	7.931	100
	HH	2.62	6.08	20.87	21.49	19.91	19.97	9.05	0.14	100
Nepal	Area		8.81	15.22	15.37	20.31	22.67	17.67	1.13	100
	HH	1.43	47.97	25.92	11.72	7.84	4.1	1.02	0.007	100

Source: CBS (1996); Bhattarai, (2003), (Table 2.21, P. 125)

Note: N.A. = Not Available; HH = Household

Table 1.1 presents the situation of landholding in different political, geographical and ecological zones of Nepal. This land distribution situation in 1961 shows that landless people were greater in number in the western inner Terai, compared to other regions; and higher landholding households were from western inner Terai and western Terai.

The comparison of Table 1.1 and Table 1.2 shows the change in the distribution of operational land-holding by size, classes and territorial zones between 1961 and 1971.

Table 1.2 shows that the areas and households having more than 10 ha of land in the western inner Terai have decreased in 1971, compared to the situation of 1961. The size of landlessness has also decreased in 1971 compared to a decade ago. The main reason could be the Land Reform Programme initiated by the government in 1964, which had distributed land to the landless.

Other main issues related to land conflict are: management structures (private, public, communal or state managed land resources); laws and regulations (biases towards certain groups and discriminatory against others, misuse and abuses of laws and regulations, contradictions and confusions, etc.); effects of globalisation (e.g., diverting debate from land distribution to the landless to enhancing productivity through commercialisation by using new technology and inputs); urbanisation and land confiscation by land-mafia; politicisation of land issues for the vested political interests; etc.

Table 1.2: Distribution of Operational Land-Holdings by Size, Classes and Territorial Zones (1971)

Size and classes of land-holdings (ha)									
Territorial Zones		Landless	<0.40	0.40-1.0	1.0-2.0	2.0-4.0	4.0-10	>10	Total
Mountain	Area		28.26	32.5	20.36	11.77	6.09	1.02	100
	HH	0.48	67.5	22.66	6.76	2.06	0.49	0.04	100
Eastern	Area		24.63	36.67	21.24	9.8	5.82	1.79	100
	HH	0.32	59.8	29.13	8.17	1.95	0.55	0.07	100

Land as a Source of Marginalisation and Conflict in Nepal

<i>Central</i>	Area		18.24	19.17	24.54	21.31	16.74			100
	HH	0.24	64.11	17.86	10.96	5	1.83			100
<i>Western</i>	Area		35.97	28.66	18.11	12.91	4.35			100
	HH	0.68	76.16	16.29	4.76	1.84	0.27			100
Hill	Area		43.05	34.87	13.93	4.52	1.91	1.72		100
	HH	0.2	76.1	19.34	3.6	0.6	0.12	0.03		100
<i>Eastern</i>	Area		38.68	39.11	15.43	4.92	1.64	0.22		100
	HH	0.23	70.09	24.29	4.53	0.74	0.11	0.01		100
<i>Central</i>	Area		44.84	32.9	12.83	4.13	1.77	3.53		100
	HH	0.2	78.58	17.42	3.11	0.53	0.11	0.05		100
<i>Western</i>	Area		46.71	31.71	13.48	4.56	2.55	1		100
	HH	0.17	79.53	16.32	3.24	0.56	0.15	0.03		100
Kathmandu Valley	Area		23.54	44.34	23.04	7.58	1.5			100
	HH	1.24	53.75	35.1	8.36	1.42	0.13			100
Inner Terai	Area		6.89	14.46	21.54	23.62	21.63	11.87		100
	HH	1.36	37.82	26.23	18.53	10.53	4.58	0.93		100
<i>Eastern</i>	Area		15.7	19.13	21.16	21.07	18.97	3.98		100
	HH	0.6	56.81	22.38	11.43	5.88	2.68	0.22		100
<i>Central</i>	Area		7.7	21.02	30.07	24.5	12.15	4.56		100
	HH	0.39	33.44	31.97	22.12	9.51	2.25	0.29		100
<i>Western</i>	Area		1.38	5.17	12.87	24.04	32.89	23.64		100
	HH	5.16	15.41	18.48	21.98	21.31	13.85	3.82		100
Terai	Area		2.44	7.75	17.43	27.75	28.03	16.6	0.35	100
	HH	1.72	21.57	21.65	23.4	20	9.52	2.09	0.003	100
<i>Eastern</i>	Area		3.08	8.82	18.92	30.39	26.65	12.15	0.51	100
	HH	1.58	24.26	22.18	22.69	19.64	8.27	1.37	0.003	100
<i>Central</i>	Area		1.77	8.12	18.84	27.02	25.79	18.46		100
	HH	1.62	16.53	23.36	26.71	20.47	8.92	2.39		100
<i>Western</i>	Area		0.25	2.51	9.24	16.53	36.59	34.89		100
	HH	3.36	4.19	12.95	24.17	22.9	23.57	8.87		100
Nepal	Area		12	15.2	17.35	21.94	21.11	12.4	0.23	100
	HH	0.8	55.4	21.37	11.06	7.33	3.31	0.72	0.001	100

Source: CBS (1971); Bhattarai (2003): (Table 2.22, P. 126-127)

HH = Household

If land conflict is not settled peacefully, it can turn into violence. Cases of Zimbabwe (White farmers' resistance and Black farmers' pressure for re-distribution of land), Philippines (Spanish-US colonisation and abolition of *Adat* law related to land and its resistance by indigenous Muslim Philipinos), Guatemala (disturbance of Land Reform Programme initiated by the communist government opposed by US businesspersons),

Sierra Leone (international interest on diamond and use of local people to collect and sell diamond), Mozambique (minerals), West Bank Palestine (land based water aquifer) are some of the examples of land related violent conflicts (Upreti, 2001). All these cases have demonstrated that if land-based contentions are not addressed, they turn into protracted violent conflict and contribute to political instability.

Table 1.3 shows the tenure situation of Nepal where the owner-cultivators were the largest in proportion followed by owner-cum-tenant-cultivators; and tenants were the least in number among the three categories.

Land debate in Nepal is often shaped by extreme thoughts. On one extreme, radical land rights activists are engaged, while conservatives and resistant groups are active in making counter arguments to defeat the radical land right activists, on the other. Aligning in one corner or another would not solve the very complex problems associated with land. For the agrarian reform and change in Nepal, land issue needs to be dealt with; keeping in mind the need for improving livelihoods of the landless, poor and marginal farmers on one hand and economic growth of the nation on the other. Agrarian change does not want people to entangle into feudalistic mode of production relations. It aims to improve livelihood of agrarian population, which can be achieved through income diversification, generation of alternative means of livelihood and creation of opportunities for people outside agriculture. Land alone is not the solution of agrarian problems. Obviously, it is fundamentally important in agrarian change but it alone cannot provide decent livelihood means to a mass of agrarian population. Though landlessness is one of the major problems and has to be tackled properly, land related debate also needs to look at modernisation and commercialisation of agriculture and generating employment for landless people in non-agriculture sector.

Table 1.3: Distribution of Operational Land-Holdings by Types of Tenure and Territorial Zones (1961)

Territorial Zones	Types of Tenure								
	Total		Owner-Cultivator		Tenant-Cultivator		Owner-cum-Tenant Cultivator		
	House-holds	Area	House-holds	Area	House-holds	Area	House-holds	Area	
								<i>Own</i>	<i>Others</i>
Mountain	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Hill	100	100	65.62	56.56	2.95	2.19	31.43	27.56	13.68
<i>Eastern</i>	100	100	58.39	45.48	4.48	3.39	37.13	31.15	19.99
<i>Central</i>	100	100	74.41	67.04	1.28	0.97	24.3	23.75	8.24
<i>Western</i>	100	100	62.73	59.45	3.3	2.02	33.97	27.21	11.32
Kathmandu Valley	100	100	38.13	35	12.19	7.51	49.61	27.64	29.85
Inner Terai	100	100	71.34	59.56	10.52	14.43	18.14	16.12	9.89
<i>Eastern</i>	100	100	74.79	50.89	3.97	3.91	21.24	27.39	17.81
<i>Central</i>	100	100	78.34	73.67	5.71	4.21	15.95	15.12	7
<i>Western</i>	100	100	41.49	47.64	42.21	36.77	16.3	8.27	7.32
Terai	100	100	47.4	49.58	15	12.25	37.6	21.42	16.76
<i>Eastern</i>	100	100	51.04	48.24	9.93	10.06	39.03	23.38	18.32
<i>Central</i>	100	100	37.36	57.1	35.17	18.76	27.48	14.45	9.69
<i>Western</i>	100	100	30	46.66	25.59	15.56	44.4	20.1	17.68
Nepal	100	100	59.64	51.84	7.17	9.79	33.19	22.64	15.72

Source: CBS (1961); Bhattarai (2003); (Table 2.24, P.131).

Note: Mountain is included in Hill

Because the land issue is so contentious in Nepal, it is likely that it will remain at the centre of national debates, discussions and contentions for at least next 5-10 years; especially once the state enters into the process of restructuring in the form of federal system. Political parties have been using land as a means to attract voters (mainly tenants, small and marginal farmers as well as landless, i.e. having very small size of land), with sugar-coated slogans (e.g., 'Land to the Tillers'). In the past few decades, they have promised radical land reform and redistribution of land (taking land away from the landlords and distributing it to the landless). Now, the landless people, tenants and marginalised farmers are vehemently demanding

redistribution of land. Farmers' movement (land rights movement) is active and it is most likely to pose serious challenge to political parties for a foreseeable future. Absentee landlordism and land-based exploitation are common in Nepal and, undoubtedly, have been creating serious challenge for land reform. One of the prominent examples is the control of a huge area of land by the recently deposed king, his family members, relatives and feudal forces. Hence, in-depth and informed land-related debate will be crucially important for the next decade. This book has made some attempts to initiate this debate.

Table 1.4: Distribution of Operational Land-Holdings by Types of Tenure and Territorial Zone (1971)

Territorial Zones	Types of Tenure								
	Total		Owner-Cultivator		Tenant-Cultivator		Owner-cum-Tenant Cultivator		
	HH	Area	HH	Area	HH	Area	HH	Area	
								<i>Own</i>	<i>Others</i>
Mountain	100	100	82	76.5	2.3	1.56	15.62	13.91	8.02
<i>Eastern</i>	100	100	77.5	72.1	3.39	2.28	19.11	14.87	10.75
<i>Central</i>	100	100	91	84.99	0.66	0.48	8.32	9.86	4.66
<i>Western</i>	100	100	85.76	81.69	1.33	65	12.75	13.23	4.4
Hill	100	100	89.32	84.26	1.03	67	9.63	9.74	5.68
<i>Eastern</i>	100	100	81.64	75.60	1.89	1.28	16.47	14.6	9.65
<i>Central</i>	100	100	93.78	89.5	0.45	0.2	5.71	7.2	3.1
<i>Western</i>	100	100	91.55	88.6	0.9	0.5	7.55	6.8	4.5
<i>Kathmandu Valley</i>	100	100	54.27	58.19	19.96	12.89	25.77	15.84	13.09
Inner Terai	100	100	88.88	81.22	5.35	8.66	5.95	5.27	4.96
<i>Eastern</i>	100	100	90.27	78.65	1.83	2.05	8.42	11.13	8.69
<i>Central</i>	100	100	96.61	96.56	1.04	0.84	2.35	1.5	1.1
<i>Western</i>	100	100	65.72	66.63	23.32	20.27	10.95	6.09	7.01
Terai	100	100	68.59	69.96	8.46	7.99	22.95	11.18	10.87
<i>Eastern</i>	100	100	65.3	64.84	8.68	9.08	26.02	12.95	13.14
<i>Central</i>	100	100	84.72	88	5.31	3	9.97	5.11	3.88
<i>Western</i>	100	100	69.8	74.65	12.69	8.16	17.51	9.4	7.79
Nepal	100	100	80.99	73.65	4.38	6.48	14.61	10.62	9.32

Source: CBS (1971); Bhattarai (2003), Table 2.25, P. 132

If we compare the tenure situation of Nepal in 1961 (Table 1.3) with that of 1971 (Table 1.4), the size of owner-cultivators is found increased and tenant cultivators as well as tenanted area is decreased in 1971. The main reason of such a rise could be the threat of Land Reform Programme. The landowners had to give the tenancy rights if their lands were tilled by the tenants. So they may have taken the land from the tenants to be protected from tenancy claims.

Table 1.5: Land Tenure Distributions after Land Reform

Land Tenure Group		Percent of HH		Percent of Cultivated Area	Average size of holdings (ha)
		Total HH	HH with land holdings		
I	With Land Holdings	92.2	100	100	
	1. Landlords	1.8	3.31	26.91	18.33
	2. Owner-Cultivators	62	65.22	49.11	1.67
	3. Owner-cum-Tenants	19.1	20.7	15.36	1.64
	4. Tenant- Cultivators	2.3	10.77	8.62	1.74
II	Landless (including non-agricultural population)	7.8			
	Total	100	100	100	100

Source: Zaman (1973), P. 134

Note: HH = Households

Table 1.6 shows that 40% households had rented more than 25% of the total landholdings. This also portrays share-cropping as the major mode of tenure (more than 60%). Share cropping was more prevalent in Terai whereas fixed rent was most common in Kathmandu valley (more than 95%). More than half of the people's renting of lands in mountain was in the form of mortgage. Fixed rent is more stable and less exploitative form of tenancy. The conclusion from this table is that more exploitative tenure practices were highly prevalent in Nepal except in Kathmandu valley.

Table 1.6: Distribution of Rental Holdings by Conditions of Tenure and Territorial Zones (1961)

Territorial Zones	Rented Holdings as Percent of Total Holdings		Condition of Tenure of Rented Holdings (percent of area)				
	HH**	Area	Total	Fixed Rent	Mortgage	Crop-sharing	Exchange for Services
*Mountain	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
Hill	34.38	15.88	100	28.72	50.51	18.43	2.33
<i>Eastern</i>	41.61	23.38	100	48.65	35.51	14.95	0.83
<i>Central</i>	25.59	9.21	100	39.72	28.38	29.53	2.36
<i>Western</i>	37.27	13.34	100	9.97	66.2	17.97	6.46
Kathmandu Valley	61.87	37.36	100	95.76	1.69	1.6	0.95
Inner Terai	28.66	24.32	100	29.11	2.39	62.69	5.79
<i>Eastern</i>	25.21	21.72	100	22.57	4.2	72.34	0.89
<i>Central</i>	21.66	11.21	100	16.39	4.86	64.23	14.51
<i>Western</i>	58.51	43.05	100	36.96	0.084	59.72	4.89
Terai	52.6	28.99	100	23.16	2.98	71.47	2.4
<i>Eastern</i>	48.96	28.38	100	13.96	3.03	81.86	1.16
<i>Central</i>	62.64	28.44	100	75.04	2.93	20.61	1.45
<i>Western</i>	70	33.34	100	5.77	2.82	81.92	9.49
Nepal	40.36	25.51	100	26.11	10.37	60.72	2.59

Source: CBS (1961) P. 136

Note: *Mountain is included in Hill.

**Renting households include both Tenant-cultivators and Owner-cum-Tenant cultivators.

Comparison of change in distribution of rented holdings of tenures in a decade (1961, Table 1.6, compared with 1971, Table 1.7) shows that the size of rented areas and households drastically reduced (from 40.36% households and 25.51% areas in 1961 to 19% households and 15.8% areas in 1971). In the hillside, it reduced from 34.38% in 1961 to 10.66%. In Kathmandu valley, it reduced from 61.87% households to 45.72% and the land holding area reduced from 37.36% in 1961 to 25.98% in 1971.

Table 1.7: Distribution of Rented Holdings by Conditions of Tenure and Territorial Zones (1971)

Territorial Zones	Rented Holdings as Percent of total holdings			Fixed Rent			Conditions of Tenure of Rented Holdings (percent of area)			
	HH*	Area	Total	Money	Others	Total	Mortgage	Crop sharing	Exchange for Services	Others
Mountain	17.93	9.58	100	11.78	18.53	30.31	29.27	36.2	1.01	3
<i>Eastern</i>	22.5	13.03	100	12.62	19.12	31.74	18.98	45.97	0.76	2.55
<i>Central</i>	8.99	5.14	100	2.15	83.52	85.67	5.44	8.07		0.81
<i>Western</i>	14.08	5.05	100	10.35	2.65	13	76.99	2.58	2.24	5.28
Hill	10.66	6.34	100	12.51	18.59	31.1	26.31	35.15	2.38	5.13
<i>Eastern</i>	18.36	10.94	100	14.08	24.01	38.09	23.37	34.7	1.01	2.82
<i>Central</i>	6.18	3.3	100	10.79	13.52	24.31	21.23	47.18	2.21	5.07
<i>Western</i>	8.44	4.6	100	8.91	5.32	14.23	42.65	22.28	7.41	13.42
Kathmandu Valley	45.72	25.98	100	18.94	77.6	96.54	0.19	2.1	0.16	1
<i>Inner Terai</i>	11.3	13.62	100	10.15	2.74	12.89	0.39	84.55	0.31	1.72
<i>Eastern</i>	10.25	10.74	100	5.78	5.43	11.21	0.2	87.1	0.08	1.41
<i>Central</i>	3.38	1.94	100	17.22	11.8	29.02	3.69	57.38	0.67	9.24
<i>Western</i>	34.28	27.28	100	10.55	1.51	12.06	0.18	86.2	0.34	1.23
<i>Terai</i>	31.14	18.86	100	10.29	11.81	22.1	0.58	70.24	0.99	6.22
<i>Eastern</i>	30.7	22.22	100	11.3	11.23	22.53	0.31	73.18	0.69	3.29
<i>Central</i>	15.28	6.89	100	10.78	6.32	17.1	4.02	30.62	3.3	44.95
<i>Western</i>	30.2	15.95	100	4.14	12.26	16.4	0.74	75.15	1.63	6.07
Nepal	19	15.8	100	10.75	13.39	24.14	3.24	66.17	0.99	5.42

Source: CBS (1971, P. 137), cited in Bhattarai (2003)

Note: *Households include both Tenant-cultivators and Owner-cum-Tenant cultivators

Size and area of land holding somehow got altered after the initiation of Land Reform Programme in 1964. Size of households having less than half ha of land was reduced from 56.1% in 1962 to 52.9% in 1972 whereas the areas owned increased from 13.9% to 21.1% in the same period. Similarly, percentage of households having large areas of land decreased (See Table 1.8).

Table 1.8: Size and Area of Holdings

S.No	Size of Holding (Hectare)	In Percent			
		Household		Area Owned	
		1962	1972	1962	1972
1	Less than 0.51	56.1	52.9	13.9	21.1
2	0.51 to 2.03	30.7	37.4	32.3	32.7
3	2.03 to 5.09	9.5	6.9	31.1	30.2
4	5.09 to 10.17	2.6	1.6	1.9	1.7
5	10.17 to 20.35	0.8	1.1	11.2	9.9
6	20.35 to 50.87	0.2	0.1	6.6	3.6
7	50.87 and above	0.1		3	0.8
	Total	100	100	100	100

Source: Ministry of Food and Agriculture, *Agricultural Statistics of Nepal, 1972, P.8 and CBS (1961 and 1971)*

As Table 1.9 shows, the population of owner cultivators as well as tenant cultivators has been decreased over time. According to Agriculture Census (1961), the percentage of owner cultivators was 40.37 and that of tenant cultivators was 25.48. But in the period of 30 years this has changed to 16.5% of owner cultivators and 8.78% of tenant cultivators (Table 1.9).

Table 1.9: Number of Tenants and Land Area

Duration	Owner-cultivator	Tenant Cultivator
According to Agriculture Census BS 2018	40.37	25.48
According to the progress of BS 2021-2023 Land Reform Programme	25.86	24.15
According to Agriculture Census of BS 2028	18.94	15.76
According to Agriculture Census of BS 2038	9.52	5.91
According to Agriculture Census of BS 2048	16.45	8.78

Source: *Badal Commission Report (1996); Table 3.5*

The tenancy issue is more common in Terai as 71.7% of the tenants and 90.89% of the tenanted land belongs to 20 districts of Terai, whereas comparatively low intensity of tenancy exists in the hills and mountains. Only 4.33% of tenants and 2.95% of tenanted land belongs to hilly areas (Table 1.10).

Table 1.10: Number of Tenants and Land Area

District	Number of Tenants		Area of Land	
	Number of Tenants	Percentage	Area in <i>Bigha</i>	Percentage
20 districts of Terai	295454	71.7	250306	90.89
3 Districts of Kathmandu Valley	88739	23.97	16977	6.16
All Hilly Region	16024	4.33	8116	2.95
Nepal	400217	100	275399	100

Source: Badal Commission Report (1996); Table 3.6

Table 1.11 shows the land ceiling fixed by the government in different geographical areas. However, there is criticism on this land ceiling, mainly in Kathmandu valley and Terai regions.

Table 1.11: Land Ceiling

Zone	Maximum ceiling
Terai and Inner Terai	3 ha (4.5 <i>Bigha</i>)
Mid-Hill	2 ha (40 <i>Ropani</i>)
Himali Area	4 ha (80 <i>Ropani</i>)
Kathmandu Valley	1 ha (20 <i>Ropani</i>)
Urban Area	
<i>Kathmandu, Lalitpur and Bhaktapur Municipalities</i>	0.5 ha (10 <i>Ropani</i>)
<i>Municipalities outside Kathmandu valley, district headquarters and other urban areas</i>	1 ha (20 <i>Ropani</i> -1.5 <i>Bigha</i>)

Source: Badal Commission Report (1996)

Table 1.12 presents the situation of land fragmentation in Nepal. More fragmentation in terms of number of plots per family (4.62) and number of plots per ha (6.83) are in the high mountains compared to hills and Terai. The average number of plots per family in Nepal is 3.96; and number of plots per ha is 4.17. One of the main problems cited by land researchers, planners and land administrators is fragmentation of land. It is increasing because of the mode of property ownership and inheritance system. The distributive mode of transfer of land from parents to children is the main cause of land fragmentation. The persistent land fragmentation is affecting production and productivity of the land. This is consequently

contributing to livelihood insecurity of Nepalese people, eventually fuelling social conflict and tensions (Upreti and Müeller-Böcker, Forthcoming).

Table 1.12: Land Fragmentation (ha)

Geographical Area	Number of Plots per family	Number of Plots per hectare	Number of Area	Tillers percentage
High Hill	4.62	6.83	0.16	0.68
Hill	3.92	5.08	0.21	0.77
Terai	3.85	3.13	0.37	1.33
Nepal	3.96	4.17	0.29	0.95

Source: CBS (1991)

In the above section, Tables 1.1-1.12 have demonstrated the land situation in the country over 5 decades. While critically looking upon these data, it can be argued that urgent attention is needed not only on land reform but also (and more importantly) on the need for developing a comprehensive Land Data-base and Land Resource Mapping. Without authentic and up-to-date data and information, it is not possible to initiate land reform process.

In this book, we have made efforts to bring diverse perspectives from scholars and academicians, practitioners, farmers, landless people struggling to establish their land rights, journalists, politicians and researchers. To make the readers confuse by mixing various perspectives, understandings and issues is not our aim; rather we aim to offer perspectives. We hope that it helps in paving the smooth way forward to address this complex reality and to facilitate in addressing the land based problems.

We profoundly hope that a wide range of readers including policy makers, political leaders and party workers, land rights activists and lobbyists, researchers, students, farmers, landowners, development agencies and international community active in Nepal will get benefit from this book.

The chapters in this book encompass various issues and concerns raised in the contemporary land related debates in Nepal. The book is divided into four parts and fourteen chapters. The first part has depicted how land has been closely associated with social conflict in Nepal. The second chapter discusses the issues of evolution and expansion of land rights movement in Nepal, the third presents a bird's eye view of international land reform movements, while the last chapter (Chapter 4) in this part looks at foreign aid and its relation with land reform in Nepal. The second part is mainly devoted to various conceptual dimensions of land issues. Chapter five examines land based power relations. Chapter six offers conceptual dimensions of land conflict. Chapter seven discusses relationships between land, women, exclusion and globalisation. Chapter eight briefly examines the relationship between Dalits, land and social exclusion. Part three presents different empirical realities focusing on the status of *Halis* (Chapter 9), struggles of *Haruwas* and *Charuwas* (Chapter 10), the situation of landlessness (Chapter 11) and the situation of bonded labourers (Chapter 12). All these chapters describe cases focusing on the struggles of the marginalised and landless people in Nepal. Part four contains only two chapters. Chapter 13 offers an alternative perspective on how land reform could be carried out in the future. Finally, Chapter 14 brings some of the issues to be debated and to be systematically explored to contribute to the transformative land reform. This chapter basically argues that much of the land debate is focused on land distribution but other crucially important issues such as role of research, engagement of landlords into the debate to make land reform successful, productivity issues, alternative employment opportunities, etc. also need to be given equal attention simultaneously to bring about a balanced and sustainable development in the country.

In a nut-shell, there is no ready-made answer to the currently observed land related issues and problems in Nepal. However,

informed debates can contribute to seek the answers and solutions to these problems. It is essential to move from moral bankruptcy, deterrent actions and pollutant mind-set to address conflict and achieve a lasting peace in society. In fact, no policies, laws, constitution and manifestos of political parties will have any effect on addressing land related problems and conflict if the denial psyche of leaders exists and defensive mechanism remains intact. Therefore, we need a change in our collective thinking, behaviour, action and response. If we do not do so, we may face inescapable consequences and as a result get in return what the former US Vice-President and a noted environmentalist Al Gore calls dysfunctional civilisation and destruction of natural world (Upreti, 2001).

References

1. Badal Commission Report. (1996). *Badal Uchchastariya Bhumisudhar Sujhab Ayog* 1994. Kathmandu: P.B. Publisher.
2. Bhattarai, B.R. (2003). *The Nature of Underdevelopment and Regional Structure of Nepal: A Marxist Analysis*. Delhi: Adroit Publishers.
3. CBS. (1971). Sample Census of agriculture of Nepal. Kathmandu: CBS.
4. CBS. (1961). Sample Census of Agriculture of Nepal. Kathmandu: CBS.
5. CBS. (1991). National Agriculture Census 1991. Kathmandu: CBS
6. Chapagain, D.P. (2001). *Status Review and Dialogue: Land and Agriculture*. Kathmandu: World Conservation Union (IUCN).
7. Chapagain, D.P. (1999). Land Tenure in Nepal: Status and Main Issues. A Discussion Paper prepared for GTZ/IMU Nepal.
8. Chapagain, D.P.; Pyakuryal, K.N. and Pokharel, B.K. (1998). Land Policy, Land Management and Land Degradation in the HKH Region. Nepal Country Paper. Kathmandu: ICIMOD.
9. LRMP. (1986). Land Systems, Land Capability, Land Utilisation, Economics and Summary Reports. Ottawa: Kenting Earth Sciences Limited for Land Resources Mapping Project.
10. NPC. (2003). The Tenth Plan 2003-2007. Kathmandu: National Planning Commission.

11. NPC. (1998). The Ninth Plan 1997-2002. Kathmandu: National Planning Commission.
12. NPC. (1992). The Eighth Plan 1992-97. Kathmandu: National Planning Commission.
13. NPC. (1985). The Seventh Plan 1985-90. Kathmandu: National Planning Commission.
14. Regmi, M.C. (1978). *Land Tenure and Taxation in Nepal*. Kathmandu: Ratna Pustak Bhandar.
15. Upreti, B.R. and Müller-Böker, U. (Forthcoming). *Livelihood Insecurity and Social Conflict in Nepal*. Kathmandu: RCO, NCCR North-South.
16. Upreti, B.R. (2006). *Armed Conflict and Peace Process in Nepal: The Maoist Insurgency, Past Negotiation and Opportunities for Conflict Transformation*. New Delhi: Adroit Publishers.
17. Upreti, B.R. (2002). *Management of Social and Natural Resource Conflict in Nepal: Realities and Alternatives*. New Delhi: Adroit Publishers.
18. Upreti, B.R. (2001). *Conflict Management in Natural Resources: A Study of Land, Water and Forest Conflict in Nepal*. Wagenignen: Wagenignen University.
19. Zaman, M.A. (1973). *Evaluation of Land Reform in Nepal*. Kathmandu: Ministry of Land Reform.

Chapter 2

 Jagat Basnet

Overview of Land Rights Movements in Nepal

2.1 Historical Background

Peasants' movements throughout the world consist of an outcry, with antagonistic feelings, against the upper classes in hierarchical social structures. Land has always played an important role in forming the relationship between the rulers and people in Nepal too. Various movements for land rights in Nepal have occurred sporadically since the 1800s (Regmi, 1999a). The rulers distributed land to their own relatives and followers in order to consolidate their power. But the genuine peasants were always deprived of the opportunities of land possession and land rights. In November 1950, government of Nepal declared the end of *Bataiya* (Share cropping) and *Hunda* (contract) systems. It distributed all such lands to the cultivators. It was indeed a revolutionary step in the agrarian history of Nepal. But unfortunately, the government formed after tri-party agreement signed in New Delhi ordered the return of all such lands to the landlords (Thapa, 2001:119). The extension of caste system reinforcing a rigid division of labour, gradual alienation of the indigenous Mongoloid people from their land by the dominant Hindu migrants and the privatisation of large tracts of productive land by the ruling classes (viz. members of aristocracy and nobility, royal priests, senior armies and civil officials, etc.) were the historical reasons for the economic and

agrarian inequalities. Any alternation to this situation was largely negated because of the domination of these elements over the state machinery and political power (Ghimire, 2001). Because of this exploitation and alienation from land, the landless and tenant peasants were compelled to organise and fight for their land rights. The agitation of tenant and landless peasants in Nepal is seen to have occurred in various models and types at different times and places mainly because of such exploitations and alienations. The complications of land-related issues have been analysed by scholars and researchers as well. Volumes of Mahesh Chandra Regmi (For instance, *Nepali Economic History, Thatched Huts and Stucco Palaces: Peasant and Landlords in the 19th Century Nepal*, etc.) are few of the important contributions that have laid the foundation of land research in Nepal. In the later stage, other researchers have also devoted their time researching upon the land. Various issues like the political economy of land (Bhattarai, 2003), land conflict and power dynamics (Upreti, 2002), relationships between land and livelihood of peasants (Ghimire, 2001) and migration in Nepal (Shrestha, 2001) are some of the noted examples that have demonstrated the engagement of scholars and researchers on land debates.

2.2 Scenario before 1950

The protest of the dispossessed *Birta* owners against the 1805 confiscation measures, known as '*Basatthiharan*', did not remain passive for long. Particularly in Tanahu and some other areas in the western hilly region, violent clashes broke out between them and the government officials deputed to administer the measures. The government intentionally adopted a tough attitude towards such an opposition. The ringleaders were arrested and brought to Kathmandu in chains (Regmi, 1999a:77). This protest organised by Brahmin *Birta* owners in the western hilly region became so acute in 1805 that the government

banned their entry without passport into Kathmandu (Regmi, 1999a:77). This shows that the peasants' movement had commenced before 1800. Long after that Subba Krishna Lal, a peasant from Kathmandu, wrote a book entitled "*Makaiko Kheti*" (Maize Cultivation) in 1920. It created a stir among the rulers of that period. The book depicted the situation of peasants and agriculture system in Nepal. This publication frightened the then Rana regime so much that the author of the book was sent to jail. Eventually, he died under the custody. In his 'Foreword' of *Makaiko Kheti*, Subba Krishna Lal had compared Nepalese and British dogs to red and black insects that eat maize. By the words 'insect' and 'dog', he had tried to portray the situation of Nepalese peasants and exploitation imposed by the Rana rulers. This incident depicts that the unorganised peasants' movement in Nepal had begun much before 1950s (INSEC, 1995).

Peasants were facing two main problems before 1950s. They were: 1) Lack of land rights, especially tenancy rights and 2) High interest rate of loan compelling the peasants to pay high rate of production including a free labour (Regmi, 1999a). Because of high interest rate and higher rent of production, they were ambushed in a vulnerable situation. Then, peasants were compelled to go for agitation against the ruling class and landlords. They were denied of all possible rights on land (Thapa, 2001). Large areas of land were rewarded to the military officials and members of the nobility. Even after 1950, the situation of peasants did not change. Their condition was so much miserable and pitiful as they were under the control of landlords. They had to submit the harvested grain to the landlords as per their direction (Thapa, 2001). Hence, there was a compulsion to provide free labour to the rulers. This was a system of exploitation known as *Bethbegari* or *Salami* (Regmi, 1999b). The suppressed people expressed their dissatisfaction through demonstrations and rebellions. Such dissatisfactions could be seen in large numbers between 1950 and 1967 (Thapa,

2001). During that period, the emerging political parties had supported the peasants' movements in Nepal. Thus, the peasants' movements of that period can be broadly divided into two types: (1) Organised peasants' movements and (2) Politically motivated peasant movements.

2.3 Peasants' Movements from 1950 to 1960

Although peasants' movement was taking place in Nepal sporadically since the 1800s, it started to take a more organised form only after the 1950s (Regmi, 1999a). In 1950, the movement started from Somlingtar, Bhaktapur, focused on the non-payment of grains (*Kutbaali*) and tenancy rights (Thapa, 2001). In the same year, there were more organised movements for tenancy rights in Bhaktapur and Kathmandu, against *Bataiya* in Bardiya and against the landlords (*Jamindarbirodhi Aandolan*) in Lumbini. Similarly a movement named *Dharmabhakari Aandolan* took place in Bara and Rautahat (Thapa, 2001). The movement of Bhaktapur proceeded in an organised way and focused on *Birta and Jamindari* system along with the tenancy rights. For this, a common peasants' association (*Akhil Nepal Kishan Sangh*) of all existing parties was formed. However, in 1951, Basu Pasa, a peasant leader from Bhaktapur, formed a separate organisation called *Krishi Sudhaar Sangh*. He had accused that the common peasants' association was controlled only by the communists (Thapa, 2001). According to him, two parallel governments could not go simultaneously. The issue of dual arrangement in collecting land tax was also in rise that time. Land tax should have been collected only by the government of Nepal, not by the master of the *Birta* owners. But both the government and the *Birta* owners were collecting taxes at that same time (Thapa, 2000).

From 1950 to 1960, several land right movements were organised but the demands were largely politically motivated. The peasants had high expectations from the government and

the political parties. They were convinced that if the majority of people remained poor and without food, not only it would be difficult to maintain the law, order and freedom of the society, but it could also be dangerous to the landowners themselves. However, the political parties were confined in making merely minor reforms in the existing system rather than bringing about radical changes in the economic structure and feudal system. These minor reforms did nothing more than to pacify the anxiety and frustrations among the peasants.

2.3.1 Land Struggle of Bhim Dutta Panta

In Nepal's history of peasants' movements, Bhim Dutta Panta of the far western region was seen active after 1950 (ANPA, 2004). Panta was a freedom soldier fully focused on peasants' revolution. Advocating the end of *Haliya* and *Kamaiya* traditions and all forms of bonded labours, he visited various places like Bajhang, Bajura and Baitadi. He also expanded his movement to Kailali and Kanchanpur districts. He used to organise and mobilise the peasants for their rights. Consequently, he became the target of landlords and the Rana government. They tried to arrest and even kill him in March, 1951. The governments of both India and Nepal labelled him as a 'dangerous radical communist'. They even announced a search warrant and a monetary reward to the people providing information about his whereabouts (ANPA, 2004). For a short period, he was able to remain underground because of full support from the public. But later in 1953, he was arrested by the police in Doti and was taken to a nearby jungle. There he was shot and beheaded with a *Khukuri* (traditional Nepali knife) by a policeperson. His head was then hung on a bamboo and demonstrated to the mass. Some 300 followers were arrested out of which 50 were freed only in 1956. The landlords then celebrated this incident as their victory over the retaliation of Panta (INSEC, 1995).

One has to look at the period of agitation against Rana regime to know about the brief background of Bhim Dutta Panta. He and his friends joined Nepali Congress in October 1949. After that, he started the movement against the Rana regime from Dadheldhura and Baitadi districts (INSEC, 1995). The joint government of Rana, Nepali Congress and the King made him the governor of Mahakali region in February 1951. During his tenure as the governor, he led a very simple life while helping the poor people and working towards establishing a peace task force. He often took salt, rice and clothes away from the black market and distributed them to the poor people. He recruited many Tharus and Magars from Kailali and Kanchanpur in his force to empower the peasants' movement. He was very keen to eradicate the *Haliya* and *Kamiya* systems. So he fought for the tillers' rights (ANPA, 2004). He raised awareness among the poor peasants with his slogan "Till or leave the place, if it is not now there will be no benefit" (INSEC, 1995). This slogan scared the feudal landlords while more and more peasants started getting involved in his movement. Because of that, the feudal landlords tried several times to kill him but they did not succeed. Caught many times, he was freed time and again because of the public pressure (ANPA, 2004).

Disagreeing with the party's stand, he then resigned from Nepali Congress. During his struggle, he met Krishnaswami Adkar from India and became a communist and joined the Communist Party (CSRC, 2008). The historic leader also received an authority from the Nepali communist leaders like Puspa Lal and Man Mohan Adhikari to work in the peasants' sector. During that time, oppression and discrimination were widespread in the far-western region of the country. The landlords used to make fake *Tamasuk* (contract paper) and force the poor peasants to be their *Halis*. And, if denied, they would be mutilated or killed. Therefore, Bhim Dutta prepared 500 young militants to fight against the landlords as a defensive preparation. He wanted to change this situation radically through revolution (ANPA, 2004).

On one occasion, Bhim Dutta Panta came to know that *Bada Hakim* (chief of a spatial area) Mohan Bahadur Singh had made many plans and prepared many fake documents through Guna Raj Panta (ANPA, 2004). While attacking the *Bada Hakim*, he was arrested and sent to Kanchanpur jail but he succeeded to escape through Jogbudha jungle (ANPA, 2004). He was again arrested in 1953 and imprisoned in Belauri jail, Kanchanpur. The poor peasants struggled a lot to get him freed and they eventually succeeded (INSEC, 1995). But it was broadcast in the radio that Bhim Dutta Panta had fled away by devastating the jail. At that time, Nepal's then Army Chief Kiran Shumsher Rana announced monetary reward for finder(s) of Bhim Dutta Panta's dead or alive body. The Indian army, the then Royal Nepal Army and the entire police force searched for him unsuccessfully since he disguised himself in different ways, but continued fighting against landlords. The government in Nepal asked help from the Indian Government to arrest him. In response, they sent their army to Indo-Nepal border. Both countries deployed many secret agents but it proved to be a worthless deed. One day, the secret agents came to know about his shelter and the Indian Army encircled his shelter from three sides. Fortunately, Bhim Dutta Panta was able to make his way out from the uncovered side. During the clash between the Indian Army and Bhim Dutta Panta's militants, the Magar militants of Panta killed many soldiers of the Indian army. On the 25th of July 1953, he went to a relative in Budar of Doti District for food but the relatives betrayed him for the sake of money and informed the army. The army entered that house and dragged him out brutally. Bhim Dutta knew that he was dying so he cried out, "I want to be free from feudalism oppression" and repeated it until a soldier cut his head with a Khukuri. The news of his death spread like wildfire and the feudal landlords were very happy, so they celebrated the event like a festival. After his death, his head was hung on a bamboo stick with a written note that read, "If you take part in treason

or mutiny, your head will also be hung like this". Before that, the army played football with his head and buried his head under the ground for three days. Bhim Dutta Panta's wife and his friends asked for his head but Mohan Bahadur Singh verbally abused them and forced to sign a 31-point commitment document. Only after signing the written commitment, the wife got her husband's head, with which they could conduct the funeral rites in the temple of Gatal Baba in Dadheldhura (INSEC, 1995).

The name of Bhim Dutta Panta is inscribed in the history of democratic land movement of Nepal. The rulers killed him very cowardly and after his death, the peasants' movement lost its momentum and slowly, it was crushed. But because of his contribution and sacrifice, Bhim Dutta Panta is considered a real hero in the peasants' movements.

2.3.2 Land Struggle in Kathmandu and Bhaktapur

During the decade of 1950, land struggles took place in Kathmandu and Bhaktapur too. Some of the demands forwarded by the peasants were: dismissal of land-lordship and *Talukdari* systems. Peasants organised various kinds of demonstrations against the landlords and the government. This movement continued in one form or another until the 1980s in Bhaktapur (Thapa, 2001).

2.3.3 *Ji Kaho* Struggle

The '*Re Nahi Ji Kaho*' (Speak respectfully to peasants) campaign, launched in Rautahat district against the feudal landlords and their misdeeds, played an important role in the history of peasants' struggle. That was the struggle for the sake of prestige, social dignity and self-respect. It was against the behaviour of the landlords, who treated the poor landless persons as people of lower class. The agitating peasants with the slogan '*Maddat Bhakari Khada Karo*' helped one another in storing and saving

grains to fortify the movement. This campaign gave a terrible blow to the landlords making a meaningful contribution to the overall land rights movement in Nepal (INSEC, 1995).

2.3.4. Land Struggle Encampment in Pyuthan

In March 1954, a political party called CPN (Masal) conducted a planned movement in Pyuthan by mobilising peasants against the landlords and local feuds. The peasants were given trainings and briefings regarding politics, socio-economic exploitations and the situation of peasants in the country. At the same time, other political parties also began to organise movements with the help of peasants (INSEC, 1995).

2.3.5. Expansion of Land Struggle in Terai

From 1953 to 1955 in almost all districts of Terai, '*Khamar Rok*', another form of peasant's movement, took place in the control and lead of young peasants. To quote their own terms, the youths decided to be the part of ongoing struggle (Thapa, 2001). To pacify the peasants' movement, the government formed a small reformist commission, but that did not represent the tenants and landless peasants in any way.

2.3.6. Land Rights Struggle in Dang

In 1960, a historical peasants' struggle took place in the district of Dang for which the seeds were sown in the election of 1958 (INSEC, 1995). In that election, the slogan of Nepali Congress '*Jagga Kasko Jotneko, Ghar Kasko Potneko*' (Land to the tillers, Home to the tenants) fuelled the movement. In response, the landlords evicted the peasants from their lands. Gumra Tharu, a local peasant, lost his life in the movement- which further aggravated the struggle (Thapa, 2001).

2.4 Peasants' Revolution from 1960 to 1990

In this section, the peasants' struggles from 1960 to 1990 in various districts have been briefly presented to give an idea about it to the readers.

2.4.1 *Jhoda* Land Right Struggle

Regarding peasants' struggles in Nepal, the incident of 1970-72 in Morang district is worth mentioning. This was targeted against the migrants from the hills to the fertile land in 'Jhoda' areas between the Terai and Chure regions. Several people were reported dead in the struggle (ANPA, 2004).

2.4.2 Jhapa Struggle

The insurgency, from 1970 to 1974 in Jhapa, is an example of a communist insurgency among the peasants. Jhapa struggle gave birth to a new way of revolution, in which several landlords and peasants were killed (ANPA, 2004).

2.4.3 *Bhakari Phod* Struggle, Dhanusha

Bhakari Phod struggle was popular in 1979-80, in which the peasants demanded reasonable price for their products. But the army took action against the peasants. This struggle started from Dhanusa and spread over different parts of the country (Thapa, 2001).

2.4.4 Chhintang Movement

Chhintang Movement of 1979 in Dhankuta was a movement against the local *Majhiyas* (landlords) who were accused of exploiting the local ethnic groups and poor peasants. The poor were forced to give free labour service for at least two weeks every year to the *Majhiyas*. This struggle was mainly against such exploitive practices in which 17 peasants were killed by the landlords with the support from the government (ANPA, 2004).

2.4.5 Piskor Movement, Sindhupalchok 1983

This movement was primarily against the feudal Pandeys of Piskor village in Sindhupalchok district. Peasants were forced to provide free labour services and pay a high rate of interest on their loans and they had to give most of their production to the landlords. The peasants were organised against this exploitation and oppression and strongly demanded '*Jasko Jot Usko Pot*' (Land to the Tillers) (ANPA, 2004). However, the suppressive regime brutally silenced the movement and killed several landless people and poor peasants.

2.5 Land Rights Movement after 1990

People deprived of land had been fighting for land rights since 1950 and before. They even fought during the Rana regime. During the leadership of Nepal Congress, the then Prime Minister B. P. Koirala initiated measures to eliminate the *Birta* system but he was ousted in the middle of his tenure. The main reason for his dismissal was, possibly, the fear of progressive land reform. During the Panchayat regime, the landless people also fought for democracy and land rights. They played a significant role in restoration of democracy in 1990. Following the advent of democracy, they had the expectation that they would at least get the rights over some land to till and live on. But their expectations were not met and there was only power sharing among the political parties. Again, the landlords came to power and there was no change either in land relations or in administrative structures. The peasants' rights were once again ignored. After 1990, the peasants' associations again reached into the grips of the middle class people. It urged the land-deprived people launch several land rights movements in different times and different places of the country on their own. Some of them are as follows:

1993 – Kanara movement in Bardiya: This movement was carried out by the *Tharu* community for land rights and livelihood; but it was oppressed by the government.

1995 – No grain payment movement in Rasuwa: Although there was elimination of *Birta* land, the tenants of *Birta* land were compelled to pay the grain to their fake owners. So the tenants were united and stopped the grain payment of *Guthi* land which was in the form of *Birta* earlier.

1996 – Movement led by CSRC and NLRF: Forty-two cases were filed at the District Land Reform Office, Sindhupalchok. Besides, the tenancy rights movement was initiated with the facilitation of NGOs such as Community Self-Reliance Centre (CSRC) and National Land Rights Forum (NLRF). This was the beginning of the present land rights movement which is getting more and more recognition at the national level as well. Currently, NLRF is leading this movement.

1997– *Bagdari* and *Pitmari* movements: Land-deprived people of Banke and Baridya carried out *Bagdari* Movement in Bardiya and *Pitmari* Movement in Banke for land rights. The government tried to suppress these movements.

1997– Formation of The Kamaiya Concern Group: The Kamaiya Concern Group (KCG) was formed and it initiated to educate the Kamaiyas for organising their movement.

1998– Land capturing: Company land was captured by the landless people of Gijara Faram in Banke.

2000– Liberation of Kamaiyas: Kamaiya Movement was expanded in 5 districts and they were liberated.

2000– Encirclement by peasants in Sindhupalchok: The land-deprived peasants encircled all the land related offices of Sindhupalchok with popped corn and flour and pressurised the government to address land problem. This encirclement forced

the government to form a small committee to solve the problem of *Guthi* land in Sindhupalchok. This was a major initiation by the landless people in the history of land rights struggle in Sindhupalchok district.

2004– Case registration: More than 73,000 cases were filed at the land registration offices. In several districts, land-deprived people encircled the CDO and DLRO offices to take immediate actions on the filed applications (CSRC, 2004).

2004– Hunger strike at Rajbiraj: The landless people launched forty eight hours' hunger strike at Rajbiraj (Saptari district) demanding the land rights and citizenship certificates (CSRC, 2004).

2004– Case registration: More than 21,000 cases were filed at several district land reform offices that claimed 50% of the land. The struggle is still going on and tenants have been organising various pressure programmes (CSRC, 2006).

2006– Relay hunger strike at Sunsari: There was a relay hunger strike at Sunsari, demanding land rights in front of the land reform offices (CSRC, 2006).

2006– Padlocking the district land revenue offices: In some districts, the land revenue offices were padlocked, including in the districts of Dang, Banke, Bardiya, Sunsari, Sindhupalchok, Saptari, Siraha, Mahottari, etc (CSRC, 2006).

2007– 'Sit-in' programmes: Land-deprived people organised 'sit-in' programmes at the offices of major political parties both at district and central levels, demanding land rights. The landless people also organised 'sit-in' programme at the gate of Prime Minister's residence (CSRC, 2007).

2007– Badi women's protest: Badi women started demanding their land rights and security of livelihood. They demonstrated at Singh Durbar and Maitighar Mandala in Kathmandu for

nearly two months. Finally, the government agreed to provide land by forming a high level land commission, but the agreement is yet to be implemented.

2.6 Land Rights Movement Facilitated by Civil Society

This section briefly discusses the land rights initiatives from civil society, particularly exemplifying an active NGO working in the land rights issues and its network. Though several civil society organisations have contributed to this movement, not all have been discussed here, mainly because of the space constraint.

2.6.1 Civil Society Initiatives

The tenancy rights movement started in 1995 from two VDCs, Kiul and Helambu of Sindhupalchok district, expanded later into a national land rights movement. A quick glimpse of this movement is given in Box 2.1.

In recent years, the land rights movement has substantially increased its coverage and has reached out to almost 223,000 households in 39 districts of the country (CSRC, 2007). It was possible through various awareness raising programmes and campaigns. NGOs such as CSRC and National Land Rights Concern Group (NLRCG) are leading these campaigns. In these deeds, 65 organisations and 130 individual members have been successfully mobilising the landless and tenant peasants including *Haliyas*, *Kamaiyas*, *Haruwas* and *Charuwas* throughout the country.

Box 2.1: Major Events of Tenancy Rights Movement

- CSRC, which is advocating for land rights in Nepal, carried out a study of the tenants' livelihood in 1994, in collaboration with Action Aid Nepal.
- In 1995, a three-day legal camp was organised in Kiul VDC, in which 100 peasants had participated. Sixty five tenants were trained and a committee with twenty one members was formed during those events.

- Since 1995, more than 1,600 tenants have been receiving rent payment receipts regularly.
- Various discussions and interaction programmes were conducted regarding filing cases to gain their rights (in Helambu, Kiul, Ichok, Talamarang and Palchok).
- On the 10th of April, 1996, forty five exemplary cases were filed at District Land Reform Office in Chautara (the Headquarters of Sindhupalchok). The peasants picketed the DDC council meeting and demanded that the recommendation letter be submitted at the DLRO.
- Legal camps were expanded and conducted in 14 different VDCs of Sindhupalchok district.
- In 1997, baseline studies were conducted in 7 different VDCs regarding Guthi and tenancy.
- In 1997, discussions and press conferences were conducted at Martin Chautari.
- Several appeals were made and delegations were sent to the concerned authorities.
- Around 200 cases were documented at the VDC level.
- Until 2001, more than 1,700 tenants had filed cases for tenancy rights and 277 for converting Guthi land to Raikar. As a result, 1,036 tenants have received their tenancy rights.
- The process of taking rent payment receipt is continuing.
- The information regarding the amended Land Reform Act of BS 2053, which was not on behalf of tenants, was disseminated and advocated to all the peasants.
- On the 2nd of November, 2000, a mass demonstration was organised in which thousands of peasants participated at Chautara.
- An orientation programme was organised to the VDC chairpersons at the regional levels.
- In 2001, national interaction programmes and policy level workshops were conducted.
- Programmes were launched in association with the Ministry of Land Reform, DDC and VDCs.
- A National Land Rights Concern Group was formed to put pressure on the effective land reform in the country.
- Advocacy was initiated to make land reform a major agenda for poverty alleviation in the country.

Source: CSRC (2003 and 2004)

Different sections of civil society as well as the oppressed tillers themselves have started to voice their concerns and propose alternative policies for ensuring their rights for land ownership. Forums of concerned groups and people's organisations have evolved at different levels. These have initiated local level interactions on land right issues. The discourse on land rights is deepening and the social mobilisation for genuine land reform goal and security of livelihood is widening. More importantly, the agenda of land reform is being discussed at local communities and various district level forums. The Civil Society organisations along with NLRF have been carrying out many campaigns at different times and different places. Some of them are discussed below.

2.6.2 Opposition to the Direct Rule of the King

The process of organising the tillers and landless peasants has been continuing. When the then king Gyanendra took the power within his grip and imposed a state of emergency on 1st of February, 2005, he announced government's 21-point priority programme. The third point of the royal programme had mentioned land reform through Land Bank, which was not popular among the landless and tenants. The government did not consider other alternatives, instead brought the Land Bank concept with the backing of the World Bank. Many NGOs opposed the decision and organised a series of interaction programmes at different levels. As a result, the decision was aborted. Because of the state of emergency, it was difficult to organise the movements and pressurise the government. However, the landless people organised several meetings and mass demonstrations from community to national level. Since there was a very large participation of the poor peasants, even the army and the police could do nothing against them. The peasants showed their unified power and opposed the king's rule

demanding democracy and land rights. One example of such demonstrations is given in Box 2.2.

Box 2.2: Peasants' Demonstrations against the Direct Rule of the King

After the king's imposition of an autocratic rule, an east to west cycle rally was organised with the initiation of National Land Rights Forum, an organisation fighting for the rights of the landless, tenants, *Haliyas*, *Charuwas*, *Kamaiyas* and *Kamlaris*. Thematically, the rally was organised to build up people's unity for democracy and land rights and raise voice against the proposed land bank system and the feudal system of Nepal.

Rallies were organised in the eastern as well as western parts of the country. In eastern Nepal, the rallies were organised from 8th-12th May and 23rd-27th October, 2005; and in the west they were run from 29th May-1st June, 2005. They covered different parts of Siraha, Rajbiraj, Mahottari and Sarlahi in the east and Dang-Bardiya and Nepaljung in the west. This was the first rally organised in the rural area against the king's takeover and cessation of people's rights.

The campaigns and interactions injected the participants with optimism and encouragement. Self-motivated and voluntary participation of local intellectuals, local groups, clubs, Red Cross Circles and civil society organisations had shown solidarity on land rights issues. Local community groups managed accommodations, food and snacks for the participants. This solidarity brought out the message of people's retaliation on every unjust decision made by the government. Participants raised their voices not only for land rights but also for democracy and peace. On the occasion, one of the rally organisers, Mr. Purna Prasad Adhikari, General Secretary of National Land Rights Forum, said "Democracy is vital in land rights campaign and such a democracy is not possible without the reformation in present social structure." In the rally organised in Nepalgunj, thousands of landless peasants, *Kamaiyas* and *Halis* took part chanting the slogans for land rights and demanding democracy. This was the biggest movement since the royal takeover of February 1, 2005.

Source: CSRC (2005)

After the restoration of democracy, many poor and landless people had the expectation that the new democratic government would listen to their voices and do something for their benefit. But

nothing happened in practice, although there have been many formal and informal discussions with the political parties and the government. The government's apathy compelled the land-deprived people to organise nationwide protests, including encirclement and padlocking of District Land Revenue Offices in many parts of the country in the months of August and September 2006 (CSRC, 2006). But the district office did not agree to forward the protesters' formal demand letter to the government. This behaviour of government officials enraged the protesters more and consequently they decided to padlock the office until the government listened to their concerns (CSRC, 2006).

Many other similar protest activities were conducted throughout the country with the intention of creating pressure on the government and mobilising the landless and poor peasants. Some of these protests were: *Guthi* victims' sit-in programmes and other sit-in programmes in front of the offices of various government agencies and political parties. This wave of protest has been still continuing.

2.7 Conclusions

The history of the struggle for land rights in Nepal started since the 1800s and it is still continuing. Most of the land struggles were initiated by the land-deprived people independently but later on they became more and more politicised. With time, they were sidelined and the sister organisations of political parties led the movements.

The land struggle for tenancy rights supported by civil society organisations started in 1995 and expanded throughout the country. This movement has succeeded in addressing the issues of land rights for poverty alleviation, social justice, and livelihood security of the poor people. Although there have been many challenges, during this period, more than 20,000

people have received land rights and more than 90,000 people have filed cases for their land rights (CSRC, 2007).

The land rights campaign has contributed to empower the tenants and landless peasants. Today many tillers' organisations are established as national organisations that fight for land rights. The evictions by the landlords have been stopped in some parts of Nepal and the landless and tenant peasants are united. The campaign has also contributed to build solidarity among the land-deprived people at district levels. It remains to see how the campaign will be carried on in the future. However, there is no doubt that sustainable peace can just be a daydream unless the issue of land reform is properly addressed in Nepal. An immediate action by the government is a must to address the age-old land related problem.

References

1. ANPA. (2004). *Fifty Years of Peasant Movement*. Kathmandu: All Nepal Peasant Association.
2. Bhattarai, B. (2003). *The Nature of Underdevelopment and Regional Structure of Nepal: A Marxist Analysis*. New Delhi: Adroit Publishers.
3. CSRC. (2008). *Land First*. Kathmandu: CSRC.
4. CSRC. (2007). Annual Reflection, Land Rights Movement in Nepal. Kathmandu: CSRC.
5. CSRC. (2006). Annual Reflection, Land Rights Movement in Nepal. Kathmandu: CSRC.
6. CSRC. (2005). Annual Reflection, Land Rights Movement in Nepal. Kathmandu: CSRC.
7. CSRC. (2004). Annual Reflection, Land Rights Movement in Nepal. Kathmandu: CSRC.
8. CSRC. (2003). Annual Reflection, Land Rights Movement in Nepal. Kathmandu: CSRC.
9. Ghimire, K.B. (2001). *Land Reform and Peasant Livelihoods*. London: ITDG Publishing.
10. INSEC. (1995). Human Rights Yearbook. Kathmandu: Informal Sector Service Centre.
11. Regmi, M.C. (1999a). *A Study in Nepali Economic History*. Delhi: Adroit Publishers.

12. Regmi, M.C. (1999b). *Thatched Huts and Stucco Places: Peasant and Landlords in 19th Century Nepal*. Delhi: Adroit Publishers.
13. Shrestha, N.R. (2001). *The Political Economy of Land, Landlessness and Migration in Nepal*. Jaypur: Nirala Publications.
14. Thapa, S. (2001). *Peasant Insurgence in Nepal 1951-1960*. Bhaktapur: Nirmala KC.
15. Thapa, S. (2000). *Historical Study of Agrarian Relations in Nepal 1846-1951*. New Delhi: Adroit Publishers.
16. Upreti, B.R. (2002). *Management of Social and Natural Resource Conflict in Nepal: Realities and Alternatives*. New Delhi: Adroit Publishers.

Chapter 3

Jagat Basnet

International Movements on Land Reform: A Bird's Eye View

3.1 Introduction

If one looks at the recent trends in international movements on land reform, it will be observed that such movements gained momentum and visibility particularly in the decades of 1900s. During this period, many countries were liberated from colonies and the global environment was conducive for land rights movement. Many rural peasants were deprived of land rights during the colonial time and they were controlled by some foreign bodies along with the leaders of those nations. Further, weak policies in many of these countries had given birth to poverty, inequality and social instability. Majority of the population resided in the rural areas and were dependent on agriculture for their livelihood. Most of them were vulnerable as they were deprived of their land rights and were subjects of many social prejudices. Therefore, the movements for land rights also became movements against such prejudices. Hence, they were extensively participated by the farmers and peasants.

A world summit on the issue of land reform and rural development was held at Rome of Italy in 1979. The subject of justified distribution of land was one of the major issues raised there. Consequently, governments in many countries brought about immediate changes in land reform from the decade of

1980. But, in the process, they left the matter of land distribution to the market and officially made them dependent on cooperative institutions. This resulted in stacking land under the control of multinational companies including the World Bank and large financial institutions. The peasants, in response, started uniting for a movement to safeguard themselves from the attack of financial and multinational companies. The voices demanding land rights were strongly raised and land rights movements were organised in different parts of the world during this period. Some countries have been presented here from the same experiences. The main objective of this chapter is to summarise the background of peasants' movement in the international scenario and highlight the characteristics of the struggles, their achievements as well as the lessons learnt. Attempt has been invested to make this work representative by including the land related movements of Asia and Latin America. Nonetheless, it was not possible to include the experiences of peasants' movement from Africa due to lack of study materials. Some lessons to be learned have also been given.

3.2 Peasants' Movement in Mexico

The peasants' movement led by the Mexican revolutionary leader Emiliano Zapata is considered to be one of the most important movements for land rights in the world. Zapata led an armed peasants' movement between 1910 and 1919 against the absolute regime of the then President Porphyrio Diaz, who favored the landlords (Huizer, 2001). Starting the movement from a Latin American village named Tyalahuikan in Morelos state, Zapata gave it a revolutionary form.

3.2.1 Background of the Struggle

The peasants began uniting for protection of land and security of livelihood after the Mexican government began to forcefully

take the lands of the peasants and hand them over to a few companies. In response, Zapata and his supporters launched their movements and tried to clarify their demands and the subject of the movement to the world. Putting forward the arguments of the movement, they appealed for support and accord in the struggle. This type of bulletin and appeal were extremely important because, until then, the government was ignoring their demands by not accepting their terms. Zapata and his supporters proposed plans and policies for land to be distributed among the native peasants in '*Plan De Ayala*' (a plan prepared at the place called Ayala). They also announced that they would give up their struggle if the government brought about land reform policies on their behalf.

The start of '*Plan De Ayala*' in itself was important. Common peasants and villagers organised a meeting and discussed the question of what all the land related policy should encompass. A school teacher, Otilio, noted down the deliberations made there. Based on those notes, Otilio and Zapata prepared the final draft, which included the main plan for peasants' movement and their stance on land reform. Revised during massive gathering held on 22nd November, 1911 at Mountain Camp Ayokustala, it was given its final shape (Huizer, 2001). The first copy was typed and prepared by a local priest. It was how '*Plan De Ayala*' was prepared.

The claim of '*Plan De Ayala*' was that, the peasants would immediately take on the ownership of land, a right that was being stripped off by the government. For that, they should demonstrate with evidence of their rights on land. But, if they had difficulties in proving their ownership rights, they would get one-third of the land. Zapata was elected as the chairperson of village security committee at the age of 30 on 12th September, 1909 (Huizer, 2001). Even though he was young, the elders in the village decided that Zapata was competent to lead the struggle to restore the land of the villagers. The elders made him

conduct a week-long seminar on local issues, during which, the issues of traditional rights, love of land and hereditary rights were discussed. After the discussion, plans were made to investigate and reinstate the captured lands.

It was realised during the struggle that obtaining land legally was impossible. The judges never made their verdict in favor of the peasants because most of the adjudicators themselves were the landlords. Therefore, the process of illegal acquiring of the land was opted. After commencement of this process, there were attacks from the landlords and the army. Then the struggle to acquire land became violent. This resulted in the expansion and intensification of the movement. The peasants brought weapons from the nearby communal settlement Chinameka. Within a month, the number of insurgents with participation from the villagers and peasants reached 1,000 (Huizer, 2001). Their struggle advanced under the slogan of 'Land and Liberty'. This became a matter of a major nuisance for the government.

The newly formed government of Victorio Huerta proposed to bribe Zapata to halt the peasants' movement. But Zapata declined this proposal and continued the armed revolution against the government. There was an alliance of the new government and a few landlords of Mexico City against Zapata and his movement. During that time, the land captured by armed peasants was protected and cultivated (Huizer, 2001). When the government army came to remove them from the lands, the opposing peasants started to reorganise into small groups and clusters and became ready to fight at any time.

3.2.2 Struggle Strategies

The insurgency operations of the armed peasants of Mexico have been compared to the actions taken by modern guerrillas. When the government armies neared Zapata's peasant combatants, they would sometimes go underground and mingle with the local crowd. When the government army planned to attack, the

peasant combatants called on strikes (Barracclough, 2001). This was how the peasant combatants took over every small city and destroyed the records of ownership of lands under the landlords. Most of the land in Morelos, 53 communal settlements and all cultivated lands were given back to the peasants (Huizer, 2001). Zapata, however, gave consideration to small agricultural industrialists. Savings and credit programmes were initiated for the peasants along with distribution of land in 1915-1916 (Barracclough, 2001).

Zapata prepared a large number of combatant peasants in a short period of time, defeated the government army, and organised a march-past in the capital Mexico City for the first time in 1914 (Barracclough, 2001). Strong support and cooperation from the local people was one of the main reasons for the success of this movement. Plans were formulated to return the land to the peasants in various parts of the country to pacify the peasant combatants. This plan emerged from the Constituent Assembly of Mexico in 1917, as per the article 27 of the Constitution (Barracclough, 2001). Various federal governments came into power after the revolution but none of them redistributed the land or implemented land reforms as committed. Some lands distributed earlier were also revoked by the government army.

Palasios has defined the peasants' revolution led by Zapata from the eyes of an American (Huizer, 2001). According to him, journalist William Gates had been appointed to conduct a research on the subject of revolution by the American government in 1919. He was astounded to see the activities of peasant combatants, who would capture the lands and preserve them by cultivation. Gates had raised voice on the subject of social revolution. Palasios has further written that the similar indications and thought on the issues of Zapata and peasants' movement have been made by Lemense, Lloyd George and Lenin in their conceptions (Huizer, 2001). The movement embraced emotional thoughts. According to Eric Wolfe, this is

still illustrative; the new constructions made can be seen in library of Anenelku including the battles fought in the lands of Guadalupe by Zapata and his rebel friends. This portrays Latin Americans being liberated from oppression and entitlement of land (Huizer, 2001).

Women made some major contributions and played a pivotal role in this movement, especially in encounter programmes. The movement faced a lot of hindrances after 1917 (Barracough, 2001). The government army repressed them using various techniques. They put an end to the support and cooperation of the villagers to the insurgents. Zapata was killed ruthlessly by the government army and agents on 10th April, 1919 (Huizer, 2001). The peasants had immense adoration and faith on him. Even after his murder, he was survived by the esteem of his work. A few people did even believe that perhaps he was still alive. The peasants considered him their Guru, just as Christians revere Jesus.

Zapata's trainings, authentic catchphrases and a nature of giving direction to all movement made him a fairytale hero. This was written by American analyst Tennetbaun. Tennetbaun, who visited Mexico four years after the murder of Zapata, has unravelled the phrase: 'Death is better than the Southern rebels taking your refuge.' This was scribbled and pasted on 11th April, 1919 in Kyurnavaca after the murder of Zapata (Huizer, 2001).

3.2.3 After the Murder of Zapata

In the later two decades, land reforms were made wherever peasant combatants set peasants' movement in motion, especially in Vera Cruz, Michoacan and Yucatan, where peasants had been facing oppression. By mid-1930s, progressive government of General Lazaro Cardenas was entirely dependent on the peasants' organisation. All of his policies and programmes were progressive because the traditionalists remaining in the security of the army continued to defy his facilitation. During

the course of land reform, 18 million hectares of land was distributed to 770,000 peasants (Barracough, 2001). Most of these lands were irrigated. There were some incidences of violence during land distribution and the government worked towards empowering the peasants' organisations. It even distributed weapons for their protection. This government also took a strong standpoint for protection of natural resources by nationalising international oil mines which were owned by Standard and Royal Dutch Shell Companies (Barracough, 2001). The regime of Cardenas was noteworthy because new form of general participation and concurrence was achieved rather than mere mobilisation and support of the public. A federation was formed by bringing together the peasants' associations and labour unions. Later, the both were transformed into official national parties, which are still in power under different names.

All land reform works halted in 1940 and the agenda about peasants' mobilisation simmered down. The middle class was neither interested in begetting sweeping changes nor keen on drastic land reforms. The official peasants' organisations opposed this, even if only verbally. Hence, violence increased in the country along with dissatisfied peasants group and many peasants returned to the unofficial organisations that had not received any recognition from the government.

In 1958, Jacinto Lopez of Liberated Farmers' Association headed the union general of the Obreros Mexico (Barracough, 2001). This encouraged the public to firmly unify and symbolically seize lands that were under control of giant landlords. Acquisition of land was mostly carried out in the northern pacific state of Mexico. There the government had given large irrigated areas to the giant landlords for commercial agriculture. The squatters and tenant farmers had been claiming land rights on those areas according to the state's policy. However, as the land reforms were brought to a standstill without completion, the situation of social violence worsened and this problem is still not completely solved. Thus, even to this day, the peasants have been uniting either in the name of Zapata or other organisations

and conducting peaceful or even armed movements to fulfil his dreams.

3.3 Land Rights Movement in Soviet Union

Peasants comprised around 80 percent of the participants in the movement of 1917 in Soviet Union (Huizer, 2001). However, majority of the peasants were deprived of the right to cultivate land. Therefore, Lenin had given the slogan of 'Ownership of the Land to the Tiller'. The role of peasants was crucial in the Bolshevik movement and the issue of land rights had received the primary importance.

3.3.1 Background of the Struggle

Initially, only the peasants participated in the movement. But later, it was also partaken by social workers, experts, journalists and commoners. Peasants wanted freedom from feudalistic system that existed in the country. They had to provide free labour for acquiring their lands. Those with lands were oppressing the landless, while the peasants had to bear the brunt from the owners. This continued until the peasants were liberated. They became beneficiaries of shared land after they were set free.

Around the end of 19th century, rich farmers were taking advantage of the fact that they owned the land. This resulted in huge conflict between the rich and the poor farmers. Because of the conflict among the peasants, a peasants' union was established in 1905 to bring all peasants together (Huizer, 2001). The peasants believed that their right on land was their natural right and land reform became their main demand. Gatherings and assemblies of peasants were held in villages. Those who had been working as peasants, agricultural labourers after being displaced as peasants, or as mine workers, came up with a plan to return to the villages with these new concepts. This became the main basis to make the movement powerful and important.

3.3.2 Strategies of Struggle

The peasants were also influenced by the happenings in Japan. They reached the conclusion that there would not be any significant changes in their lives without radical alternative land reform. The strategies were devised to disseminate their information to the villages. As per the plan, the issue of radical land reform was disseminated in 300 districts and 47 provinces (Huizer, 2001). After realising the possible consequences of this campaign, the state destroyed over 1,000 houses. Instead of the movement being weakened due to the repressive action (destroying houses of peasants) by the state, another campaign was also linked with the struggle refusing to pay rent of the tilled land. But this resulted in impeding the movement of the peasants. The government started plugging the movement extensively in 1906. Even though the peasants were a bit dismayed by the repressive act of the state, the movement continued and a situation was reached for agreement between the government and the peasants. One agreement was on participation of those deprived from land rights in management. It was assumed that this would result in keeping control of the land being tilled as well as keeping the stance on the issue of right over wealth. But the government was making plans to distribute such lands by forming land commission or to hand it over to individuals. Minister Stolypin made plans to form a commission for 1906-11 and distribute land (Huizer, 2001). Laws were formed at different levels (Minister Stolypin backed some supporters of the government and a few rich farmers). According to the new law, the peasants tilling small communal plot of land could become proprietor of that land. The peasants who had large plots of land also became owners of that land. The local peasants had to lose out on communal and even herding lands due to this policy. Some 4 million people were displaced from their villages in search of work. Rich farmers took advantage of this situation. This jeopardised the means for

living of numerous small farmers. Many peasants were disgruntled and were forced to participate in the farmers' movement.

The announcement of revolutionary programme was made in 1912, after the farmers lost their lands. It took a few years for the farmers to amalgamate and clarify their stance on the issues of land reform. The peasants were finally able to give momentum to the movement at national scale in March of 1917. Until then, a lot of peasants were not receiving any land for tilling. Their livelihood was in danger. The domination and tyranny of the landlords were ever increasing. This fuelled the peasants to unite. All the peasants lined up making land reform their major issue in the movement of 1917. After February 1917, the local committee took over the power and there were sit-in programmes organised. There were even occurrences of violent incidences in the seized lands. The process of taking control over the villages was undertaken through the peasants' assemblies, which were named as land reform assemblies. Experts were also included in the local committees, which only comprised of the peasants until March 1917. There was continuity in taking control over small villages and plots. This was usually done by the committees formed at the village levels. But the lands that were tilled by small peasants and were used in impressive manner were not touched. Small village committees took over almost all the rural areas. Assemblies were called upon instantaneously, which used to decide upon the types of policies to be adopted and discuss the way ahead. It was also decided as to who were to represent the small farmers in the Constituent Assembly.

3.3.3 Following the Peasants' Movement

Lenin announced the progressive land reform in November 1917. As a result, his government received huge support of the peasants. Laws were formulated from the villages in favour of

the peasants. Personal claims on land were terminated. Land could no longer be sold, bought or leased out and if anyone did so, s/he would be dispossessed. Decision to distribute land was made and the ownership of land would go to those who toil on it. This work would be executed by local committees. The Soviet Farmers' Unions and its representatives became increasingly knowledgeable and skilled on the issue of land use. They also helped in distribution and management of land.

There was a civic movement against the matter of foreign interference in Soviet Unions in 1917-21. This further aided the issues of land reform. A national policy on land was promulgated. It was targeted towards land reform, even though the national economic development had been considered while making it. After a decade, there was a problem of communalism in agriculture. Since the rich and middle-class farmers did not fall under agricultural priority, they started shifting towards industrialisation. This caused dwindling of the agricultural production. The state made huge investments in agriculture and there was a massive decrease in exports. A need was felt for a new Five-Year Plan. The assembly of Communist Party decided upon merging small scale farming with large firms and mechanising it through large firms. Agriculture was communalised and industrialisation was extensively promoted.

3.4 Land Rights Movement in China

About half of the peasants were landless in 1920s in China (Huizer, 2001). The peasants were facing much oppression in the hands of the landlords due to the regional power relations and widespread corruption. Therefore, they were forced to fight for their rights and subsequently the peasants' movement dawned in China.

3.4.1 Background of the Struggle

The movement started from the south cantonment from where the capitalist revolution (1850-65) had begun. The peasants' movement had started with the sentiments of nationality. It later spread all over China. Mao Ze Dong tried to understand the causes of the social movement in the villages while he was returning to his birthplace. That time the Kuomintang was also suppressing the worker class in Shanghai in 1926 (Huizer, 2001). Mao Ze Dong has written on an investigation of the peasant movement in Hunan that it was good and appealing that the movement started from the villages as per his ideologies. This was the strong aspect of their movement. This encouraged the urban workers to participate and be affiliated with the organisation as well. Mao helped to advance the peasants' movement by learning from the past mistakes. The peasants' movement started from Hunan province and he helped the peasants to unite effectively from there. This ultimately resulted in producing peasant combatants. Chinese guerrilla army made a long journey in 1934-35 and destroyed the army of Shanghai organisation (Stiefel and Wolfe, 1994; Keliang and Prosterman, 2006). The communist armies were strong in spirit and moral, even if their number was not very big.

Careful attention had been given in formulating revolutionary strategies for the success of the movement. An alliance had been formed among different peasants. Even the villages had been properly studied on matters including the existing groups, their relations, strengths, differences and importance to make the movement strong. Mobilisation could then be successful when they could tap on the basic differences on matters including that of their enemies and landlords. Answers were sought to

questions such as: what could be the possible conflict arising from the movement? How can the rich divide the peasants? But extensive discussions were also held on interests of the poor and class relations, among others. Mao believed that the movement would attain success when the conflict actually turned into revolt (ibid: 170). He had given importance to women's participation in the movement. He believed that bringing women into the movement would generate strength and the government would also be unable to bear it. The peasants' social movement of China gradually developed into an armed political insurgency. The movement started claiming the state's power rather than just acquiring equity, esteem and access to resources. The state used power to push down this movement. This tension continued for almost two decades and many peasants lost their lives due to the conflict (Stiefel and Wolfe, 1994).

3.4.2 Achievement of the Movement

The main outcome of China's peasant's movement was to give land to everybody through the land reform policy. After this, the movement slowly turned into an agricultural cooperative. The reason for this was to support the rural industrialisation. This also became the main agenda of the Communist Party. After 1958, a lot of people were affected due to natural disasters adding more pressure to rural industrialisation (Keliang and Prosterman, 2006). Then there was a gradual improvement in the living standards of people.

Box 3.1 shows that peasants and tenants of China played a crucial role during the time of revolution in establishing land ownership and consequently helped to boost the economy of rural areas.

Box 3.1: Timeline of Land Rights Movement in China

- Pre-1949 - Most peasants toiled as tenants, paying high rents to landlords. Peasants' grievances helped fuel the revolution.
- 1950 to 1954 - New government adopted the Land Reform Law. It gave former tenant peasants full private ownership of land. Nearly half of China's arable lands were distributed to the farming households. Agricultural productivity increased.
- 1954 to 1961 - Private ownership was abandoned with a push for large scale collective farming. Productivity collapsed leading to 15-30 million deaths due to famine from 1959 to 1961.
- 1978 to 1984 - Households responsibility system was established. Farm productivity jumped up to 50 percent in four years.
- 1987 to 1988 - Peasants rarely invested in their land because of readjustment.
- 1990 to 1997 - Insecure land rights hindered rural development.
- 1998 - The Land Management Law gave the households 30 years of land rights backed with the written documents.
- 1999 to 2001 - Nationwide surveys found that only 40 percent of farm families had contracts for 30 years land rights.
- 2002 - The rural land contracting law strengthened the peasants' 30 years land rights and provided foundation for a land transfer market.

Source: Keliang and Prosterman (2006)

3.5 Land Rights Movement in Philippines

In the beginning of the 20th century, commercial cultivation was started by the American colonial government. This adversely affected the situation of many Philippino peasants. The land was being increasingly given for commercial purpose, especially for cultivation of tobacco and sugarcane. These were mostly exported to America after paying the income tax. Apart from this commercial agriculture, it emphasised on new businesses. Absent landlords became common. Preservation and benefits of old traditions were destroyed by patriarchal system. Even the landlords became anxious and slowly started seizing lands. This began to make the peasants frustrated. The rate of tenancy increased from 38 to 60 percent (Huizer, 2001). From 1938 to

1946, the landlords even won cases in the court by manipulating the judges. Thousands of peasants gradually turned into tenants and squatters later turning into landless. The incidences of oppression and repression increased. This resulted in the beginning of the movement by many peasants from the local level.

3.5.1 Struggle Strategies

Communist leader Jacinto Manahan had formed union of sharecroppers in 1919. It later evolved into the national union of Philippines in 1924 (Karunana, 1984). Even though its activities and organisation were prohibited, it was able to retain its path. So some socialist leaders, lawyers and a few rich peasants formed an organisation of the poor called '*Pampanga Padre Abad Santos*' in 1930 (Huizer, 2001). This organisation became strong and organised effective programmes like strikes and demonstrations. Louis Tike, a peasant's son who had attained some level of education, helped Abad Santos (one of the movement leaders) in amplifying the movement (Ghimire, 2001). Abad Santos went to live in the village. There they were organising meetings and explaining the objectives of the organisation. The peasants used non-violent strategies and processes. They would organise peaceful sit-ins and demonstrations and even if anyone was arrested and jailed, all of them would go together. They would also organise mock sit-ins to further strengthen the movement. Various cultural programmes were conducted in the villages to reinforce the movement in order to make everybody aware of the issues on land rights. By 1938, seventy thousands peasants became its members (Karunana, 1984). Until this time, there was a ban against Communist organisations and parties. The landlords prepared combat groups and armies to fight the socialists and opposed the movement. This took an extremely violent form in central Lujan and even the socialists were

banned. The socialists were not allowed to organise meetings, gatherings or demonstrations on the issues of the peasants.

Communist and socialists amalgamated in Avery (union of peasant) and the organisation was even more empowered. This set up Union of Peasants in the Philippines known as *Kantipunan Pambansa ng mga Magbubukid sa Philipinas* (KPMP). Its united peasant army organisation was formed on 29th March, 1942 to fight the Japanese army and for attaining land rights (Karunana, 1984). Its main objectives were to punish the Japanese army, form a democratic government and initiate land reform. The demands included protection of people's right to security and dignified life, national industrialisation and fulfilment of basic necessities.

The peasants' organisation adopted the use of weapons in 1942 and many peasants took on arms. Army groups were formed with each group comprising of around 100 peasants (Salmon, 1968). The insurgents rebelled against the Japanese army. The peasants were unified in every village for the purpose of fulfilling the demand and management of food and other necessary items. Barrio United Defense Corps (BUDC) was established as resistance groups in the villages in a democratic manner. BUDC formed a local government to keep the guerrillas in check. A lot of people participated in this movement which later developed as a powerful movement. This eventually took control over the central and local regions. Many landlords living in the cities had co-worked with the Japanese in those areas. An insurgent group called the *Huk* pushed the movement forward and took the cultivation under their control, while the peasants also did not surrender their produce.

The Americans were against the *Huk* movement and, thus, supporting the opponents of *Huk*. The American armies were hounded out of Japan due to the efforts of *Huk* movement. However, the *Huk* and Japanese never managed to get along

because it was feared that the *Huk* would bring about drastic changes in the social situation, if given a chance.

The land reform movement of Magsaysay in 1953 committed that the land distribution would at least solve the hunger of the peasants. Peaceful solutions were brought forward on the subject of land reform. There arose a faction between the thoughts of other leaders and Taruq (a movement leader). Taruq surrendered in 1954 and was jailed for many years (Salmon, 1968; Karunana, 1984).

Various means were sought to solve the problems of the peasants from 1952 to 1954. One private company and a popular Chinese leader and academician on land reform Dr. Y.C. James Yen were supporting the rural reform movement ongoing in Philippines (Karunana, 1984).

3.5.2 After the Movement

Marcos prepared a plan for land reform in 1980 which stated that the multinational companies would be allowed to do commercial cropping in the fertile lands of Philippines. The land reform plan became public with support from the World Bank after Akino Cora John came into power in 1983. The peasants were not pleased by this. They gave continuity to the movement and the issue of revolutionary land reform was progressed steadily under the leadership of Jaime Tadeo (Karunana, 1984).

3.6 Land Rights Movement in Bolivia

In 1952, the land structure of Bolivia was similar to that of Mexico before the revolution. However, the oppression of peasants who spoke Quechua and Aymara (majority of the population) was less than that of the white population whose native language was Spanish. Indian serfs were given some fertile land for their livelihood but they had to provide free labour to the landlords, who were living in the city for 3 to 4

days every week (Huizer, 2001). This made the peasants feel there was no other option than to revolt against the oppressors in a more organised way.

3.6.1 Background of the Struggle

The poor peasants in Bolivia had been revolting against the slavery and semi-feudalistic system existing in the country in a scattered and sporadic manner since 1930s. The Chaco War in the early 1930s between Paraguay and Bolivia had an immense impact on the poor peasants of Bolivia. The war was mainly a result of contention between the two countries on the issue of oil. Badly affected by the personal and societal losses due to the war, the peasants, however, started opposing the war and organised opposition programmes in many places of Bolivia. Eventually, Bolivia lost this war and this loss created even more misery and political bitterness.

Soon after the war ended, a rural syndicate was formed in the southern part of Ucurena in 1936 (Huizer, 2001). This hot land with fertile valley was the hub place for food supply of the country. After the establishment of the syndicate, the peasants, with the backing of the syndicate, stopped providing free labour to the landlords which they were mandated to do until then. This proved to be a huge challenge for the landlords at the local level. Therefore, the landlords bought lands from monastery and evicted the peasants, destroyed the homes and pressurised them to leave the area. One young revolutionary leader of that time, José Rojas, also faced similar hardships. His father was disowned from his land and was forced to migrate to Argentina. There he worked on wage. He got the opportunity to gain political education in Argentina. Later, he returned to Bolivia and lived an underground life. Nevertheless, he was able to revive the peasants' movement in the villages gradually becoming a respected leader in Ucurena.

Meanwhile, because of the traditional oligarchic control of land and mining interests by the state, there was an increasing dissatisfaction among the urban middle class. A movement against such a control was initiated under the leadership of Paz Estenssoro, a leader of the Nationalist Revolutionary Movement (MNR). This movement was also joined by the national proletarian peasants who had been displaced from the mines of urban middle class. In April 1952, the conservative government tried to suppress the movement of MNR but was not successful as the MNR retaliated with a bloody revolution (Huizer, 2001). The peasants' syndicate unified all over Bolivia and succeeded in taking over the local authority and government work. A new power structure was established and new peasant leaders were nominated from peasants' gatherings. They would supervise the matters concerning the welfare of the peasants.

The students in Bolivia also played an instrumental role in taking the movement ahead. One such incident was the movement organised in Ucurena. This was fully supported by the students of that place. Many large companies and houses of big landlords were destroyed. This pressurised the government to put an end to the revolution and bring about land reform (Huizer, 2001).

The president officially announced land reform in Ucurena in August 1953 amidst the gathering of thousands of peasants. Applications to acquire lands were made in every level of the newly formed peasants' federation for the rights of the peasants. This was one of the major works of the peasants syndicate. The peasant militias were requested to help the government in the land reform process wherever there were mobilised rebels against the land reform. A lot of landlords started fleeing from their lands and eventually the company lands were distributed to the peasants.

3.6.2 After the Movement

Land reform was delayed due to the legal process. Around the mid-1950s, the momentum of land reform slowed down. The gains of the peasants were neutralised. Land was nationalised and was made national property. The market remained under the control of rural landlords. Even after the land reform, revolutionary peasants continued to be affiliated with the organisation of revolutionary guerrillas founded by Ernesto Guevara (Che Guevara) in the 1960s. An official peasants' association was formed by the government itself. For definite political influence, periodic meetings were held on issues of peasants. But land reform could not be achieved.

3.6.3 Bolivia at the Moment

Evo Morales was elected president by the people of Bolivia in 2005. This was a big political change. This pushed forward the land reform agenda. He announced that by the year 2011, 20 hectares of land would be distributed to every family those had been fighting for land. During the movement, he had opined that;

We need to work for survival and self-esteem and we need land to work. We need land revolution rather than mere a land reform. Even though land reform was commenced in Bolivia in 1953, we, the people from indigenous groups, have not been able to acquire any land. We, 200,000 peasants, have been battling for land rights since the past 10 years (Huizer, 2001).

His plan is to implement progressive land reform by nationalising fallow lands and lands under private ownership. Nonetheless, giant peasants and his opponents are geared up to prevent this from happening (Ghimire, 2001).

Morales addressed land reform through revolution. This resulted in giving lands to the people deprived of land rights, mainly the indigenous groups and agricultural labourers. Rich commercial

peasants have been cultivating soybeans and cotton in their lands since 1953. The majority of the produce of them is exported abroad. The peasants making profits from this have formed a resistance group against the control over their land. Vice president Gracia Linera has been accusing the peasants for acquiring lands forcefully and engaging in robbery. Actions to minimise the support of the bank and hindering foreign aid are also ongoing.

There is a provision in the 1996 law, which states that, land will only be returned to the concerned peasants if land tax is paid. But Morales wanted to nationalise the land entirely. The poor peasants have become hopeful, seeing the President's sympathy towards them. The native peasants and indigenous people created a roadblock to pressurise for fulfilment of their land reform demands (Baskerville, 2006; Huizer, 2001; Stiefel and Wolfe, 1994). There is no alternative other than land reform for the poor people of Bolivia. It has become a common understanding that there should be consensus among all in this issue.

Evo Morales has seized a handful amount of fertile land from the owners and has started distributing it to the poor and landless peasants. A movement of landless peasants has been ongoing to bring about revolutionary land reform. Previously, the land had been captured from peasants and singularly distributed among the landlords and the capitalists. Morales have in fact started a campaign saying the public, especially the natives, should have the right over water and land (Baskerville, 2006; Friedsky, 2005).

The people wish for liberation from the colonial and imperial activities of Spain and America. Evo Morales has passed the Land Act from the lower house which has been challenged by the landlords. Even though the lower house has passed the Bill, the senate has blocked it. Of the 27 members, 15 members there

voted in favor of land reform (Baskerville, 2006; Friedsky, 2005). Evo Morales said, “We have been fighting for land reform since the times of our ancestors. So when will land reform take place? When will be the power to bring changes in our hands?” His plan is to distribute 20 hectares of land to all peasants by 2011.

Even though liberated before the past two years, the poor peasants were mostly living as semi-slaves of feudal landlords. They say, “This land was belonged to us before and it still does, irrespective of whether we have the papers or not. Because of this, we see a brighter future for us and our children” (Baskerville, 2006; Friedsky, 2005).

Around 90 percent of the people have rights over just 7 percent of the total land (Friedsky, 2005; Baskerville, 2006). The movement of 50,000 landless peasants is ongoing at the moment. This movement is being carried out for equal rights over land. The war over land is basically between the white landlords and the Bolivian natives. Even though the land reform of 1953 prohibited free or bonded labour, not everybody was able to acquire land in a justifiable manner. Only 417 million acres have been distributed and the plan was to eliminate the entire feudal system (Friedsky, 2005). Since corruption was rampant and well protected, the peasants only received the smallest portions of land. From 1992 to 2002, 55 million acres of land was distributed among big landlords, while millions of landless peasants only acquired 45 million acres (Baskerville, 2006).

There was a wind of change to bring about control of corruption and to execute land reform in 1990. It was found that 25,000 to 700,000 acres of land owned by big landlords were not utilised fully (Baskerville, 2006; Friedsky, 2005). More importantly, Bolivia passed the law which stated that the state could seize the land unless the entire land was utilised by the year 1996 (Huizer, 2001). This gave the right to the state to capture fallow lands and distribute it to the landless peasants. As the

government employees were not too keen on searching for fallow lands, not all of it could be identified and seized. Nevertheless, from 1996 to 2003, 79 million acres of land was distributed in large plots to 40,000 people and the remaining 10 million acres was distributed among 550,000 peasants (Baskerville, 2006; Friedsky, 2005).

The process of land distribution in Bolivia in an equitable manner has been started after 50 years. It has prioritised for those who toil on land and Evo Morales seems to be dedicated to make this a success. The native peasants say that it is their right to acquire the land, as it was cultivated by their ancestors and they have been living on it. They say they have been tilling the land to be able to live a free life. President Morales and the landless peasants are working towards realising this vision.

3.7 Conclusions

The revolution in Mexico that was headed by revolutionary leader Emiliano Zapata can be considered the biggest and most important movement till this date. He was ready to give his life for it and was unwilling to take bribe or surrender. Consequently, he was killed on 10th April 1919. As his movement is still ongoing, his life did not pass in vain. It can be observed that peasants' movement became stronger when international companies interfered or when the control of land was stacked in the hands of the rich. It has been also seen that the land reform process is usually initiated from the grassroots level when the state neglects the issue. This type of land reforms at the grassroots level is still ongoing in many countries of the world.

The experiences till this date show that land acquisition through legal means is impossible. This also depicts that the peasants' movement is expanding and developing over time. In many countries, peasants' revolution took on a massive form when the

judges themselves were landlords. This was because they never passed the verdict in favor of the peasants. Many examples of attempts being made to bribe and tempt the leaders responsible for heading the peasants' revolution can be found throughout the world. For instance, the government of Victorio Huerta had proposed bribing Zapata to stop the peasants' movement. Wherever there has been peasants' movement, there has been land reform, even if it was only in recovery phase. For example, the movement and its achievement in China, Soviet Union and Mexico can be taken as examples. Also, among these countries, there have been more land reforms in places that had more intensive land movements. There has never been a case where peasants' revolt has been pacified without land reform in any country of the world. This fact can be found from Bolivia to Philippines. There has also never been an end to a country's feudal system without land reform.

References

1. Barraclough, S. L. (2001). The Role of State and other Actors in Land Reform. Ghimire. K.B. (Ed.). (2001). *Land Reform and Peasant Livelihoods*. London: ITDG Publishing. Pp. 26-64.
2. Baskerville, S. (2006). The New Agrarian Reform in Bolivia: Up Side World. Webpage: www.diplo-magazine.co.uk. (Accessed on 15th January, 2007).
3. Friedsky, J. (2005). Land War in Bolivia: Conflict for Territory and Power. Webpage: www.narconews.com. (Accessed on 12th November, 2007).
4. Ghimire, K.B. (Ed.). (2001). *Land Reform and Peasant Livelihoods*. London: ITDG Publishing.
5. Huizer, G. (2001). Peasant Mobilisation for Land Reform: Historical Case Studies and Theoretical Consideration. In Ghimire, K.B. (Ed.). (2001). *Land Reform and Peasant Livelihoods*. London: ITDG Publishing. Pp. 164-198.
6. Kanunana, V.P. (1984). *If the Land would Speak, It would speak for Us: A History of Peasant Movement in Thailand and the Philippines*. Hong Kong: Plough Publications.

7. Keliang, Z. and Prosterman, R. (2006). From Land Rights to Economic Boom. Webpage: www.chinabusinessreview.com (Accessed on 15th September, 2007).
8. Salmon, J.D. (1968). The Huk Rebellion. *Solidarity*. Vol. 3. No. 12.
9. Stiefel, M and Wolfe, M. (1994). *Voice for the Excluded Popular Participation in Development: Utopia or Necessity?* London and Geneva: UNRISD/Zed Books.

Part II
Conceptual Section

Chapter 4

Sagar Raj Sharma

The Price of Misplaced Priorities: Foreign Aid and Land Reform in Nepal

4.1 Brief History of International Aid in Nepal

Ever since the 1950s, when Nepal started receiving foreign aid, the international donor community has been increasingly involved in its development process and the assistance received from them has been consistently on the rise. The history of foreign aid to Nepal began with the signing up of the 'Point Four' agreement with the US on 23 January 1951. This heralded Nepal's first experience of foreign aid assistance. The US government's assistance of Rs. 22,000 provided under that programme was soon followed by the assistance from India same year in the month of October. It was then followed by China in 1956 and the USSR in 1958 (Sigdel, 2004). The trend of foreign aid inflow began to increase continuously since then. Health, agriculture, forestry development, education and transportation were the major sectors that received bilateral and multilateral assistance in those years. The donor countries followed deliberate policies of building institutions and investing in the development of human resources.

Because of its strategic location, Nepal has also received economic aid from both of its immediate neighbours: China and India since the very beginning. India became a donor to Nepal soon after the aid agreement signed between Nepal and the US. It helped Nepal in the area of transportation, financing of the construction of a highway from Kathmandu to Raxaul and an

airport in Kathmandu and not after a long time Nepal joined the 'Colombo Plan' in 1952 (Sigdel, 2004). This accession provided Nepal a good forum to attract the interests of other friendly countries in the economic development efforts of the country. Under this plan, Nepal started receiving several technical assistances which later evolved into support for capital projects. During the 1950s, many Nepalese citizens received scholarships through the Colombo Plan to go to different countries for studies in technical and professional areas. Also, during that time the bulk of assistance was directed towards developing agriculture, transportation infrastructure and power generation. Other areas targeted for assistance were communication, industry, education and health.

India and the US each were responsible for more than one-third of all grants. Both countries established aid missions to Nepal and directed aid to special projects. Other major donors during the 1950s were China and the Soviet Union. Britain, Switzerland, Australia, Japan and New Zealand were also involved in small assistance programmes. The United Nations (UN) was limited to provide some technical assistance during that period.

It was since the beginning of 1960s that Nepal started receiving some bilateral assistance in the form of loans. The loan share of foreign aid increased from under 4 percent between 1965 and 1970 to more than 25 percent by the period 1985-88 (Sigdel, 2004). Until the mid-1960s, Nepal depended mostly, if not totally, on foreign grants for all its development projects. Most of these grants were on a bilateral basis. Grants from India helped to build the airport in Kathmandu, the Koshi Dam and various irrigation projects. The Soviet Union helped to build cigarette and sugar factories, a hydroelectric plant and part of the East-West Highway. Grants from China helped to construct roads, a trolley bus line in Kathmandu and leather shoe, brick and tile factories, while the US grants supported village development, agriculture, education and public health.

In the 1970s, multilateral assistance programmes started to play an important role in development planning. It accounted for more than 70 percent of the funding for development planning. By the end of the 1980s, the great majority of foreign aid was in the form of multilateral assistance programmes. Most economic development projects were funded with external assistance on concessional terms. In the mid to late 1980s, recorded aid disbursements averaged more than US \$ 200 million annually—about 7 percent of the GDP. More than 70 percent of the aid was in the form of grants, the remaining was in the form of concessional loans (Sigdel, 2004).

After its first real attempts of democratisation in the 1990s, Nepal received external assistance in the form of project aid, commodity aid, technical assistance and programme aid. Project aid funded irrigation programmes, hydroelectric plants and roads. Commodity assistance targets included fertilisers, improved seeds and construction materials provided by donor aid agencies. Technical assistance covered services of experts to advise the government in training indigenous personnel to perform research in technological fields, and resulted in the development of skilled labour. Programme aid supported various projects with particular focus on the fields of health and agriculture.

Dependence on foreign aid, thus, began to increase at a very high rate even in the new political context the country had embraced. This trend is continuing even today in an increasingly alarming rate and fashion. It is yet to be seen how the power holders of the new 'Republic of Nepal' will deal with the issue of foreign aid and dependency.

4.2 Recent Trends and Characteristics of Foreign Aid in Nepal

As discussed above, ever since Nepal started receiving foreign aid, the international community has been increasingly involved in its development process. The assistance received from them

has been on the rise to a level where at one point disbursements constituted around 80 percent of the development budget (Sharma, 2002). Such a high degree of aid dependency had inevitably some serious political implications. In the last decade of the one-party *Panchayat* period (1960-1990), there was a tendency in the domestic political debate to see a relationship between the dominant powers in the country and foreign assistance. While the government projects were by and large unable to reduce poverty, 'development' through foreign aid essentially became a metaphor for the maintenance and strengthening of the traditional native power structure. Certain social classes played a decisive role in determining both the content and the channel of the aid inflow.

The upper social classes derived major benefits from the development initiatives aided by foreign support. As a result, foreign aid enhanced the position of the upper social classes, who benefited from the maintenance of the existing system of political and economic power. The need to legitimise such a power gave foreign aided development the halo of a 'people-oriented development' while at the same time increasing the dependence of the lower classes (Sharma, 2007). The political picture has gone through several changes since then, some claim as a result of the above-mentioned contradictions; while others assert that it was helped by donors' support to democratic development. In spite of the political changes, however, foreign aid continues to constitute a very large share of the development budget (MoF, 2007). This excessive dependency on foreign assistance becomes clearer if one takes a microscopic look at some of the latest foreign aid figures.

Table 4.1 gives a summary of income and expenditure for the fiscal year 2007-08. One thing that becomes clear from this is the high degree of dependence on Overseas Development Assistance (ODA). Loans and grants together finance almost 60 percent of development expenditure in 2007-08 with the share

of grants being consistently higher than that of loans. Despite this significant inflow of aid, people at large feel that the aid channelled through government line ministries has not resulted in effective poverty reduction, and that much of the aid money has been misplaced and misused. Even the seemingly large aid for agriculture has not resulted in acceptable growth in agricultural production (Sharma, 2007).

Table 4.1: Government Budget: Summary of Income and Expenditure

(Thousand Rs.)

Description	2005/06	2006/07	2007/08
	Actual Expenditure	Revised Estimate	Budget
Total Expenditure	110889158	131851000	168995600
Regular	70851120	78119868	93743045
Development (a)	40038038	53,731,132	75252555
Revenue	72282085	86135467	103667256
Tax Revenue	57426995	70046185	80962200
Non Tax Revenue	13341473	14843968	21349600
Principal Refund	1513617	1245314	1355456
Foreign Grant (b)	13827498	15946000	27460914
Bilateral Grant	7617844	9039420	12954669
Multilateral Grant	6209654	6906580	14506245
Surplus (+) Deficit (-) After Foreign Grant	-24,779,575	-29,769,533	-37,867,430
Source of Deficit Financing			
Foreign Loans (c)			
Bilateral Loans	8,214,305	10,331,000	17,367,430
Multilateral Loans	40,627	1,622,250	1,617,000
	8,173,687	8,708,750	15,750,430
Domestic Borrowings	11,834,200	17,900,000	20,500,000
Cash Balance Surplus (+) Deficit (-)			
(b + c) / a (%)	-4,731,070	-1,538,533	

Source: Ministry of Finance (2007)

Further, in order to get a snap shot of the aid figures from some of the principal donors, I have listed here some of the top bilateral and multilateral donors that have been providing foreign aid to Nepal in the recent years (See tables 4.2 and 4.3). As Table 4.2 shows, Japan clearly leads other countries in being the largest donor to Nepal during 2000-2001 and in fact has been on that position since much earlier. Other major bilateral sources of foreign aid to Nepal have been the United Kingdom, the US, Denmark and Germany. As for the multilateral donors, the Asian Development Bank (ADB) has been the largest source of foreign aid during the same period, with the World Bank and the UNDP being the second and the third largest donors respectively (See Table 4.3).

Table 4.2: Major Bilateral Foreign Aid Disbursements to Nepal: 2001-2005

(Million Rs)

Donors	2001	2002	2003	2004	2005
Belgium	0.0	292.9	30.2	0.0	0.0
Canada	196.5	191.6	200.8	301.0	236.4
China	0.0	0.0	0.0	0.0	892.6
Denmark	NA	NA	NA	NA	1,1400
Finland	NA	NA	NA	NA	343.8
France	11.4	0.0	0.0	0.0	40.7
Germany	395.7	469.5	557.4	533.7	2,973.3
India	0.0	0.0	0.0	66.7	85.8
Japan	7,176.1	6,626.3	5,106.1	2,875.8	4,318.6
Korea	55.4	45.6	35.3	0.0	0.0
Kuwati Fund	0.0	7.5	39.9	142.8	0.0
Netherlands	180.9	116.8	164.6	0.0	194.4
Norway	NA	NA	NA	NA	599.2
Saudi Fund	364.2	284.7	345.0	210.7	0.0
Sweden	NA	NA	NA	NA	58.0
Switzerland	NA	NA	NA	NA	639.4
UK	NA	NA	NA	NA	2,286.9
USA	1,058.8	1,026.8	851.2	1,039.5	1,888.8
Total Bilateral ODA	9,439.0	9,061.8	7,330.3	5,170.2	15,698.0

Source: Ministry of Finance (2006)

NA- Not Available

Moving on to sectoral disbursements of foreign aid over the span of 30 years, one can see from Table 4.5 that out of the total foreign aid into Nepal since 1975, almost 7 percent has been poured into the agricultural sector. The number increases significantly to over 20 percent if irrigation and forestry sectors are also included in this category. The amount disbursed on infrastructure (transport, power and communication) has been almost 45 percent of the total aid in as many years, implying that most of the aid money has been spent on building infrastructure, ironically, only to be destroyed heavily during the Maoist insurgency that lasted for over a decade since the latter half of the 1990s.

The agriculture sector has not been that impressive either. With almost eighty percent of the population dependent on agriculture, the GDP from the agricultural sector is by far the most important factor that shapes the development of the country and its people. The absolute number of the agricultural population has been increasing rapidly and the trend is likely to continue for the foreseeable future since there is not adequate growth in the industrial and other economic sectors to absorb the surplus labour from agriculture. Despite all endeavours to improve agricultural production, the crop yields have not been increased satisfactorily for the last few decades. Although about 25 percent of Nepal's development budget is expended in this sector, the production rate averages only about 3 percent per annum. In comparison to the population growth rate, agricultural growth still lags behind, resulting in a shortage in food supply. The current trend of high population growth and low agricultural growth can very well result in a serious food-deficit unless productivity is increased substantially.

**Table 4.3: Major Multilateral Foreign Aid Disbursements to Nepal:
2001-2005**

(Million Rs)

Donors	2001	2002	2003	2004	2005
ADB	4,034.0	4,278.3	2,845.3	1,213.0	3,193.9
European Commission	0.0	0.0	0.0	0.0	84.0
IDA/WB	3,411.6	3,149.3	2,123.3	7,855.2	5,800.5
IFAD	63.5	215.6	117.8	140.3	0.0
ILO	13.4	37.4	93.8	158.1	115.4
IMF	0.0	0.0	753.4	747.5	0.0
OPEC Fund	466.3	128.6	123.1	54.1	89.0
UNDP	736.0	617.5	933.3	608.9	949.4
UNESCO	0.0	0.0	13.5	24.0	42.0
UNFPA	NA	NA	NA	NA	6.1
UNICEF	0.0	10.3	9.6	12.0	265.1
WFP	0.0	NA	NA	NA	131.1
Total Multilateral ODA	8,724.7	8,436.8	7,013.2	10,813.1	10,676.6

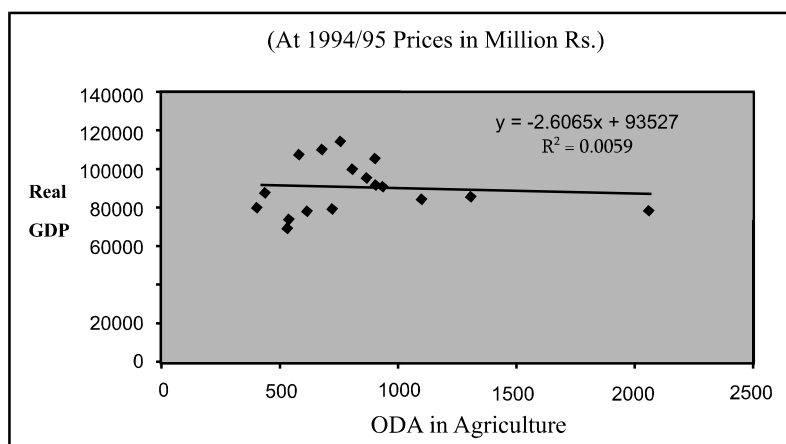
Source: Ministry of Finance (2006)

NA- Not Available

The sector is also adversely affected by the loss of top fertile soil due to soil erosion, landslides and flood. It is estimated that about 1.8 million tons of plant nutrients (nitrogen, phosphorous, potassium and calcium) are removed away from the soils by crop harvests and soil erosion (NPC, 1995). Out of this, only 0.3 million tonnes (16 percent) are replenished by organic and mineral fertilisers. Along with these major nutrients, micronutrients such as copper, iron, zinc, etc.; which are essential for the growth of plants and improvement of soil health, are also lost. Agricultural land is also affected by river-bank cutting, sedimentation and inappropriate use of agro-chemicals such as chemical fertilisers and pesticides. All these reasons explain the accelerated decline in unit area agricultural production and this is where one would hope to see the foreign aid being effective. But what is the reality like? How does aid in

agriculture relate with the GDP from this sector? A simple regression analysis, taking the data from 1988 to 2004, shows that its performance is not at all impressive, with R^2 of a meagre 0.0059 (Figure 4.1).

Figure 4.1: Real GDP from Agriculture (1988-2004)



It may also be a point of interest here to compare the inflow of ODA into Nepal with that of its neighbours in South Asia. Among the five bigger countries of the SAARC region, Nepal is the only country where ODA as a percentage of GNI has been consistently high since 1980 (See Table 4.4). This reflects its high level of dependency in comparison to its immediate neighbours.

Table 4.4: ODA in South Asia

(% of GNI)

Country	1980	1990	1997	2001	2006
Bangladesh	9.9	6.9	2.3	2.1	1.9
India	1.3	0.4	0.4	0.4	0.2
Nepal	8.3	11.8	8.3	6.7	6.3
Pakistan	5.1	2.7	1.0	3.4	1.7
Sri Lanka	9.8	9.2	2.3	2.1	3.0

Source: OECD (2008)

Table 4.5: Foreign Aid Disbursements by Sectors

(Million Rs.)

Year	Irrigation & Forestry	Agriculture	Transport, Power & Communication	Industry & Commerce	Social Services	Others
1975	33.7	91.4	230.7	62.3	86	1.5
1976	48	50.7	290.4	91.8	73.8	2.4
1977	71.8	76.2	499.5	68.9	130.4	1.6
1978	144.2	83.3	559.8	30.6	168.5	3.1
1979	166	54.6	908.8	76.6	124	10.5
1980	182.7	139.9	1000	69.7	146.4	23.5
1981	272.6	181.7	775.6	143.9	335.9	13.5
1982	363.9	235.3	648.8	211.2	612.4	4.2
1983	442.3	315.3	859.1	494.9	432.4	3.5
1984	587.7	465.4	969.7	191.8	435.3	26.6
1985	672.6	626.2	1321.2	275.7	586.4	9.5
1986	689.3	348.3	1473.7	183.4	585.4	34.3
1987	673	553.3	2794.6	445.7	522.3	89.6
1988	937.3	529.5	3120.1	191.1	845	43.9
1989	953.5	536.2	2679.1	656.6	1555.8	45.9
1990	643.6	609.6	2575.6	1390.9	1575.8	61.9
1991	1548.6	396.8	2485.1	2174.3	1191.6	4
1992	1202.9	724.5	3939.6	696.9	2667.6	4.1
1993	3454.2	2064.9	4169.4	389.9	1468.6	10.1
1994	2160	1302.4	4574.7	480.3	2680.1	51.7
1995	2302.3	1097.3	8052.7	15.9	2636.2	184.6
1996	2391.4	436.1	8504.5	23.4	3665	11.5
1997	1927.2	924.9	8989.6	198.1	4417.3	0
1998	2474	909.9	7892.2	404.7	4446.4	61.8
1999	2342.5	867.3	8159.3	298.5	5794	62.3
2000	2968.5	806.3	9235.1	19.9	5759.5	8.1
2001	2389.1	896.7	5,905.70	368.7	4,685.50	138.8
2002	1603.4	574.5	7,774.10	401.2	5,321.00	211.3
2003	1754.7	674.9	7,570.80	146.8	8,730.10	35.1
2004	1843.7	752	9,860.00	123.9	10,746.80	330.9
2005	1570.5	825.8	7,142.50	105.3	11,162.20	1,295.60
Total	38,815.20	18,151.20	124,962.00	104,32.9	83,587.70	2,785.40

Source: Ministry of Finance (2002-2006)

4.3. Brief Overview of Land Reform Efforts in Nepal

For centuries, Nepal has been under a feudal system with a small number of landlords holding most of the agricultural land. Its people have witnessed a variety of land ownership systems throughout the history. During the *Lichchhavi* period, there existed three kinds of land ownership systems, namely, the land owned by the royal family, the religious institutions and the ordinary citizens (CSRC, 2003).

While the royal families and the religious institutions gave some share of the produce but not the right to have land ownership to the cultivators, the ordinary citizens who owned land did enjoy full ownership. It was in this period that *Britti* system was established. This was a system in which the king 'granted' land title to the people who were dear and near to him to cultivate, but they did not have the ownership title. Later in the *Khas* kingdom, *Birta*, *Guthi*, *Jagir*, *Raikar* and *Sera* systems of land ownership came into practice. *Birta*, similar to the *Britti* system in the *Lichchhavi* era, was the land granted to the Brahmins, while *Guthi* was the land owned by religious institutions. *Jagir* was the land given to the government servants for their service, while *Raikar* was the land granted to commoners on the condition that they regularly pay taxes. The land owned by the palace was called *Sera*. Cultivators, other than the *Raikar* land owners, worked as *Halis* or *Gothalas*, or wage labourers and were excluded from any ownership rights (Regmi, 1976).

Land reform efforts began with the enactment of the Land and Cultivation Record Compilation Act in 1956 and continued with the Lands Act in 1957 when the government began to compile tenants' records. These acts facilitated some land reforms, but failed to improve the lot of the small farmers, which led to further efforts.

The Agricultural Reorganisation Act passed in 1963 and the Land Reform Act passed in 1964, emphasised security for tenant farmers and put a ceiling on landholdings. However, due to the presence of several loopholes in the acts, large landowners could continue to control most of the lands. As a result, not much was achieved in land redistribution. Even the 'Land Reform Programme' announced in 2001 which aimed to redistribute the excess land was not successful. In almost all of the above attempts of land reform, most of the tenants were not allowed to own the land they cultivated. The tenants, most of whom were illiterate, were deprived of the opportunity to pursue their rights. Consequently, thousands of such tenants had to live without any hopes of getting any share of the land they cultivated.

4.3.1 Land Tenure in Nepal

In this context, there have been many arguments for and against almost all the attempts of land reforms, but without any significant result to date. The state, which has utterly failed in solving this age-old problem, has given an impression that it wishes the issue to get resolved by some donors' interventions, namely the Land Bank policy put forward by the World Bank. But we shall see later in this chapter why even this policy is risky and may well fail, even if it gets fully implemented in Nepal.

One major challenge Nepal is currently facing is the presence of quite a substantial area of fallow land. It has been kept unused due to the poor availability of year round irrigation. Proper and full use of land has been restricted with just about 20 percent of total cultivated land having all year irrigation (Yadav, 2005). There is also an understandable uncertainty and fear among landlords that renting out land for sharecropping could give birth to another problem- that the sharecroppers may be encouraged to claim property as legal tenants. This state of

confusion is seen as one of the major hindrances for lack of investment in the land to improve it and thereby increase agricultural productivity.

Yet another serious issue regarding the state of land is the condition of fragmentation and subdivision of holdings which has had adverse effects on agricultural production. Yadav (2006) claims that, during 1961-2001, the number of land owners got more than doubled to 3.4 million and the average holding size declined to a mere 0.8 hectares, in the process turning Nepal into a nation of small and marginal farmers. He further argues that this situation of fragmentation has had negative effect on the agricultural growth and suggests Land Bank policy put forward by the World Bank as one of the possible solutions. This paper argues that although the Land Bank policy seems to have some positive implications, its neo-liberal market-oriented nature also can have some serious negative impacts, leaving the poor and landless tenants even more vulnerable. The issue of land rights and reform in Nepal is not just an issue of economic development. It is also about securing livelihoods and maintaining dignity of the poor and marginalised people. It is about the struggle for freedom from exploitation and slavery that has been going on in this country for hundreds of years. The stories in the third part of this book remind us of this ugliness so vividly (See chapters 9, 10, 11 and 12).

4.3.2 Foreign Aid and Land Reform in Nepal

Let us, at this point, look at what the latest figures say regarding disbursements of the foreign aid received by Nepal, particularly in Land Reforms in the recent years. According to the Development Cooperation Report published by the Ministry of Finance (2006), out of the total foreign aid received by Nepal in 2005, Economic Services sector received the largest share of the aid disbursements. It roughly amounted to Rs. 11,326 million constituting almost 43 percent of the total aid. Clearly,

economic development has become, at least in paper, the priority area for the donors as well as the policy makers in Nepal.

Table 4.6: Actual Aid Disbursements in the Sub-sectors of Economic Services

(Million Rs.)

Economic Services	2001	2002	2003	2004	2005
Agriculture & Cooperatives	1,380.7	1,194.7	1,014.3	546.2	686.5
Civil Aviation	655.2	362.2	80.1	0	
Commerce	232.4	122.1	59.0	17.2	34.3
Forestry & Soil Conservation	84.4	93.9	162.2	223.5	889.3
Hydropower & Alternative Energy	4,928.5	3,330.8	1,584.5	648.4	4,234.70
Industry	99.6	119.6	105.1	68.7	77.6
Information & Communications	0	332.0	57.1	272.8	494.5
Irrigation	2,398.7	2,106.3	1,478.4	784.4	174.3
Labour	51.9	84.7	146.1	192.0	139.9
Land Reform & Survey	0	0	0	0	0
Natural Resources Management	84.3	84.1	109.7	91.5	130.1
Roads & Transportation	1,876.4	2,644.7	1,721.5	1,356.3	1,385.30
Science & Technology	0	2.0	0.3	0	
Tourism	236.8	195.0	129.9	44.3	
Other Economic Programmes	1,718.8	1,331.9	3,201.0	6,105.4	3,079.20
Total	13,747.7	12,004.0	9,849.2	10350.7	11325.6

Source: Ministry of Finance (2006)

Table 4.6 takes a closer look at the details of the Economic Services, which also includes the sub-sector of Land Reforms and Survey. What is really surprising and at the same time disheartening, is that there has been hardly any investment from the donors' side in this sub-sector. This clearly reflects their lack of interest, and perhaps, know-how, in solving this acute and sensitive issue that has been weakening the state of Nepal day by day. Along with this, the plight and the numbers of the landless farmers continue to rise. Perhaps, realising the fact, the donors have for too long ignored the issue of land

reform. The Asian Development Bank has recently agreed to provide assistance of approximately \$350,000 to the Government of Nepal for the purpose of strengthening land administration services (ADB, 2007). But this too seems to be more pro-government than pro-public in nature, as it plays by the existing rules of the age-old feudal system of the government. ADB says it wants to support the long-term goals of the government, which itself is flawed and not realistic. In the process, there is a genuine danger that this project will only result in reinforcing the existing land administration that is highly landlord-biased.

One needs to quickly add, however, that the figures quoted in these tables underestimate the actual level of dependence of Nepal and the Nepalese people at large on foreign aid. A large number of development activities previously carried out from within the government's budget are now implemented through Non-Governmental Organisations (NGOs). There is no reliable account of the amount of foreign aid processed and used through this avenue, though, in 1999, one estimate showed the figure to be somewhere around Rs. 10 billion a year (Panday, 1999). The emergence of the non-governmental sector as a recipient of foreign aid has implications that go beyond the concern of public finance. This suggests that not only the government but also the civil society including various professionals, individually or collectively, are becoming increasingly dependent on ODA. These professionals include, to name a few, legislative and judicial branches of the state, social science practitioners, medical and engineering professionals, the media and even the activists of human rights movement, although their degree of dependence may vary. Should there be a sudden decline in the aid flow for some reason or other, this degree of exposure is very likely to dislodge not only the economy but also the larger society, given their precarious

positions they have put themselves in, knowingly or unknowingly.

There seem to be three key elements affecting the performance of the donor-designed-and-implemented projects typical of those in the least developed countries. First is the frequent lack of proven technology for achieving project goals. The donors may know how to build roads or how to organise and help manage elections. The latter was apparent in Nepal's case where most of the donors showed much enthusiasm in supporting Nepal's first ever election for a Constituent Assembly in April 2008. But far less is known, for example, about generating a demand for family planning services, helping small farmers expand their production, or improving the accountability of newly elected governments. Very little is known about how to effectively strengthen judiciaries, civil society organisations or the civil service. Yet much of what foreign aid tries to do at present is activities like these, involving institutional or behavioural change, which yield hardly any results.

Second, donors tend to know relatively little about the societies or institutions in which they are trying to bring about change. Most aid officials spend a few years in any one country. Few speak local languages and many spend their time in their offices rather than in the field where their projects are implemented. To help bring about behavioural and institutional change in foreign environments, it is imperative that the agents of change be deeply knowledgeable about that environment. This is seldom the case with the expatriate officials or consultants who typically manage aid interventions.

The third problem involves the domestic and bureaucratic politics within aid agencies themselves. All of them, even the multilateral ones, operate within a political environment that constrains and at times drives their allocative and policy decisions. Those decisions are thus frequently taken with less

reference to what works in a recipient country than to what is required by their own public, their legislature, or their bureaucracy. Ethnic and ideological factors, personal relationships, domestic political concerns, bureaucratic processes and the ever-present imperative to spend available funds within given time periods all influence decisions on who gets foreign aid, how much they get and how it is used. All this makes the flexible, locally informed interventions needed for the type of aid-funded activities extremely difficult.

The fact that the burden of foreign aid and its failure to produce significant results either in the overall development of the country or in poverty alleviation has become an established fact now. What one needs to do is try to analyse why this has happened. Simply blaming the corrupt politicians, bureaucrats and their lack of ethics is not enough. Understanding of the causes and implications of the chronic aid-dependency syndrome that has engulfed the minds of the Nepali people at all levels requires a deeper analysis (for more details, see Sharma 2007). Regarding the question whether foreign aid has been detrimental, we first look at regions like South Asia that have been receiving huge amounts of foreign aid (See Table 5) for a long time but whose growth is still far from satisfactory by international standards. One can safely say that in most cases such aid has been ineffective because of a massive but readily rectifiable mistake in its allocation.

Foreign aid is, and has been, effective in raising growth in 'good' environments and ineffective in 'poor' environments (WB, 1998). This result holds whether 'environment' is defined narrowly in terms of macroeconomic policy or more broadly in terms of a wide range of policies and institutions. What one could say, in general, is that foreign aid has been ineffective because too much of it has been concentrated in 'poor' environments. The government becomes so overwhelmed by foreign aided projects that the business of government becomes

dominated by the need to satisfy donors, replacing the need to satisfy citizens. Nepal clearly falls in this category.

4.3.3 The Evolution and Significance of the World Bank's Land Policy

Let us now turn the focus on the much hyped Land Bank policy put forward by the World Bank. The World Bank until recently was reluctant to get involved in the subject of unjust land distribution and the necessity to implement an integrated agrarian reform in a large number of developing countries. It was only due to some very strong criticisms of the Bank's neo-liberal policies of structural adjustment, regarding their disastrous effects on the living conditions of the majority of the rural population, that the World Bank announced a change in its policies in the nineties. With this change, it claimed that it prioritised the programmes targeted at fighting poverty. It was within this context that the Bank discovered the subject of redistributing land reform and started advocating its model of 'Market Assisted Land Reform' in several regions of the world. This initiative by the Bank, despite offering some opportunities, also includes some serious risks.

This model of 'Market Assisted Land Reform' fails to guarantee the realisation of an integrated and extended agrarian reform. Such a reform would have fulfilled the right of poor peasant farmers to have access to land and other productive resources enabling them to feed themselves in a dignity. Also, the way the World Bank is attempting to implement its model seems to be disregarding the important social forces present in each country that have fought for agrarian reform and obtained social progress.

The problem of high degree of land concentration in the hands of a few owners was considered by the Bank, until the 1970s, only as an obstacle to achieve increased growth and efficiency in

agriculture. The Bank's policies at that time concentrated mainly on increasing production by creating incentives to intensify use of the land. As a result of these policies, industrialisation and modernisation of agricultural activities took off and later came to be known as the 'Green Revolution' (Deininger and Binswanger, 1999).

It was in 1975 that the Bank recognised for the first time the problem of unjust land distribution in its document 'Land Reform Policies' (Deininger and Binswanger, 1999). This document, considering poverty and unemployment present in the rural sector, underlined the significance of guaranteeing access to land for the poorest families in order to increase social justice and economic efficiency. However, with the application of Structural Adjustment Programmes in the beginning of the 1980s, the new land policies were not implemented. Both the IMF and the World Bank put more efforts and energy on advocating reduction in state intervention in the economy to a minimum through policies of deregulation, liberalisation and privatisation. They were introduced as a means of achieving increased economic growth, particularly in the countries facing financial crisis. Because of such moves, together with making the subject of agrarian reform disappear from national and international development agendas, we have had to see devastating consequences for the small farmers and landless peasant families. Increases in income disparities and rural poverty, land concentration and destruction of the local family-based peasant economy are all results of these policies.

4.3.4 The Land Markets

Understandably, these controversial neo-liberal policies led to increasingly strong criticisms from all sides. As a result of this, the Bank, in the beginning of 1990s, announced the necessity to pay more attention to the programmes fighting poverty (Deininger and Binswanger, 1999). However, even this

reorientation of the Bank's policies has not questioned the 'First Generation' reform. On the contrary, the aim has been to even more vigorously apply the basic principles of deregulation, liberalisation and privatisation to the social and development fields.

Although the land policies the Bank is currently promoting form part of the Bank's main poverty eradication programmes, the state has been replaced by the market to play the most important part in reforms. This modification implies that the basic principle of traditional agrarian reform models, which argues in favour of land belonging to those who cultivate it, has been replaced by the principle of land belonging to those who can pay for it. It is the market now that governs the distribution of agricultural productive resources. Consequently, it can be implied that the Bank is more interested to create land markets than to implement an extensive and integrated agrarian reform.

4.3.5 The Market Assisted Land Reform

The cornerstones of the reform policies regarding the structure of landholding that are being implemented by the Bank are the protection of the property rights and the model of 'Market Assisted Land Reform'. The latter is supposed to achieve the objectives of economic and social justice more efficiently, and with less costs than traditional models. The assumption is, by letting the market mechanism of supply and demand operate as freely as possible, costs can be reduced. The idea here is rather simple: the peasants wanting to own land do not have to wait for the slow and costly expropriation processes. They can directly negotiate with the large landowners prepared to sell their land. That is where the Land Banks come in. Both the buyer and seller then turn to these Land Banks where the landowner will receive, at the ongoing market price, the money for his land while the peasants are able to acquire credit to purchase it.

In case of Nepal, this concept emerged in 2004 in the midst of armed conflict, when the Maoists controlled substantial areas of lands owned by Nepali policy makers, and the latter insisted that the Land Bank policy be implemented in Nepal. This approach is taken as positive, since it is perceived as encouraging the peasants to adopt initiatives aimed at developing profit making projects, from which they are able to repay their loans. This model of market oriented land reform limits the state's role to merely grant credits to landless peasants and to create an environment, through its economic and fiscal policies, such that the land markets flourish while the inflation stays curbed and land speculation prevented.

It is true that the implementation of this model could be beneficial for enterprises or peasant cooperatives that already own a certain amount of capital and experience of production. It could open up some positive opportunities for them. Nevertheless, for the majority of the poor landless peasant population, the programme fails to guarantee access to land and other productive resources that would enable them to feed themselves with dignity. This can be further explained by the following arguments. To begin with, these programmes, which are aimed at helping people buy land, are only accessible and appealing to the peasants who already have some start up capital and production capacity. The much needier but less qualified families are, essentially, excluded from these programmes. Also, given the very low literacy rate of most of the peasants, those chosen as beneficiaries usually have difficulties in understanding the precise credit conditions they have to fulfil. If one takes into account the rarely satisfactory quality of the land able to be sold, there exists a growing risk that the highly indebted persons will ultimately have to leave the land.

Furthermore, the ever rising price of land gets further increased because of the state credit supply. This situation can be really damaging in countries where there exists a land shortage as can

be seen in the case of the Philippines (FIAN, 2000). Hence, the supposed cost reduction will turn out to be merely an illusion, since if the land price increases, the state and the so called beneficiaries will be unable to pay for the agrarian reform process.

This model is also in itself contradictory, apart from having costs and debt problems. Indeed the engine behind the reform is not the invisible market mechanism but rather the state working behind the stage. Interventions from the state could come in different forms such as by selecting the beneficiaries, providing credits, fixing land prices as a last resort when the market fails to function and by conducting negotiations between peasants and land owners. In a feudalistic social context, the approach, adopted to redistribute land with the assistance of the market, is in itself limiting.

The problem of unfair land distribution can not be explained by referring to the peasants' lack of land purchasing power. That would be not only ignoring the core problem but also showing disrespect to the peasants' basic human rights. It would be highly unrealistic to imagine that the market mechanism could be used to realise an agrarian reform through voluntary negotiation without causing any conflicts.

One major problem lies in the fact that the market model is gradually substituting the existing agrarian reform programmes throughout the world. While the agrarian reform institutes are disappearing due to their lack of resources, the Land Banks or funds are experiencing ever increasing budgets. Also noteworthy is the fact that the market model offers landholders the opportunity to sell land which otherwise would have undergone expropriation. This ignores the basic social function of property, which justifies expropriation and land property ceilings.

4.3.6 The Protection of Property Rights

The programmes that are meant to strengthen the protection of property rights are other salient features of the World Bank's land policies. For the Bank, the precise definition of property rights is a key factor in the creation of land markets, and is fundamental for economic development and sustainable growth. In order to secure long-term land tenancy rights and promote lasting investment, well-defined and protected property rights are imperative. Moreover, since land is an ideal guarantee for any loan due to its immobility and virtual indestructibility, these rights facilitate access to credit.

However, despite these positive features, the handing over of land titles remains ambivalent. The legal security of the peasants regarding their land does not guarantee an automatic protection against its loss. Contrarily, should there arise a situation of indebtedness, the oblivious asset to be confiscated by creditors at first would be the land! One other aspect of the handing over of land titles which could be problematic is the possibility of erosion of solidarity amongst peasant communities.

Usually, rules and regulations are set in such a way that the passing of titles is carried out under the condition that agrarian cooperatives divide up their land. This might offer a motivating incentive to the members of the cooperative to invest more on their own land, but it can also lead to smallholdings being unable to compete in the land markets. Poor peasants might also be tempted to sell their land to the big investors who offer large amounts of money, and in the end be just left with a handful of cash notes.

It is worth mentioning here briefly about the sector policies and further measures which go hand in hand with the structural reform of landholding- for instance, credits, consultancy, training and commercialisation- all of which are marked by the beginning of privatisation and deregulation. Only those who can

afford to pay will be able to benefit from the access to productive resources. Examples of negative impacts of such neo-liberal agrarian policies on family-orientated agriculture have been recorded, as in the case of Brazil where the number of small peasants forced to leave their land far much exceeded the number of families who received land (FIAN, 2000).

To sum up, it can be said that the market-based land reform model does not guarantee the access to land and other productive resources of poor and landless peasant families, and does little to enable them to feed themselves and to produce. While some of the above discussed instruments linked to the market do indeed carry some positive aspects, their impact on the poor and landless rural population is at best limited and controversial. It looks especially difficult to be successful in the context of Nepal where the existing rules on land reform are highly pro-landlords and the financial system is very weak.

The land-sale market envisioned by the World Bank will be achievable only if it is integrated into a broader effort at developing the rural factor market implemented in a decentralised manner. This, in turn, requires a coherent legal and institutional framework, which Nepal is yet to achieve at this stage. To leave the fate of the suppressed farmers in the hands of the market economy, which, in case of Nepal, is extremely unstable and guided mostly by donors' interests, will be unfortunate and very risky. Instead of strengthening the land system of the country, it has the potential of further escalating the conflict between the rich landlords and poor peasants. Perhaps, sensing this danger, most of the farmers have already rejected this programme and have opposed it vehemently (CSRC, 2006).

4.4 Conclusions

Land reform has not been in the priority list of the donor communities in Nepal- who often cite reasons such as traditional, societal and hierarchical complexities for not doing enough. Most of the bigger donors justify their limitations by saying that their mandate is to work only with the government and usually focus on improving the existing database system. In the process, they end up reinforcing the highly landlord-biased land administration. Issue of land has, until recently, never got the attention it needed, nor will it get any unless appropriate pressure is applied, because of the vested interests of the rich landowners. Until and unless the state comes up with some genuine measures to protect their rights, poverty and destitution in Nepal will continue to remain rampant and agricultural sector will not be able to develop. Farming can not prosper in a situation where the land is controlled by the absentee landlords who have little time for and interest in farming.

As can be apparent by the World Bank's initiative at resolving the issue of land reform, donors' approach of looking at this problem only from the angle of economic development is not sufficient. Land reform should not be limited just to handing over of land from one tenure group to another. It is also about the existing power structure and socio-economic relations and the need to change them, thereby ensuring a better livelihood for the thousands of poor peasants. In addition, and perhaps even more seriously, there is the issue of freedom and release from discrimination and exploitation that has been going on for hundreds of years.

The state of Nepal and its people cannot be strong and prosperous until and unless its poorest peasants do not have to worry about losing their livelihoods, income, security, and above all, dignity. The donors too have to review their list of priorities and come up with some genuine pro-people agenda.

Otherwise, they will also inevitably be blamed for not doing enough to the needy people of Nepal and limiting themselves to serve their own agendas. New Nepal can not prosper without a genuine land reform programme that makes the tens of thousands of poor peasants stronger and secure; and the donor community will only further damage its image if it chooses to remain only a bystander to this problem.

References

1. ADB. (2007). *Nepal: Strengthening Land Administration Services*. ADB Technical Assistance Report, Project No. 40544. Kathmandu: Asian Development Bank.
2. CSRC. (2006). *Nepalma Bhumi Adhikar Aandolan: Upalabdhitha Sikaiko Sangalo 2006*. Kathmandu: Community Self Reliance Centre.
3. CSRC. (2003). *Land Rights in Nepal: Present Reality and Strategies for Future*. Kathmandu: Community Self Reliance Center.
4. Deininger, K. & Binswanger, H. (1999). The Evolution of the World Bank's Land Policy: Principles, Experience and Future Challenges. *Oxford: World Bank Research Observer*, Oxford University Press. Vol. 14. No. 2. Pp. 247-276.
5. FIAN. (2000). *Global Campaign for Agrarian Reform: Fact Sheet*. Heidelberg: FIAN International.
6. Ministry of Finance. (2007). Budget Speech of the Fiscal Year 2007-08. Kathmandu: Ministry of Finance, Government of Nepal.
7. Ministry of Finance. (2006). Development Cooperation Report (2005). Kathmandu: Foreign Aid Cooperation Division, Ministry of Finance, Government of Nepal.
8. Ministry of Finance. (2002-2006). Economic Surveys. Kathmandu: Ministry of Finance, Government of Nepal.
9. NPC. (1995). Nepal Agricultural Perspective Plan, Main Report. Kathmandu: National Planning Commission, Government of Nepal.
10. OECD. (2008). Aid Statistics: Recipient Aid Charts. OECD Website (www.oecd.org/countrylist). (Accessed on July 25, 2008)
11. Panday, D.R. (1999). *Nepal's Failed Development: Reflections on the Mission and the Maladies*. Kathmandu: Nepal South Asia Centre.

12. Regmi, M.C. (1976). *Land Ownership in Nepal*. Berkeley: University of California Press.
13. Sharma, S.R. (2007). Role of Foreign Aid in Transformation. Paper presented at the National Conference on Transformation, Inclusion and National Integration, June, 2007. Kathmandu.
14. Sharma, S.R. (2002). The Role of ODA and FDI in the Development of Nepal, *Fukuoka University Journal*, Vol. 32, No. 2, Fukuoka: Fukuoka University Press.
15. Sigdel, B. (2004). Foreign Aid in Nepal. Dahal, M.K.(Ed). (2004). *Nepalese Economy: Towards Building a Strong Economic Nation State*. Pp. 509-522. Kathmandu: Central Department of Economics. Tribhuvan University.
16. The World Bank. (1998). Assessing Aid: What works, What Doesn't, and Why. *World Bank Policy Research Report*. Washington DC: The World Bank.
17. The World Bank. (1995-2008). *World Development Reports 1995-2008*. New York: The World Bank.
18. Yadav, R.P. (2006). Where is the Land to Distribute? www.madhesi.wordpress.com. (Accessed on October 15, 2007).
19. Yadav, R.P. (2005). Land Tenure Situation in Nepal. *Policy Outlook Series No. 7*. Kathmandu: Winrock International.

Chapter 5

Purna Nepali and Kailash Nath Pyakuryal

Land and Power Relations

5.1 The Context

This chapter attempts to analyse Nepali agrarian structure using Marxian concept of class struggle (conflict) and social structure. It also illustrates the characteristics of existing production relations, exploitation and discrimination in relation to the historical feudal legacies.

Land is a means to redefine social relation and social changes because it possesses economic (material), symbolic and emotional values (Regmi, 1999a). In an agrarian society, access to land resource is crucial for enhancing the social status and improving living conditions of people. To a great extent, power relations are governed by landholding patterns (Khanal *et. al.*, 2006). Although there is no established direct relationship between land use pattern and outbreak of conflict, it still seems to be a major cause of conflict (<http://www.oecd.org>). Differential distribution of land creates varied socio-economic structures and relations in an agrarian society like Nepal. As a result, efforts of development interventions are deviated and they rarely reach the target groups of people as intended. There are always questions of equity, social justice and efficiency of development efforts.

Land also determines power structure of state governance at the macro level. There are various forms of feudal land tenures such

as, *Birta*, *Jagir*, and *Rakam* land. These tenure practices have created various systems such as *Haliya*, *Kamaiya*, *Haruwa*, and *Charuwa* as well as *Balighare*, *Khalo* and *Khan Pratha*. These feudal structures have provided considerable power to the land owning elites at the micro level. Land owning elites are becoming richer at the cost of labour of the peasantry. Land distribution is the basis of continuation of feudal institutions, exploitation, and injustice. That's why slogans like 'Land to the Tillers' have become central in every political transition. Land reform implies intervention in local power relations such as offering access to and control over land and productive resources, improving support services to small farmers, means of reduction of economic and political power of land owning class. But these power relations are still unchanged in our context. Instead, power has endured at village levels. There have been mismatches in the implementation of land reforms due to the flaws in the macro-micro functionaries. Nevertheless, only 1.5 percent of agricultural land was redistributed during land reform in 1964 as the landowners evaded land ceilings by concealing their land holdings (CBS, 2002; The World Bank, 2006).

Blaikie *et. al.* (2000) emphasise that crisis in Nepal is associated with the continuation of the traditional form of production relation (class relation). It is accompanied with the failure of new social classes in productive forces to develop and provide the necessary expansion of economic base to the rapidly growing population. These failures include growing food shortages, underemployment of the agrarian economy, extension rather than intensification of cultivation and the virtual absence of employment opportunities outside agriculture. Associated with these elements are major spatial and social inequalities in terms of access both to resources for production and to facilities for consumption. For the vast majority of peasants and workers in Nepal, the crisis, reflecting

the structural underdevelopment of economy, is persistent and chronic with rampant poverty.

In fact, deprivation and poverty are the products of a complex structure. It involves relationship of deprived households with others in more privileged and powerful positions within a wider political economy. The struggle of the deprived is not only against national circumstances, but also against social constraints. Their struggle is usually concerned with the following:

- Immediate search for food and security by invoking patron-client relationship along with their contradictions in order to secure the most elementary condition for existence;
- Secure private ownership of the means of production (i.e. achieving the status of an independent peasant), almost invariably against great odds in which they are rarely successful; and
- Seek to move beyond the relations implied by caste and patron-client bonds and to confront (either consciously or unconsciously) the ideology of individual liberty linked to private property as the only image of a good and just society (ibid).

Rizal and Yokota (2006) mention that a key factor triggering the peasant war of the 20th century was from subsistence desperation and the perception of revolutionaries that they had nothing more to lose and nowhere else to go. For example; in China, Mexico, and Vietnam, subsistence crises and struggle for land right by peasant cultivators followed years of deprivation, marginalisation and abuse of peasants by dominant political interests. The case of South Asia reflects that agricultural modernisation and agriculture development leads to the concentration of income in fewer hands. Recent research conducted by Denninger and Squire, cited in Rizal and Yokota

(2006) was based on samples from 108 countries in this issue. This has led to the conclusion that 'an unequal income distribution is a strong determinant of future growth of violence. Unequal distribution of property or assets tends to reduce long-range growth and generate violence.'

5.2 Theoretical Debates

Basically, there are two schools of power theory, namely:

- i) Conflictual power (Dahl, 1961; Bachrah, 1962; Baratz, 1962; Lukes, 1974, cited in Csazar, 2005) and
- ii) Consensual power (Parson, 1963, cited in Csazar, 2005).

The former school views power as something inherently negative and noxious. It opines like; power inhibits, it makes a person do what he would not have done otherwise, or to act against his interest. This also presents power as a zero sum game. The theorists or proponents in this category are Robert Dahl, Peter Bachrah and Merton Baratz and Steven Lukes. Their ideas built on one another and created what is called three dimensional power debates. These three dimensions are:

- Power as decision making;
- Power as agenda setting; and
- Power in terms of interests.

The latter school states that power is not necessarily linked with conflict and it does not have to be a zero sum game. Instead, power is the capacity to achieve outcomes whether it is achieved by force or it benefits only certain sector of a society. Citing Talcott Parson, Csazar (2005) mentions that power is created and legitimised by society. He further mentions that power pervades in middle ground between conflictual and consensual schools theorists and power is constituted by both conflict and consensus.

Among various theorists, Karl Marx has explained the society in structuralist term (Turner, 2002). He has described how patterns of inequalities are reproduced themselves, how inequality in power and wealth is sustained and how social relations are structured to sustain these inequalities. This metaphor of social reproduction has been picked up by many structuralist theorists who like to view social structure as 'reproduced' by repetitive social encounters among individuals (ibid). Further, for Marx, social structure involves the distribution of resources among actors. These actors use their respective resources in social encounters and, in the process, reproduce social structure and its attendant's distribution of resources. Thus, social structure involves symbolic, material and political resources that actors have in their encounters. As they employ these resources to their advantage, they reproduce the structure of social relations because they sustain their respective share of resources (ibid).

Marxists believe that political power is in the hand of the ruling class for the protection and enhancement of its own economic interests. The basic assumption behind this belief derives from the fact that the mode of production determines political super structure of a society. The structural Marxist approach focuses on study of structure which supports the exercise of power in a society. It maintains that power is not just an aspect of the relationship between individuals but is built into the structures and practices. These, indeed, influence a social formation at the deepest level. In this approach, power is treated as the effect of a particular set of structure in spheres of social relation. It is maintained at super structural level in the form of class relations and ideological consciousness (Joseph, 2004).

Marxism views power as associated with structural constraints and social relations in a society. In fact, the central purpose of Marxist theory can be defined as that of providing concepts. The nature of power and the relationship between different dimensions of power can be examined with the help of this. The

concepts of mode of production, social formation and base and superstructures, among others, have been used for the purpose.

The structural approach to the study of power attempts to give systemic explanation for a way in which a system may serve the interests of the economically dominant class. It puts forward the notions of 'structural constraints' and 'the logic of system'. With this, it argues that broad impacts of the functioning of a system would always be serving the interests of the economically dominant class. It attempts to show how different structures contribute to the maintenance of a system and thus to the perpetuation of the division of power established by the system.

Another approach to the study of power is the decision making approach. It is designed to answer questions regarding the distribution of power in a society. It is based on the premise that power holder in a society could be located after the study of important decisions. By working back from decisions to the participants in making them, the location of the power holders could be identified. Gradually, an understanding of overall distribution of power in a society could be achieved. Here, power is seen as a characteristic of individuals: a characteristic which is exhibited in a social interaction. In the study of decision making, the role of power as a means of measuring the relative power of individuals in society can be felt.

This decision making approach is criticised by the structuralists on the ground that power should not be studied merely at the level of self conscious action of individuals. Power is the result of total system of constraints existing in a society. These constraints determine the nature of the decisions which a society makes and also influences their outcomes. To the structuralists, the 'game' is always fixed to some extent. Participation in decision making by itself can not be taken as an indication of the distribution of power in a society.

The structuralist approach uses the terms 'structural constraints' and the 'logic of system' as the means for explaining why a system served the interests of dominant class. It tries to go beyond the study of individuals and defined roles. It tries to show how the intentions of people and actions are influenced by the factors outside their control and attempts to provide concepts that could be used to analyse system constraints.

Multiple approaches are needed to understand land and power relations. The concept of power can not be encapsulated in one theoretical frame. It reflects its complexity, relational phenomenon and the structural phenomenon. Being dynamic in nature in terms of time and context, power also signifies the changing patterns of the agrarian relation in a society.

5.3 Agrarian Structure and Marxist Framework

In the Marxian framework, political economy is based on the assumption that human activity is predominantly social and material. It further opines that the production includes human interaction with nature and a whole range of relations arising in the process. Political economy deals with the analysis of structural constraints of agricultural growth, production forces, as well as production relation along with class structure. If one considers the structural matrix of agrarian relation, unequal pattern of land ownership, considerable degree of absentee landlords, deficient tenancy system and the highly exploited agricultural labour, one would find that the agrarian structure is generally oppressive in nature and operation (Verma and Verma, 1993).

Agrarian structure of production relation has been explained in three tier systems:

- i) Landlord and capitalist farmers;
- ii) Middle class and peasant farmers including tenant cultivators; and
- iii) Agricultural labourers.

This classification is further divided into six categories:

- Landless agricultural labourers;
- Poor peasants;
- Middle class peasants;
- Rich peasants;
- Rural rich class (rich farmers, capitalist farmers and traditional landlords); and
- Feudal landlords (ibid).

Production relations have been used in Marxian economics most frequently to refer to the general structure of the whole ensemble of forces and relation of production including method of extracting surplus product from labour. The capitalist mode of production given by Marx is as follows:

Labour power is sold not with a view to satisfying by its service or by its product, the personal needs of buyer. His aim is augmentation of his capital, the production of commodities, containing more labour that he pays for, containing therefore a portion of value that cost him nothing and nevertheless realised when commodity are sold. Production of surplus value is the absolute law of this mode of production (Verma and Verma, 1993: 14).

Marx's concept of mode of production implies three elements:

- Purchase of labour power;
- Surplus value; and
- Reinvestment of surplus value to augment capital.

As explained by Verma and Verma (1993), according to Marx, a capitalist farmer is one who makes his own capital breed by employing wage labours. The pre-requisite for the capitalist mode of production (agricultural) is a condition where a capitalist exploits labour by drawing surplus value. However, a mere mechanical copy of Marx's definition for measuring degree of capitalist farmer may not give a real picture. Marxist theory of

the development of capitalist mode of production applies to agriculture just as it does to industry.

As pointed by Vladimir I and Lenin (cited in Verma and Verma, 1993), "There cannot be any doubt that, in agriculture, the process of development of capitalism is immeasurably more complex and assumes in comparably more diverse forms." Actually, the growth of commodity production and development of wage labourers in agriculture take place differently from industries. Hence, the application of Marx's theory here may seem incorrect.

According to Lenin, growth of the employment of wage labour is the principal manifestation of agricultural capitalism source. It was only on the basis of this criterion that he measured the degree of capitalism development in Russian agriculture which was later declared as an over estimation by himself. This is because, employment of hired labourers (or any one element of agrarian capitalism mentioned above) is noted as a sufficient condition to cause capitalism trend. In fact, employment of hired labour does not necessarily result in production of surplus value and need not always lead to the augmentation of capital.

One school of thought developed by Indian scholars such as Amit Bhaduri, Pradhan H. Prasad, Nirmal Chandra and Ranjit Sau has characterised agrarian economy as more semi-feudal than capitalistic. This notion is put forward by illustrating cases of Bihar and West Bengal Agriculture. They cite the absence of a capitalist revolution in production technology and refer to the existing sharecropping system in agriculture of the regions (Verma and Verma, 1993).

Agrarian structure of South Asia is often characterised by a two-tier form of distribution. It includes a small number of large landholders and a vast majority of small landowners, tenants and settlers in the remaining land, often of inferior quality. One of the approaches to economic development chosen in South Asia

in the past has been through land reform. This process is the result of economic measures and structural constraints. It can not be changed overnight and does have economic, social and environmental costs. The agrarian reform as an initiator of a profound process of change in the structure of landed property is a complex question. Alteration in patrimonial wealth itself causes strong reactions of the land owning class. So the agrarian reform not only affects the value and the distribution of patrimonial wealth, but also strikes at the power relationship in many countries of South Asia (Rizal and Yokota, 2006).

Rizal and Yokota (2006) further state that there is a wide difference in agrarian structure in South Asia. It is characterised by a traditional pattern with feudal or semi-feudal characters, with land held by absentee land owners and now by corporations. It is being increasingly exposed to forces of market and modernisation. Tenancy, sub-tenancy, sharecropping, wage system, bonded labourer and family labour systems are the results of inequitable distribution of land. They are the by-products of manifestations of grossly unequal distribution of resources with most land in the hand of the dominant elites. Peasants seeking livelihood rights, principally through the land reform, have faced oppression as they have attempted to challenge dominant power relations.

Thapa (2000) states that Nepali agrarian structure consists of various classes, roughly classified as privileged and non-privileged. The concept of class has been used as economic condition or unity of communal economic interests. It is the relationship among classes of persons involved in agriculture and social groups that occupy certain positions in society in relation to land control and its use. Agrarian relation tends to denote a relationship between all involved parties in agriculture in general and landlords and tenants in particular. In this type of economic relationship, a party's interest is always in a particular

piece of land. The sharing of rights and claim to the produce of soil is the core of the relationship.

Skewed and inequitable distribution of land has resulted in the creation of various agrarian classes enjoying different forms of power and agrarian social relations. They are described under the terms like patron-client, super-subordinate, relation of antagonism and mutualism or one characterised by the relationships of domination, exploitation, and discrimination (ibid). This mechanism is regulated or maintained through the use of economic, social and coercive power (Thompson and Hickey, 1994). Peasant communities, especially those from excluded and disadvantaged groups, are facing greater hardship for their subsistence livelihood. On the contrary, land elites and landlords are enjoying and becoming richer at the cost of landless labourers. Upreti (2004) notes that the dominant form of power relation in rural Nepal still continues to be patron-client or superior-subordinate oriented.

5.4 Jamindari System

During 1855, Terai was under dense forest and infested with malaria. This was not hospitable for a hill farmer. However, the *Birta*-owners who got forest land under *Birta* from the state started to clear the forests for selling timber and developing farm land. That was possible by bringing Indians from the neighbouring districts, who were encouraged to settle in Terai. The community rights of the local inhabitants, especially of Tharus, were infringed without any consideration of their interests. These local people were used under *Jhara* (*Corvee* labour) to clear the forest. The imprint of these historical practices of tenure is still seen in modern day Nepal because the state's reform programmes are not properly implemented (Zaman, 1973). In fact, the access to land has been determined by historical pattern of land distribution. In such a pattern, mainly the powerful groups gained access to land and

importance of land reform was realised only after the downfall of Rana regime in 1950.

The revenue collectors from *Birta, Rakam, Jagir* and government owned land were called *Jamindars*. They were generally empowered to deal with all aspects of land administration as well as rent collection. Even if they were acting as intermediaries for an overlord, their power was extensive and they were often wealthy land owners in their own rights. Nowadays, the title *Jamindar* is applied to any large land owner in Nepal (Robertson and Mishra, 1997).

Jamindars had extensive power over the peasants cultivating their land. They were able to set whatever level of rents they wished. The villagers living on their land had the status of serf. The landlords could demand unpaid labour and other services from them. That's why land reform was conceptualised to remove exploitative intermediaries (*Jamindars*) and to give greater sentry to those who were actively engaged in working lands.

The Rana Government introduced *Jamindari* system in Terai and Chitwan. That was supposed not only to make tax collection more efficient, but also to establish elites in the peripheral zone. Rich in capital and loyal to the state, these people would provide a boost to the central government in collecting taxes. The *Jamindar* was allowed to retain a certain percentage of taxes in compensation for his work of tax collection. Further, he had a claim to a land called *Jirayat* which was tended by others free of charge. All able persons were required to offer their services to him and to his assistant during sowing and harvesting period. Work on one's own field could not begin until work for the *Jamindar* had been completed. So this *Corvee (Begari)* is termed as *Jharahi Saghari* or 'to stop work' by the *Tharus*. It was further customary to tend only one part of a *Jirayat* region by means of *Begari* and to let out the other part to *Jhosiyar* or tenants. But

they are not offered any de facto legal protection on the land. *Begari* had to be performed not merely for the *Jamindars*. The other village functionaries also had claims upon the free labour of villagers. Particularly upon *Harai Bethi* (plough and handle), one person per household had to work one day in a year for a *Chautariya* and *Mahato* as well. Moreover, the construction works, maintenance of path and digging out of irrigation canals were carried out by the inhabitants of the entire *Parganna*. The unpaid labour discharged in the course of a year by the local population over and above their taxes was thus considerable in amount (Müller-Böker, 1999).

In comparison to Terai, *Birta* land in Chitwan was not at all common. There were only 603 ha of so-called *Kus*² *Birta* land belonging to the chief priest from Kathmandu in the villages of Baghmara, Hardi, Nakatiya and Gothauli. For the purpose of collecting taxes and duties, and for enforcing law and order, the central government needed to maintain an administrative apparatus even in peripheral Chitwan. In the Rana regime, a *Chaudhary* was appointed from among the villagers to be the local embodiment of authority and head of *Parganna*, which encompassed 10-15 villages. Another official was the *Mahato*, responsible for 5-7 villages, who did support the *Chaudhary* in his activities. The *Mahato* in turn delegated the organisation of certain matters to the *Chautariya*, the village head. Because of autochthonous social hierarchy, the village authorities and those of middlemen status vis-a-vis the central government came overwhelmingly from the *Tharus* (Müller-Böker, 1999).

5.5 Different Agricultural Labourer Systems and Indebtedness

There are different systems of agricultural labour in Nepal. Some are simply in the form of wage labour and others amount to

² *Kus*- *Desmostachya Bipinnata*. This grass is looked upon as sacred and is used in many rituals (Müller-Böker, 1999).

slavery under international definition³. The agricultural labourers are known differently in different regions of Nepal. Some are called *Hali* (in western hills), *Haruwa* and *Charuwa* (in Terai or plain) and *Kamaiya* (in Western Terai). The following are cases of debt bonded labours.

5.5.1 *Haliya* System

Hali simply means 'one who ploughs', but it is understood to have a broader sense as an agricultural labourer who works on the land other than his own. *Haliya* is associated closely with a system of debt bondage in caste-based communities which is present in western hills.

Various literatures state that the *Haliya* system is customarily governed by the caste system (especially customs) and debts. Majority of landlords are from the Brahmin and Kshetri castes. They are not allowed to plough by custom. But most of the *Halis* are untouchables or are from Dalit castes, such as *Kami*, *Damai* and *Sarki*. The basis or underlying causes of becoming a *Hali* is the lack of possession of land. Being landless, they are forced to enter into the debt bondage and are trapped under agrarian power structure and poverty cycle. If *Haliyas* become ill, they are required to send a replacement. If no one is available, they are charged interest on the days they miss and do not receive daily ration of food.

Small or medium sized so-called high caste farmers are not supposed to demean themselves by engaging in ploughing. But they often can not afford to pay market rate for agricultural labourers. The dilemma is resolved by the use of debt bondage to secure unpaid labour from Dalit labourers. This arrangement

³ Although slavery in Nepal was officially banned in 1926, it still exists in the form of debt bondage or bonded labour. Debt bondage was banned by United Nations in 1956. According to United Nations Supplementary Conventions on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956), debt bondage is defined as: "... the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt; if the value of those service as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined."

is the product of rigid caste system governed by customs and debts. It can be illustrated by the following story:

Plight of Jhari Ram Lohar, Melaudi VDC, Baitadi

Jhari Ram Lohar has been working as a *Hali* for six years for a debt of Rs. 3,000. He has a wife, two sons and three daughters and has his own house and a small kitchen garden of less than 0.1 hectare. The landlord he works for as *Hali* is from higher caste. He has 2.5 hectares of farm land and also works in government service. Jhari Ram has been juggling debts all his adult life but eventually could not avoid working as a *Hali*. He now sees no way out of the system. He works just to pay the interest on the loan. When he needs more money he goes back to the landlord. The loan is increasing all the time. He does not know how he will ever pay it off. If he does not work, he has to pay 60 percent interest. The hardest months are May, June and July. Sometimes, he has to work from dawn till dark. He unravels;

I do all the works in the farm, such as ploughing, harvesting and the rest. I am busy for about eight months of the year, but I have to be around to do other jobs too like pottering and taking goods to the market (a day's walk to the nearest road). Usually, I get two meals a day and at harvest time I get a sack of grain (40-50 kg worth Rs. 200). I can not go for wage labour because the landlords would pick up a fuss and not allow me to go elsewhere to work. Usually, the landlord is good. He treats me with respect. It is the system that is very unfair. We are under pressure from all sides because of the loan and because of our castes.

Halis are bonded with landlords by debt. During off season in the agricultural calendar, the *Haliyas* are not needed in field. Then they migrate to other parts of the country, sometimes even outside the country, in search of work. However, they have to return to their landlords once the agricultural season starts or whenever landlord wants them to return. Seasonal migration is one of the livelihood options of *Halis* because landlords can not

provide them employment for the whole year. They migrate to India or large city centres for 4-6 months in a year.

Usually, the relationship between the *Hali* and landlord is not better than that between the Dalits and non-Dalits. Some landlords use offensive language to their *Haliyas*. Sometimes, they do commit violence too. Such an example is given below:

Khajendra Ram Lohar of Salena VDC has been working for eight years as a *Hali* for a debt of Rs. 3,000 (approximately US \$ 54). He is 32. Here he shares his experience like this;

It was during the time of rice planting. I was working for many days in mud and water. My legs and feet became so painful and swollen because of water that I could not go near water anymore. Then one evening my landlord ordered me to go and wash the oxen in the stream. I showed my legs and said I could not go near the water again because I was in pain. I refused to go and he beat me. Some other people stepped in and stopped him at the end.

Domestic Slavery in Eastern Terai: A Case Study

Some *Halis* do not own any land for houses at all. They instead sleep in the stable and under eaves of landlord's house. Typically they are required to perform domestic works as well as works in the field. In this situation, landlords virtually control every aspect of their lives including where they sleep and what they eat. As domestic servants, they are on duty 24 hours a day. In spite of heavy workload, they receive very low remunerations. It is illustrated by the following example of Ram Dev Paswan, Kailadi VDC, Saptari:

Ram Dev Paswan does not know his exact age but he is in his early twenties. He is from Chaunti village, in Kailadi VDC, Saptari district. Recently married, he does not have children yet. He and his father are *Halis* for 10 years. He is a servant of Raja Babu (named Rama Nand Prasad Singh) who owns a large estate of about 200 hectares. He mouths his pain like this;

I do agricultural as well as domestic chores. I go to the village to eat my food but the rest of the time I stay in the big house. The getting up time is 4 am every morning and I am busy in work until about mid-day. Then I go to eat. I have an hour or so for lunch, depending on what needs to be done. Then I come back to the house or carry out other duties in the fields. I can be working up to 8 p.m. looking after the irrigation pumps in the evening. Then I get another meal. I get 50 kg of rice (not husked) a month (worth Rs. 200) and two sets of old clothes each year. I do not get any other food. We sell some rice to buy pulses (lentil) and we glean some other vegetables from the fields. It's not enough to survive with it. My father took a loan a long time ago. Only for this, we are working like this. I had to take loans as well. I have borrowed two mounds (80 kg) of rice (worth Rs. 320) and Rs. 4,000 cash. I have to pay 20 kg of rice in interest each year and Rs. 400 interest on loan. The interest is taken out of my wage but usually I can not pay it and I have to keep working because of debt. This is no life living under someone else. If I get sick I have to pay for the days I miss but people with proper jobs do not have to do that, do they? They get sick leaves. How will I ever pay this debt off? I will always have it. My children will have it too.

5.5.2 Kamaiya System

Kamaiya system has many similarities with the system of *Haliya*. However, it is necessary to consider the *Kamaiya* system separately for the three important reasons (Robertson and Mishra, 1997): (i) It is sprung from quite different origins, coming originally from the indigenous culture of the Tharu people of western Terai and consequently has its own terminology and variations; (ii) This system is directly addressed by the Government of Nepal and NGOs and there is consequently much better information available; and (iii) It is the only system which allows for the virtual buying and selling of bonded labourers by their landlords in a form of veiled slave trade.

Most of the studies done so far have concentrated on five districts in western Nepal: Kanchanpur, Kailali, Bardiya, Banke

and Dang. However, this system is also known to be existed in Surkhet, Nawalparasi, Rupandehi and Kapilvastu districts. This system is characterised by bonded labours and serfdom. *Kamaiyas* are usually paid in kind and bonded by debt. They are also obliged to stay on the land all year round. A verbal contract is traditionally made with the landlord during the festival of *Maghi* in mid-January each year.

Control over *Kamaiya* is maintained by keeping them in perpetual cycle of debt. The debt increases to pay for medicines, additional food and any other necessities. Often the landlords inflate the debt still further and charge the *Kamaiyas* for any day's work which they miss due to illness. Any damage to a piece of equipment or domestic animal for which *Kamaiya* is responsible is added to his debt, often without his knowledge. A *Kamaiya* who tries to pay off his debt can expect to be presented with a long list of expenses so that, in fact, it is extremely difficult to pay off the debt. In this way, the owner of debt becomes the owner of human being as well.

Story of Mani Ram Chaudhari:

Mani Ram Chaudhary is 25 years old. He was originally sold by his cousin after his father's death. He explains;

I have been working here for two years now but I started working as a *Kamaiya* 11 years ago. Originally, I came from Dhangadi, Kailali district. My father owned land in Dhangadi but I was young when he died. My cousin transferred all the land into his name and he threw me out. My cousin sold me as a *Kamaiya* for Rs. 500. The loan starts from there. I did get food and old clothes and 2 quintals of grain in a year. I had to work very hard. I was never free like before. Then I moved on to another landlord. He was a lawyer. My cousin came and took a loan from him in my name without telling me. I only found out when my cousin died that I had a debt of Rs. 7,000. Now the debt is Rs. 14,000.

5.5.3 Haruwa and Charuwa System

The system of hiring people for ploughing under certain terms and conditions for a fixed period is called *Haruwa* system. Similarly, the system of hiring people for grazing livestock under certain terms and conditions for fixed periods is called *Charuwa* system. Their issues are very much similar to the systems of *Haliya* and *Kamiaya*. It is practiced in western and eastern districts of Nepal. Their major issues are social injustices, wage discrimination, debt bondage and physical and mental harassments by their landlords or masters.

There are two ways of keeping *Charuwas*, namely, mass *Charuwa* and personal *Charuwa*. In the former one, a *Charuwa* works for several owners, while in latter a *Charuwa* is usually a teenage boy working for a single owner.

The system of keeping *Haruwas* starts from debt with annual contract. They derive remunerations in two ways:

- i) The annual income ranges from Rs. 7,000-8,000. Their daily wage is very nominal for their subsistence livelihoods.
- ii) They are provided 1,693-3,386 square meters of land for cultivation out of 33,866 - 101,589 square meters of landlords' land (ibid).

A Case of Ram Khelawan Sada, Hanuman Nagar-6, Siraha:

He is a Haruwa of Ram Chandra Chaudhary. He and his wife do all the household chores of his master. Getting place nowhere else, they do sleep in their landlord's cowshed. They have to wake up early in the morning. If unable to do as asked, they have to face a great insult. Due to their over burdened work, they want to quit this job. But they have no options. They have been provided 4,063 square meters of land for cultivation. The production they derive from this is not sufficient for them.

5.6 Land Reform and Power Relation

Land reform can be viewed as an intervention in local power relations. It attempts to offer greater access to, and control over, land and productive resources as well as improved support services to small farmers, rural workers, women and other marginalised agrarian social groups. This means a reduction of economic and political power for the landed classes, rich merchants, elites and agribusiness interests. Simultaneously, the process permits increased participation of rural poor in decision making (Ghimire, 2001).

Small farmers, tenants, sharecroppers, and landless workers are among the social groups most vulnerable to hunger and poverty. They usually have inadequate access to land and other productive resources. An ILO report (Ghimire, 2001) suggests that wage labourers, for example, are the poorest sections of the rural population, and in many countries their real wages have fallen despite rising agricultural productivity and trade. At the same time, much of cultivated fertile land is held by a small number of powerful landowners. Thus, the social impetus for land reform is the possibility with improved social justice and equity. This may help reduce rural conflict and violence. Further, access to land with tenure security is an essential human right. With access to land, the rural people have possibility of access to shelter, food, employment and an improved livelihood. The guarantee of a reliable tenure security also implies a minimum respect for human dignity. This would be the case, for example, with many indigenous people or other population groups previously dispossessed of their land, such as the black communities in Zimbabwe and South Africa and indigenous ethnic groups and the Dalits in Nepal.

The same report mentions that even where land reform policies were implemented, human rights violations were rampant. Peasants tend to be both powerful and vulnerable groups in

society. In their struggle to obtain and secure access to land resources, they face numerous incidences of human rights violation in the form of adverse policies, harassment by landowners, random imprisonment and unfair trials in courts lacking an independent judiciary. Furthermore, they face threats to remain silent upon the repeated acts of coercion as well as the fear to be expelled from their land holdings. Many other serious violations go unnoticed in the eyes of the human rights group such as the Amnesty International, as the violations are sporadic and under-documented. Indeed, peasants' land rights have remained relatively neglected in international human rights discourse and legislations.

Land reform is made based on conflicting policies and priorities concerning macroeconomics. It is done with a bias upon development and by neglecting agriculture. There is absence of political will and legal framework for pursuing reforms honestly. Sartaj Aziz, a former Pakistani Minister of Finance says, "These days there is no fiscal space for actually implementing pro-agriculture and pro-poor policies" (Rizal and Yokota, 2006). It is a fact that majority of arable land is in the hands of privileged few, while the majority of peasants own no plot of land on which to sow their crop. This has created a situation of conflict and violence (ibid).

Legal and policy measures have not been successful to ensure the rights of tenants and security of peasants. Rather, land itself has been a constant source of potential conflict and symbol of feudalism. The economically and socially stratified society, skewed land distribution and ambiguous roles of bureaucracy are the reasons behind this. These kinds of legally regulated land reform measures are heavily manipulated by the crave of power of elite class upon the bureaucratic and judiciary mechanism. However, the landless people are organising and struggling against inequality and injustice. And the conflict has occurred

between the landlord and the landless as well as the state and the poor (Upreti, 2004).

Success and failure of land reform depends upon a few determinants. They are: Landed Interests (LI), Bureaucratic Inertia (BI) and Peoples' Participation (PP) (Quizon, 2005). In simple terms, Landed Interest means resistance developed by landlords against land reform. Bureaucratic Inertia is a force by bureaucratic personnel against the interest of land reform. Similarly, Peoples' Participation is the active involvement of peasants and their organisations, civic society and other required stakeholders. As indicated in the formula below, if PP can overcome negative forces of LI and BI, there will be higher degree of success of land reform or agrarian reform and vice-versa (ibid).

$$(AR) = \frac{LT + SS}{LI + BI} \times PP$$

Where,

AR= Agrarian Reform

LT= Land Tenure

SS= Support Services

LI= Landed Interest

BI= Bureaucratic Inertia

PP= People's Participation

The former *Jamindars* and *Birta* owners were well-equipped to protect their land from the implementation of ceilings. They knew how to evade confiscation by registering land in the name of other family members or even servants. If they themselves did not occupy powerful positions within the administration, they frequently retained family contacts with the people who did. The result was that only about 1 percent of the original 600,000 hectares of land targeted for redistribution was actually

distributed (Robertson and Mishra, 1997). Following were some of the reasons:

- The landlords resisted the introduction of new tenancy rights seeing them as a further threat to their property.
- Nearly half of potential number of eligible rural workers was not identified by the authorities.
- Eligible farmers were put off registering their tenancy right with authorities as a result of persuasion and intimidation by landlords.
- Families with large areas of land remained in control and retained the traditional powers of patronage.
- Landlords, with their knowledge of the legal process and their influence, were able to evict the claimants from land.
- Landlords had developed very sophisticated systems of disguising the size of the land they held from official investigation.

5.7 Caste, Dependency and Bonded Labourers

Caste-based discrimination is one of the major reasons for the Dalits to remain poor. Dalits are prevented from doing other forms of work. They are not given any other options but to work in their traditional menial roles. They are underrepresented and are unable to assert their rights. This makes them highly vulnerable and they become bonded labourers. The majority of Dalits are forced to remain silent in the face of discrimination even if they perceive it as unjust.

It is the caste system which locks different groups into this structure. It creates cycle of dependency and disempowerment for lower caste members which keeps them away from asserting their basic rights and freedoms. In this respect, the illegal caste system still prevails and remains stronger than laws. The culture of exploitation is determined in crucial ways by the dominant caste and class.

In *Social Power and Everyday Class Relations*, Chakravarti (2001) illustrates how the dominant caste and class governs social relations in perpetuating exploitation. The book highlights the case of North Bihar. This shows that the members of lower class, who are subject to exploitation by the dominant class, are underweighed in terms of caste to a significant extent. It is because their main constituents are drawn from a relatively narrow range of caste comprising *Markande*, Dalits and *Santhals*. Similarly, this book also states that people belonging to an underclass are subjected to arbitrary power of *Maliks*. The livelihoods of Dalits and the tribal groups such as the *Markande* and the *Tatma* livelihood have been limited to agricultural labourers or sharecropping. They are worse off today than they were before the emergence of the new class relation. This is because real wages have declined over the years. Further, Dalit women (*Pallars* by caste) occupy the focal stage with the exploitation of the caste as a whole in class terms by the dominant holders.

The case is not much different in the Nepali society.

5.8 Conclusions

Because of the possession of material (economic), symbolic and emotional value, land is not only a productive or an economic asset but also a source of power and prestige. In sum, it is a broader indicator of socio-economic status in an agrarian society. Thus, land determines the agrarian structure of Nepali society. Due to the differential distribution of land, various economic classes operate or exist in our society. These landholding patterns have led to the feudal set of production relation. Various feudal legacies have continued and all these still exist in various forms of slavery, exploitations and discriminations. They are *Haliya*, *Kamaiya*, *Haruwa* and *Charuwa* systems. As a result, a large group of landless people are bound to face systematic and structural violence in different

forms, such as social injustice, physical and mental harassments, wage discriminations, etc. Hence, a pro-poor intervention in land ownership is needed to change the existing power relations.

References

1. Badal Commission Report. (1996). *Badal Uchchastariya Bhumisudhar Sujhab Ayog* 1994 Kathmandu: P.B. Publisher.
2. Blaikie, P.M.; Cameron, J. and Seddon, D. (2000). *The Struggle for Basic Needs in Nepal*. New Delhi: Adroit Publisher.
3. CBS. (2002). Population Census 2001. National Report. Kathmandu: His Majesty's Government of Nepal.
4. Chakravarti, A. (2001). *Social Power and Everyday Class Relations: Agrarian Transformation in North Bihar*. New Delhi: Sage Publications.
5. Csazar, F. (2005). Understanding the Concept of Power. Alsop, R. (Ed.). *Power, Rights and Poverty: Concepts and Connections*. Kathmandu: The World Bank.
6. CSRC. (2007). *Hidden Issues and Voices of Haruwa and Charuwa*. Kathmandu: Community Self Reliance Center.
7. Ghimire, K.B. (2001). *Land Reform and Peasant Livelihoods*. London: ITDG Publishing.
8. Joseph, S. (2004). *Political Theory and Power*. New Delhi: Foundation Books.
9. Khanal, D.R.; Ranjkarnikar, P.R.; Acharya, K.P. and Upreti, D.R. (2006). *Understanding Reforms in Nepal: Political Economy and Institutional Perspectives*. Kathmandu: Institute for Policy Research and Development (IPRAD).
10. Müller-Böker, U. (1999). *The Chitwan Tharus in Southern Nepal: An Ethnoecological Approach*. Kathmandu: Nepal Research Centre Publications.
11. Quizon, A.B. (2005). Asian NGO Perspectives on Agrarian Reform and Access to Land. ANGOC Policy Discussion Paper. Philippines: Asian NGO Coalition for Agrarian Reform and Rural Development.
12. Regmi, M.C. (1999a). *Landownership in Nepal*. Delhi: Adroit Publisher.
13. Regmi, M.C. (1999b). *Thatched Huts and Stucco Palaces: Peasants and Landlords in 19th Century Nepal*. Delhi: Adroit Publisher.

14. Rizal, D. and Yokota, Y. (2006). *Understanding Development, Conflict and Violence: The Cases of Bhutan, Nepal, North-East India and the Chittangong Hill Tracts of Bangladesh*. Delhi: Adroit Publishers
15. Robertson, A. and Mishra, S. (1997). *Bonded Labour in Nepal's Agricultural Economy*. Kathmandu: Anti-Slavery International and INSEC.
16. Sharma, K.P. (2004). *Land Reform: A Viable Programme for Poverty Reduction*. Readings on Governance and Development. Vol. 3. Pp.143-149.
17. Shreshtha, N.R. (1990). *Landlessness and Migration in Nepal*. Boulder: West View Press.
18. Thapa, S. (2000). *Historical Study of Agrarian Relation in Nepal 1846-1951*. Delhi: Adroit Publisher.
19. The World Bank. (2006). *Resilience amidst Conflict: An Assessment of Poverty in Nepal (1995-96) and (2003-04)*. Kathmandu: The World Bank.
20. Thompson, W.E. and Hickey, J.V. (1994). *An Introduction to Sociology: Society in Focus*. New York: Harpers Collins College Publishers.
21. Turner, J.H. (2002). *The Structure of Sociological Theory*. (5th Edition). Jaypur: Rawat Publications.
22. UNDP. (2004). *Nepal Human Development Report: Empowerment and Poverty Products*. Kathmandu: United Nation Development Report.
23. Upreti, B.R. (2004). Land Conflict in Nepal: Peasants' Struggle to Change Unequal Agrarian Social Relation. *Community, Work and Family*. Vol. 7, No. 3. Pp. 371-394.
24. Verma, B.N. and Verma, N. (1993). *Agrarian Tension and Conflict*. Vol. 2. Delhi: Ashish Publishing House.
25. Zaman, M.A. (1973). *Evaluation of Land Reform in Nepal*. Kathmandu: Ministry of Land Reform.

Chapter 6

✍ Bishnu Raj Upreti

Land and Social Conflict

6.1 The Context

Historical dimension of any country provides vivid lens to examine the relationship between power, land ownership and conflict (Wolf, 1969). Global experiences show that the mounting inquiry brought by the capitalist production relations in agriculture and its effects on agrarian structure provide fertile ground for emergence of conflict (Ali, 2000, Aliston *et. al.*, 2000; Andre and Platteau, 1998; Upreti, 2004a and b). The issue of ownership of land has remained at the centre of socio-political contention before the emergence of modern state. Once the state started its control over the land used traditionally by the indigenous communities, the conflict over this resource started.

According to Aliston *et. al.* (2000:171), land-related violent conflict is “personal injury or death and/or physical property damage in a land dispute.” However, it is too narrow an interpretation to cover the dynamics of land related conflicts. It is also not always easy to analyse land related violent conflict in isolation as it is immediately linked with other social and political issues and goes beyond mere land conflict. Hence, the understanding of land conflict requires holistic understanding of the context, its contents and the temporal aspects of a society and the international dynamics.

According to the OECD (2001:87), violent conflict appears in four stages or categories:

- (i) Situations of submerged tensions;
- (ii) Situations of rising tensions;
- (iii) Eruption phases of open confrontation and violent conflict;
- (iv) Fragile transitional and post-conflict situations.

This is a general categorisation and can be applied to any conflict. Hence, this categorisation can be used to examine relationship between land ownership and violent conflict. In every stage or category, power relation plays crucial role and therefore power is intricately linked with conflict.

Inequality is a logical product of skewed power relation of society, as unequal power distribution produces inequality. Jean-Louis Arcand and Nicolas Pons-Vignon (2003:6) have outlined the following four claims concerning the link between inequality and conflict:

- A linear relationship between the degree of inequality and the likelihood of conflict (Russett, 1964, Nafziger and Auvinen, 2002, Muller and Seligson, 1987). In other words, the more unequal a society, the higher the likelihood of the outbreak of conflict. Inequality is directly related with a power structure of a society. The cases of Nepal, India, Pakistan and many other developing countries in general and conflict-ridden countries in particular are evidences of this relation.
- A quadratic relationship, where the likelihood of conflict reaches a peak at an intermediate level of inequality. Some authors have found the curve to be U-shaped (Hirschman, 1981; Nafziger and Auvinen, 2002), indicating that there is some threshold level of inequality for which the likelihood of conflict is minimised.

- Rising inequality would be conducive to conflict until a 'peak' level is reached. Beyond this level, possibly because of stronger state repressive capacities, the rise in inequality is associated with declining risk of conflict.
- No firm patterns of relationship between inequality and conflict exists (Collier, 2000). As power dynamics frequently changes in a society, it is not possible to have a firm and stable pattern of such relationship between inequality and conflict.

Be it in the Philippines, Brazilian Amazon, Nepal, Guatemala or Ivory Cost, ample evidences have demonstrated that land can become one of the major sources of conflicts when extremely unequal agrarian relations prevailing in a society are not addressed by the state (Elbadawi and Sambanis, 2000; Ali, 2000, Aliston *et. al.*, 2000; Andre and Platteau, 1998; Upreti, 2004b; Dininger, 2003; Platteau, 1996). The link between land issues and violent conflict is mainly related with the land policies and social structure and relations of a particular nation shaped by national and local power relations. When land policies, institutional arrangements and legal provisions are built to address the structural causes of the unequal and skewed distribution of land resources, it could prevent, halt or reduce violent conflict. However, it is not easy, as land issues are directly linked with prestige, social status, power and economic incentives (Ghimire, 1992; Panday, 1999; Fitzpatrick, 2002). Chapter 5 in this book has demonstrated the complex relationship between land and power relations.

Conflict often occurs over land, when two or more parties possess competing claims over its control and use and no agreement can be reached between the parties to determine which claim has precedence (Upreti, 2001; 2004a). At the structural level, often such claims are originated from the differential power sources, reflected in the unequal power

relations and dominated by influential people of various power centres. Ownership and control are therefore, the central issues in land conflict. In this regard, at the operational level, conflict over land resources is often linked with the absence of efficient and accepted institutional and administrative arrangements to regulate the ownership, control and use of land.

Land policies, institutional arrangements and legal provisions alone do not necessarily resolve conflict and sustain peace in societies that are going through transition or are war-torn. Land issues should be one of the core subjects of political negotiation in war-torn and armed conflict ridden countries. The cases of East Timor, Afghanistan and even Nepal show that dealing with land issues in peace agreements is one of the best ways of addressing land-related disputes and contributing to peace. It has been observed in different war-torn countries that when donors impose conditionality in their support for the post conflict development and reconstruction, the outcome in terms of resolving land conflict and sustaining peace is often problematic; as land is the most complex power issue.

This chapter discusses the relationship between the state and the land, and also examines the concepts of property and land ownership. It further discusses the impacts of exclusion and class issues associated with land, and analyses the social structure and power relation in the contexts of social transformation and agrarian change in Nepal.

6.2 State, Power and Land Resource

A state is a self governing political entity with internationally recognised territories, which has its citizens and operates independently in terms of international relations, economic organisation and social engineering. Hence, any state exercises its power over its citizens and the citizens run the state through

their representatives. Hence, the state acquires the rights to deal with the welfare concerns of its citizens.

Power is a form of constraint or enabler of human actions. Italian political philosopher Niccolò Machiavelli (1469-1527) and French philosopher Michel Foucault (1926-1984) were the pioneers of power debate. They view power as a complex strategic situation in a given social setting. Later, Anthony Giddens also contributed significantly to the power discourse, especially on the enabling concept of power (Tarnow, 2000; Dowding, 1996; French and Raven, 1959). Power often contains two elements, i.e. physical power (which involves coercion-force or threat of force) and political power. Hence, power may be simplistically defined as unilateral real or perceived ability or potential to bring about change in a society through actions and counter-actions (Clastres, 1974).

Power manifests in a relation structure and has to be compared with another actor or group of actors. It is not possible to refer that one particular social actor is more powerful without comparing or specifying another actor or group of actors in a given social setting. Hence, it is reflected in a certain relationship such as subordination and super-ordination, strong and weak or influential and less influential. One of the characteristics of power is its operational reciprocity i.e. to control action and behaviour of one actor, another actor has to have exercised measures of control, influence or force. Power operates both in relational and reciprocal levels, which is called balance of power in the sociological term and power exercise in political term. Often in the sociological perspective, power is also seen as a unilateral strength (Tarnow, 2000; Dowding, 1996).

In the structuralist social theory, power is interpreted as a process embedded in a social structure. In a society, power could be gained through delegated authority by certain democratic

process (e.g. by election); obtained through personal charisma or ascribed charisma (e.g., acting on perceived or assumed abilities without proven evidences); or by expertise (e.g. ability, skills, knowledge), or by persuasion (direct or indirect), or by use of money and resources (monetary influence, control of ownership), or by use of force (violence, military might, coercions), or by religious influence, etc. J. K. Galbraith⁴ has grouped power (Clastres, 1974; Tarnow, 2000; Dowding, 1996; French and Raven, 1959) as:

- Based on force,
- Compensatory (by the use of various resources),
- Conditioned (as a result of persuasion),
- Individual personality influence,
- Use of property, and
- Organisational power.

Social power is the ability of an actor to change the incentive structures of other actors, in order to bring about outcomes. Hence, according to the social power perspective, social interactions between various actors develop their ability to exert power over others (by a powerful actor to a weak actor). Following the Marxist tradition, the Italian sociologist Antonio Gramsci elaborated the role of cultural hegemony in ideology as a means of power. In the literature of feminism, power is linked with patriarchy, as often power concentrates on masculinity. Feminists use terms like 'power-over' (influence on other people) and 'power-to' (ability to perform). In the feminist perspective, power is a product of constructed societal norms related to gender, race, sex, class and other forms of social division (Dowding, 1996; French and Raven, 1959).

Michel Foucault argues that power is reflected everywhere in human activity. Foucault's analysis of power is based on the

⁴ J. K. Galbraith explains in detail about the power relation in his work '*An Anatomy of Power*'.

notion of technologies of power, i.e. it is a complex bundle of power technologies developed overtime. In his perspective, power is actions and counter actions among the members of a society. He very much focuses on the knowledge as power. Foucault feels that belief systems are a form of power, as many people have particular views linked with the belief system; which he calls common knowledge or hegemony. Particular belief systems define authority and thus give power (Tarnow, 2000; French and Raven, 1959).

Inappropriate and irrational use of power often polarises society and divides it into groups. Those relatively homogeneous in terms of wealth, social status, positions and authorities and recognitions, cluster into one block with similar socio-political interest and often work to maintain these interests. Whereas those who are financially weak, socially marginalised and politically excluded form bigger clusters of left-outs but are weak in pursuing their collective interests and forming interest-based alliances, mainly because of lack of knowledge, resource and information. Such a polarisation provides fertile ground for emergence and escalation of conflict (Clastres, 1974; French and Raven, 1959). Armed conflict in Nepal can be seen in this same framework.

Inequality between various social groups is one of the major causes of conflict. As discussed above, land is often a source of inequality in feudal and traditional societies. Relationship between inequality and conflict is based on the relative privileges and frustrations of competing groups within society. This has been observed in the seventeenth and eighteenth centuries in Europe and in the nineteenth and twentieth centuries in Asia and Africa. The armed conflict in Nepal is also the manifestation of century old inequalities.

It is also frequently reported that donor's aid policy for developing countries is also one of the prime causes of conflict.

Their aids are often directed to maintain status quo, strengthen existing power relation and dictate to certain vested interests (Bigombe *et. al.*, 2000). For example, Structural Adjustment Programme of World Bank had increased tensions between different economic groups (e.g. rich and poor) and led conflict in a fragile situation in Rwanda (Story, 1999), Sierra Leone and Liberia (Weeks and Cramer, 1999). Interference by donors (particularly by the former colonial power on the redistribution of land to poor black people in Zimbabwe) in 1980s had given rise to serious conflict related to land reform in the 1980s (HRW, 2002). The conditions set in the funds provided to the Zimbabwean government for the purchase of land made the task of land distribution almost impossible because the full market price had to be paid for the purchase of land to the willing sellers. This condition was favourable only for redistribution of poor quality land in higher prices. The land distribution was shaped by vested interests of white land owners of British origin and multinational companies engaged in the Rhodesian plantation sector (HRW, *ibid*). In Pakistan, the World Bank initiated land tax. The rigid market-based approach to potential land reform (e.g., land bank as component of land reform) advocated by the international financial agencies create more problems. Various conditions posed by international financial institutions have created enormous land related problems and social tensions in different parts of the world. For example, abolition of subsidy on non-profitable food depots, which were mainly operating in the remote areas, was a condition attached by the Asian Development Bank to provide the loan assistance for Agricultural Perspective Plan. It not only created starvation in the remote areas but also implanted serious tension there and contributed to the escalation of armed conflict in Nepal. European and North American countries are providing subsidies to their farmers but imposing condition on their assistance to developing countries to remove similar subsidies in agriculture.

Such a double standard of developed countries is also becoming a source of conflict in developing countries.

There are several cases of land being the major source of bloody conflict and regional instability. The origin and expansion of the Mindanao conflict of South Philippine and the case of Palestine and Israel conflicts are two of many glaring examples of land based tensions in the world.

In Nepal, land is one of the historical means of feudalism and source of revenue for the feudal state. Historically, land was considered as the property of the state [state landlordism] and this land was called '*Raika*r' (Regmi, 1976). Mahesh Chandra Regmi argues that there were mainly two types of land tenure system in Nepal, i.e., *Raika*r and *Kipa*t. All other tenured forms of land were derived from *Raika*r (Regmi, 1976; 1978). The meaning of *Raika*r land has changed since 1951, from crown-land, to land owned by individuals. *Raika*r land ownership denotes an ultimate state ownership over those lands, which were actually cultivated by individuals as direct tenants of the state.

The state had the right to alienate land through sale, mortgage or bequest. Using this right of alienation, the rulers granted cultivated or uncultivated state-owned lands to their loyalists in different forms such as *Jagir*, *Birta*, *Rakam*, *Sera* and *Rajya* and charitable or religious organisations in the form of *Guthi* (Regmi, 1963 and 1976). The granting of land to individuals and institutions was used deliberately not only for paying them for their services but also for ensuring their loyalty and promoting social and religious activities. Hence, the land tenure system that has historically existed in Nepal is still a prime source of inequality, social exclusion and power-biased social relations.

Historically, land was granted to a noble as a reward for a service rendered to the state. One form of the land grant was *Birta*. The land granted under the *Birta* arrangement had no

time limits and it could be rented out or, inherited until confiscated or recalled by the state. *Birta* owners usually had full rights to possess, occupy, sell, lease, subdivide and bequeath their lands. Most *Birta* lands were not taxable. It has become the foundation of the modern, private land-property arrangement and source of land-based exploitation in Nepal. Another form was *Jagir*. The *Jagir* land holding was more conditional and subtle and often granted to government servants rather than to members of the ruling elite. A *Jagir* assessment was usually an assignment of the income from *Raikar* lands in lieu of a salary and it could not be assigned or sold. *Jagir* rights lapsed together with the cease of employment, or at the discretion of the government. The *Birta* and *Jagir* forms were abolished in 1959, with the enacting of the *Birta* Abolition Act and were converted to *Raikar* land (New Era, 1988; 28-31). *Sera* was another form of land tenure system explicitly used by the royal palace to meet the food-grain and other land-related requirements. This land tenure system clearly indicates the total control of land resources by the palace which was used for their own interests. Similarly, *Rakam* was yet another form of land tenure where cultivators had to compulsorily provide unpaid labourers to the government as carpenters, masons and post men or post women. *Rajya* was a modified form of land tenure granted as the princely state award for members and relatives of the Royal families. This land-granting practice was common, up until the Rana regime. Rulers granted large portion of lands to soldiers as *Jagir* to keep them under their control. Rana rulers confined the land-grant practices to their relatives and key officials. In addition to all these form of land grant systems, there was another form called *Guthi*. It is an arrangement of an endowment made by philanthropist with religious or philanthropic motives. It is for the performance of any regular or ceremonial religious function or festival of any monastery or deity or even for construction, maintenance, or operation of temples, religious rest-houses, roadside shelters, wells, tanks, ponds, waterspouts and

arrangements for supply of drinking water, roads, bathing *Ghats*, bridges and shelters under tree, medicals, hospitals, dispensaries, libraries, schools and the likes. The Guthi land-tenure system also included the endowment of private lands (obtained from the state) by individual landlords for religious purposes. All these land grant systems, practised by the rulers, had strengthened centralised and hierarchical society and promoted exclusion and consequently social conflict.

Kipat was an ancient type of communal land tenure system, where particular ethnic groups were granted land by their king, in recognition of traditional communal tenure. The head of the state had the authority to grant individuals the right to cultivate certain areas and collect forest products from other areas (Regmi, 1978). In the *Kipat* arrangement, individual ethnic group derive *Kipat*-land rights, located in a particular area (Regmi, 1963). Regmi (1972:27) states that "... individuals who cultivated land in their capacity as a member of a Kipat-owing ethnic group owed allegiance primarily to the community, not to the state". Almost one third of agricultural and forest land of the nation was granted to private individuals by 1950, and the remaining belonged to the Ranas themselves (Regmi, 1978). Local functionaries, all favourites of the Ranas, implemented the land-grant policy in the villages and were able to assure most benefit for themselves. They obtained large portions of land from the state through *Jagir* and *Birta* grants and rented these lands to the peasant farmers under tenancy arrangements. In this way, local functionaries turned into landlords. Peasant farmers had to pay half of their crop yields as the rent to the local landlords (Upreti, 2004c).

As land grant system advanced, landlords introduced the *Kut* (contract) system to ensure their rent, where only those tenants who were able to pay high rents could get a contract. Irrespective of the performance of their crops, even if the crops failed, farmers had to pay the rent as *Kut*. Eventually, these

peasant farmers effectively turned into slave labourers of the *Jagir* and *Birta* holders (Regmi, 1978). This is an example of structural and deliberate way of creating unequal society and implanting social conflict.

If we look the history of indigenous communities, they often did not have the system of property ownership in the form of land as an individual private property. Land was their common property used according to their needs by their members. This traditional resource use system was disrupted once the land grants system was introduced by the ruling elites. Then, gradually a tension emerged between the indigenous communal land tenure system operated by the indigenous communities and the state-control land tenure system administered by the state. It later became the perennial source of social conflict (Upreti and Adhikari, 2006).

The evolution of land administration system shows that by initiating modern land control system, the state has created further tension in the society. When the indigenous community started to raise their concerns, the state began to resist. Territorial rights of the indigenous people over their ancestral land were not recognised for a long time. However, in the recent years, indigenous rights centred movement has taken momentum and international environment has become favourable. It was particularly since the ILO Convention 169, which exerted heavy pressure on the government to recognise indigenous land rights and their management systems. Nevertheless, policy confusion still exists in Nepal because of the conceptual confusion that has remained with the decision makers/rulers as a remnant of the centuries old feudal mindset.

Overtime, poor and the marginalised people are becoming landless and are lacking access to other resources that has placed them in the situation of deprivation trap (Upreti and Adhikari, 2006). Not only traditional land rights, but they also do not get a

decent means of livelihood. Furthermore, force of globalisation and privatisation has further marginalised them (Bhandari, 2003). The skewed domestic power structure and external influences (aid conditionality, interference, etc.), have greatly contributed to creating and strengthening deprivation trap.

6.3 Ownership and Access to Land and Conflict

Often, land ownership arrangements in many South Asian countries are unequal and they promote landlordism. In case of Nepal, landlordism has prevented economic development of the poor and the marginalised farmers because they are systematically excluded from the state benefit systems. Landlords exploit poor farmers by renting their lands, demanding unpaid labour and other various payments (*Koseli, Mukhyauli*, etc.), apart from getting agricultural rents from them. Ownership rights of most of the valuable lands are possessed by local elites as they are close to power centres. A study conducted in 2000 by the Socioeconomic and Ethno-Political Research and Training Consultancy (Pvt.) Limited for ICIMOD concludes that “Land policies in Nepal were, in general, found to have a negative impact on the majority of the population and to cause land degradation. It is a mutually reinforcing process in which degradation has aggravated poverty and poverty has further exacerbated degradation. Land ownership and tenure entitlements are unfavourable from both equity and efficiency perspectives” (ICIMOD, 2000).

Access of the poor people to land resource is a perennially unresolved issue in Nepal. Various high level commissions, task forces and working committees have been formed by the government in the past four decades to address this issue. But they ended up with no visible results. Government laws, policies and regulations are not able to ensure access of poor people to land and land-based resources. The existing power relations have heavy influence on exercising these policy and regulations

in favour of elites and the landlords. The poor and the marginalised groups are mostly concerned with:

- Access to and ownership of land and land-based productive resources,
- Equity in benefit sharing including the safeguard of customary rights on these resources,
- Meaningful participation in decision making, and
- Access to information and justice.

In Nepal, ownership of land resource connotes the possession of wealth, power, social prestige and security of livelihood of many people. However, low caste, people, particularly the Dalits within the caste system and ethnic groups are usually marginalised and land ownership is a major issue for them. For example, 80 percent of the population of indigenous group is 'marginal cultivators' (with less than 0.40 hectare) or small cultivators (having 0.40-0.80 hectare). Because of this low level of land ownership, they tend to experience enormous food insecurity. A large number of these people rely on wage labour with no land of their own for farming. Being landless, the vast majority of these groups of people has no access to resources related to land ownership. Only some 2.8 percent of the *Tharu*, 0.32 percent of the *Tamang*, 0.76 percent of the *Rai*, and 0.63 percent of the *Magar* communities, respectively, have self-operated land of more than 10 acres (UNDP, 2004:63).

A large proportion of people do not have access to non-farm employment opportunities as they lack land ownership, which is essential to secure funds for investment. Accordingly, they work as agricultural labourers or lease land holders for their livelihoods. Often *Kamaiya* (bonded labour), *Kamlari* (female domestic worker), *Kamara/Kamari* (Servants), *Gothala* (cowherds), *Khetala* (farmhand), *Haruwa* (ploughmen), *Charuwa* (herders) and *Bhariya* (porters) are facing this situation. Their access to land and other natural resources

provide basis for safe livelihood. However, access of the poor and the disadvantaged people to land resources depends upon coherent policy, favourable legislations, responsive institutions and effective translation of policy and legislations into practices (Upreti, 2004a, c and d). The same thing is badly lacking in Nepal.

Nepali indigenous people had special relationship with land resources and their identity was determined by such a basic relationship (Caplan, 1990). With the territorial unification of Nepal, indigenous people lost their traditional rights to land, land based resources and their territories. The traditionally communally owned land of these people, especially of the *Tamang, Danuwar, Sunuwar, Majhi, Chepang, Hayu, Sherpa, Kumal, Lepcha, Rai*, etc, was known as *Kipat*. It thus means the land communally owned and collectively used. The *Kipat* land was confiscated along with the unification of the country (particularly after Land Reform Act of 1964) which was distributed to other people (Caplan, 2000). Moreover, state resources like land was distributed to indigenous people because the political power was vested on other group.

The marginalised and poor people had been generally living at the periphery of power centre, but were charged high taxes (Regmi, 1972). Those who could not pay the taxes had to forsake the land. The indigenous people also fled their places because of this reason and new settlers occupied their ancient lands. These people had no concept of land measurement and in fact did not like the idea of measuring the land as they considered land as their 'mother'. But when the land was measured, they had to divide the communally owned lands on individual basis. Those who did not claim the communally owned lands as private property were deprived of the rights.

Historically, natural economy of the indigenous people also meant that they had no concept of the modern ownership of property, capital formation, transaction and the interest or profit in the investment (Upreti and Adhikari, 2006). Knowledge of the national language and basic literacy and mathematical skills were other problems faced by them. Lack of competent skills gave the opportunities to the elites, the recent immigrants and the people having access to power to exploit them. The study of Lionel Caplan on Hindu-indigenous relations in East Nepal in late 1960s shows the dynamics of how indigenous people were lost in this economic-political relationship (Caplan, 2000).

The caste and class based unequal social relations are strengthened by the process of Hinduisation or Sanskritisation (Gaige, 1975; Bista *et. al.* 1982). Though these terms have specific meanings, they generally explain the homogenisation of social, cultural, religious, economic and political diversities (Upreti and Adhikari, 2006). People were forced to accept or imitate the Hindu religion, one language (Nepali) and one culture of the ruling class as the survival strategy that seriously undermined the diversity. The Hinduisation or Sanskritisation has also distinctly polarised the ethnic groups themselves. Families from ethnic groups or some ethnic groups as a whole ascended to higher or respectable caste or class (Bista, 1991) that also created division among the ethnic groups. The National Hindu Code (*Muluki Ain*) in 1854 expedited the process of Hinduisation and degraded the status of indigenous people and converted them to *namasinya* (non-slaveable), *masinya* (Slaveable), and *Matwali* (alcohol drinker). This continued even after the overthrow of the exploitative Rana oligarchy in 1950. The constitution of 1962 declared Nepal as a Hindu state and Nepali as a national language. This emphasised on the homogenisation of language, dress and local practices and severely undermined the religious and linguistic diversities. The

uniformity imposed by the state has also ruined the traditional practices in resource management.

The establishment of various protected areas (national parks, conservation areas, hunting reserves and the likes) is generally on the private lands of the people. Because of this, a large number of people have been displaced from their lands. These people have also been deprived from their traditional rights to use these resources. The traditional skills and knowledge of people have also come under attack of large industries. A study of Upreti and Adhikari (2006) demonstrates that increased use of factory products such as umbrellas, modern hats and plastic baskets have replaced traditional products of indigenous communities like reed straw, bamboo hats, baskets and mats in different parts of Nepal.

Livelihood of poor and marginalised people is mainly based on the access to and ownership of land and land-based resources. Access of local people to food, water, fuel wood, fodder, timber, medicinal herbs, fruits, mushrooms, bamboo shoots and such other products ensure their livelihoods. But if their access in these resources is altered, they suffer from livelihood insecurity. The landless and poor people are constantly facing this problem in Nepal.

6.4 Property Rights and Land Conflict

Access to and control over land resource is greatly influenced by property relations. Property Rights (PR) is therefore a focal issue in land conflict. Property can be considered as the rights and obligations of individuals or groups to use the resource base (Ostrom, 1990). Property rights are complex because resource tenure often involves bundles of rights, including user's rights, rights to exclude others, rights to manage and the rights to sell (Schlager and Ostrom, 1992). Theoretically, people can acquire rights over land and land-based resources either by using their

historical association or by citing riparian rights or interpreting legislated laws in their favour (Upreti, 2001; Steins, 1999; Bromley, 1992).

Benda-Beckmann (1999:2) points out that;

Natural resource property rights serve to legitimate control over the means of production, whether production is for market or for subsistence. They can be an important material basis for the social continuity of groups. They usually have political functions for states and non-state social organisation, and tend to be a source of individual power and prestige. Natural resource property often also has considerable cultural religious meaning [...]. Given this political, economic and ideological importance, legal property regulations and rights therefore constitute crucial social resources in people's strategies, negotiations and struggle over natural resources.

Hence, it is important to analyse the context (e.g., the presence or absence of rules about the uses of land and land-based resources, market forces, political dimensions, power dynamics, alternatives to exploitation of common resources, ways of monitoring and controlling the behaviour of others) to understand the characteristics of conflicts in land resource.

To understand PR, it is essential to look at the social nature of property and property institutions. As McCay and Acheson (1987) explained, PR deals with sanctioned behavioural relationships between people that arise from the existence of things and pertain to their use. Property rights are closely embedded in the historical and social contexts, and their meaning can vary from community to community and culture to culture (Benda-Beckmann, 1999). To answer the question on how PR claims affect land-related conflicts, it is essential to explore its use-pattern and the relationship between power and access to land and land-based resources.

Land resource traditionally used for one particular purpose, (for example; religious forest or grazing) is now allocated to other purposes such as the construction of a particular project. Therefore the rights over land resource are also changing to meet these needs of people. Changes have occurred either by state induced forces, for example, by the acts related to forest, water, mines and minerals, protection areas and similar regulatory provisions, incentives given by the state, or by market forces, or by local practices. These changes are affecting the existing access patterns and ownership rights, and ultimately inducing conflict. A concrete example is the government-induced land measurement and registration programme, which gave rise to several conflicts in the community (Upreti, 2001).

Land resources are often interchangeably used with and commonly understood as common property resources⁵ and common property is often confused with open access (*res nullius*). This misnomer originated from the human ecologist Garrett Hardin's 'Tragedy of the Commons'⁶. The concept of 'Tragedy of the Commons' had heavily influenced the policy formulations during the 1970s and 1980s that prioritised private or state control over resources and led to contradictions and conflicts between resource users and the state (controllers). Hardin (1968) argues that the source of problems is common property, which poses an irreconcilable contradiction between individual and common interests. The notion 'common' created confusion because Hardin fails to distinguish between common property management and open access (Steins, 1999; McCay and Acheson 1987; Benda-Beckmann, 1999; Richards, 1997). Critics argue that Hardin's generalisation is too simplistic, because all

⁵ Common property resources may not necessarily be all natural resources and vice versa. But community members may treat many natural resources as common property resources because of their mode of appropriation and management.

⁶ The thesis 'The Tragedy of the Commons' (Hardin, 1968) emphasises that "When CPR are used by an increasing number of people, often for different purposes and agreement governing resource use are absent, collective use may lead to over exploitation, degradation and eventual ruin of the resource, which is attributed to the users' incentive to maximise their own utility" (Steins, 1999:3).

natural resources used by villagers do not have open access, but are used under a special arrangement. Common property is controlled and managed by groups of resource users, with correlated duties, rights, rules and obligations that help to collectively regulate individual use (Ostrom, 1990; Schlager and Ostrom, 1992). This occurs in a variety of cultural, institutional and ecological settings, and with different kinds of land and land-based resources. In most cases, these land and land-based resources have been defined by different interest groups in different ways, according to geographical, physical and cultural criteria (Steins, 1999) and this leads to unavoidable conflict. Before the emergence of contemporary nation states, people lived with the availability of plenty of land and land-based resources and therefore there was no competition and conflict on land. All decisions related to access, distribution, control and management were framed within cultural, social and institutional mechanisms. The legacy of such a specific interface between natural resources and people still exists. However, over time, governments and several other interest groups have directly intervened to regulate land and land-based resources. People who were using these local land and land-based resources want to continue these arrangements, but there are mounting economic pressures. All these contradictions lead to conflict.

In agrarian and traditional societies any where in the world, access to and control over land resource is not only determined by formal policies, legal instruments and state programme, but also conditioned by local power relations, historical social structures, customary laws, bundles of traditional property rights and value systems which Franz von Benda-Beckmann calls 'legal pluralism' (Benda-Beckmann, 1999). Hence, the concept of property rights embedded in legal pluralism better explains relationship among power, land rights, land ownership and conflict.

Land conflict is largely about access to, control over and profit from the land and land-based resources. Access and control are greatly influenced by power in the frame of PR. Hence, PR is therefore a central issue in land conflict. Property can be considered as the rights and obligations of individuals or groups to use the land resource base. Property rights are complex because resource tenure often involves bundles of rights, including users' rights, rights to exclude others, rights to manage and rights to sell (Schlager and Ostrom, 1992). Theoretically, people can acquire rights over natural resources either by using their historical association or by citing riparian rights or interpreting legislated laws in their favour (Bromley, 1992).

Social nature of property and property institutions that largely deal with sanctioned behavioural relationships between people and land resources in a specific social setting determines property rights and patterns of their ownership and use. It is therefore closely embedded in the historical social context and can vary from community to community (Benda-Beckmann, 1999).

6.5 Land as a Source of Power, Prestige and Identity

Several researchers (Grossman, 1991, Thapa, 2002; Upreti, 2006) found that rent seeking is one of the main sources of conflict. However, Collier (2000) and Collier and Hoeffler (2001; 2002) argue that rent-seeking does not spur rebellion; it is the very condition for its survival.

Land is the primary means of production for the livelihood of majority of people of agrarian societies. Historical examination reveals that most of the powerful, rich and successful people of today (in economy, education, politics and bureaucracy) are mostly from the background of landlords. Hence, historically, people acquiring more land are in higher social power structure and status. Large numbers of policies and plans are not able to

secure rights of marginalised communities as well as socially excluded and poor people.

For a long time, it was very difficult to obtain citizenship by those people who had no land ownership certificate. This provision has largely changed after the popular people's movement of 6-24 April, 2006. But it is impossible for a citizen to buy land without the citizenship certificate. Obtaining most of the state sponsored benefits requires this certificate. Such a vicious cycle is excluding poor ethnic groups from opportunities provided by the state, and is also threatening their identity in society. Hence, class issue is crucially important in studying land related issues.

Land-based exploitation is socialised as social prestige in traditional society in many parts of Nepal and India. Those who have several hectares of land rented to tenants, left uncultivated, or cultivated through *Haruwas* and *Charuwas* (See Chapter 10 for details) are socially recognised and respected. Marrying girls in a family with several *Haruwas* and *Charuwas* is still the preferred option in several parts of the country.

6.6 Land as a Perennial Source of Social Conflict

Different studies, assessments and experiences around the world have demonstrated that land is a perennial source for social, ethnic and political conflict. The work of Ali (2000) has documented the political economy of African conflict, where as Aliston and *et. al.* (2000) examined the relationship between land reform policy and violent conflict in Brazil and concluded that land reform policies are often the sources of violent conflict. Andre and Platteau (1998) have documented the population pressure over land resources and its relationship with the civil war in Rwanda.

Conflict over the distribution of land ownership is quite common feature of rural societies. Skewed land distribution and inequality is often the result of historical land appropriation. Brazilian state of Amazon (Pará) and Rwanda have demonstrated that conflict is the inevitable result of the combination of inequality in the distribution of land ownership, competing claims to land and underlying ethnic or social tensions. Land conflict in the Brazilian Amazon was because the landlords have title to their lands through statutory law, whereas squatters have the rights to land through expropriation (according to constitutional provision). Arcand and Chauvelt (2002) argue that, in a civil war situation, rent-seeking behaviour is a prevalent character that ultimately fuels conflict. The work of Bigombe *et. al.* (2000) on policies for building post-conflict peace in war-torn societies, analysis of Binswanger *et. al.* (1995) on relation of power, distortions, revolt and reform of land resources and study of Brockett (1992) on political violence in Central America demonstrate that land is one of the major sources of conflict.

Cramer and Weeks (2000) have examined the relationship between conflict and agriculture in developing countries. Similarly, Fitzpatrick (2002) examines land policy in post-conflict in East-Timor whereas Herbst (2000) shows the close relationship between economic incentives, natural resources and conflict in Africa. The documentation of HRW (2002) on Fast Track Land Reform in Zimbabwe, and increase of violent conflict between herders and farmers in Africa (Hussein *et. al.*, 1999) are other examples of land as a centre of concern in conflict contexts.

Jean-Louis Arcand and Nicolas Pons-Vignon (2003) have established that land is not only source of violence and conflict but also a means of resolving violent conflict and securing sustained peace. Skewed land distribution creates inequalities and inequalities fuel violence (Nafziger and Auvinen, 2002).

Unequal distribution of land also creates spatial disparities and ultimately contributes to the escalation of civil unrests (Murdoch and Sandler, 2002). Stewarf (2000) argues that, tackling horizontal inequalities is an effective way of preventing crisis. Work of Russett (1964) also concludes that politicising land tenure and consequent inequality contributes to insurgency. Some scholars such as Skaperdas (1992) and Theotocatos and Zetter (2003) have examined the situation of cooperation or conflict from the power-based property rights and role of property rights in peace building. Daniel Buckles (1999) has also demonstrated the relationship between natural resources and conflict. He also states that peace building is the potential of the natural resource. A study of Willy (2003) in Afghanistan shows that restoring tenure security and land rights is effective in managing crisis. Similarly, Zimmermann and Hubner-Schmid (2000) have extensively documented land tenure issues in Bosnia and Herzegovina.

In Nepal, land is a source for political manipulation and social exploitation. Numerous studies have demonstrated that land is a core of social, economic and political relations. Bhandari (2003); Bhattarai and Pokharel (2004); Caplan, (2000); Chapagain *et. al.* (1998); CSRC (2003, 2004 and 2005); Seddon and Adhikari (2005); Ghale and Upreti (1999); Ghimire (1992); Pokharel (2005), Pradhan *et. al.* (2000); Regmi (1963, 1976 and 1978) and Upreti (2000, 2001, 2002, 2003, 2004a, 2004b, 2004d); Yadav (2005), Chapagain (1999 and 2001), Mathew and Upreti (2005) and Upreti and Ghale (2002) have extensively analysed various dimensions of land issues and their relationship with social conflict and tensions including armed insurgency in Nepal.

Land reform has been a strong political slogan of all political forces since 1951 in Nepal. In 1961, King Mahendra started land reform as a means of legitimising his autocratic partyless

Panchayat political system. He had banned the multi-party political system and had required a popular programme to divert attention of people of Nepal and the international community. Further, land reform was a popular programme in many parts of world, especially in South East and East Asia. Hence, King Mahendra started this programme envisioning as a strong means to consolidate his power and gain popularity. Thereafter, almost all the political forces followed his strategy to gain popularity instead of using land reform as an important means of social transformation and economic development. None of the leftist, the rightist, or the centrist political forces took land reform as their agenda.

With the constant pressure from the civil society, a few progressive political leaders and the CPN (M) in 2001, the government⁷ decided to reduce land ceiling defined by the land act 1964. The reduction was 61 percent in Terai, 22 percent in the hills and 48 percent in Kathmandu. However, this revised provision was not implemented because of the severe resistance from within the influential leaders of the ruling and opposition parties, who were themselves landlords and blossomed from the land-based exploitation. The table 6.1 shows the revised land ceiling in 2001.

Some efforts, such as tokenism, made by the state, to provide the access of the poor and the marginalised people to land resources, have yet to demonstrate their relevance. One of the initiatives from the government was providing degraded land to the poor people through Leasehold Forestry Programme. However, such provisions are seriously criticised. The study of Mathew and Upreti (2005) has revealed that denying access and ownership of poor on land and land-based natural resources poses uncertainties, confusions, and conflicts as well as creates livelihood insecurities.

⁷ The Deuba government redefined the land ceiling through the 2001 budget speech.

Table 6.1: Provision of Land Ceiling Made by Land Act

S. N	Category of areas	Ceiling provision	Additional areas provided for housing	Revised ceiling by Deuba government in 2001
1	All hills/mountain areas	80 <i>Ropani</i> (4.07 ha)	16 <i>Ropani</i> (0.8 ha)	70 + 5 <i>Ropani</i> (3.75 ha)
2	Kathmandu Valley	50 <i>Ropani</i> (2.54 ha)	8 <i>Ropani</i> (0.4 ha)	25 + 5 <i>Ropani</i> (1.5 ha)
3	Terai and inner Terai	25 <i>Bighas</i> (16.93 ha)	3 <i>Bighas</i> (2.30 ha)	10 + 5 <i>Bigha</i> (7.43 ha)

Source: Badal Commission Report (1996)

Another most frequently referred initiative of the government is the formation of a high commission in 1995 to recommend the government on how to address the land reform programme. The Table 6.2 demonstrates the ceiling proposed by the Badal Commission:

Table 6.2: Ceiling Proposed by Badal Commission

S. N.	Area	Ceiling (ha)
1	Terai and Inner Terai	3 ha
2	Middle Hill Area	2 ha
3	Himalayan Area	4 ha
4	Kathmandu Valley	1 ha
5	Urban Area	
5.1	Municipal area of Kathmandu, Lalitpur and Bhaktapur	0.5 ha
5.2	Other municipalities, district headquarters and developing urban areas	1 ha

Source: Badal Commission Report (1996)

If these recommendations of the Badal Commission on land ceiling were translated into operation, they might have increased access of marginalised community to land resources. The Badal Commission had identified problems related to land and suggested very useful integrated measures for the overall land reform in Nepal. However, none of the governments operating since then took any initiative to implement the recommendations of this commission.

As discussed elsewhere in this book, land distribution and gross disparities in land ownership are one of the major sources of feeling of injustice and conflict (Upreti, 2002). Nepal Human Development Report 2004 shows that 5 percent rich people hold 37 percent of total arable land and 47 percent poor people hold only 15 percent (UNDP, 2004). Further, one million agricultural workers have no ownership of land, 450 thousands of tenants are not registered and consequently not able to claim the tenancy rights.

Similarly, 300 thousands *Halis* (who earn their livelihood by ploughing land of other people) are not getting land ownership. According to HDR 2004, 15 percent of hill and 44 percent of Terai Dalits are landless and they have no access to land, water and forest. They are dependent on landlords and rich people for their daily subsistence. These inequalities are manifested in conflict. Small holders are marginalised and rapidly transformed into landless people (Shrestha, 1997). Most of them are socially excluded and disadvantaged groups and Dalits.

From the discussion, it becomes clear that land is one of the most contested natural resources in Nepal. This has also been documented by the court cases of Nepal. Majority of disputes⁸ in the courts of Nepal are directly or indirectly related to land. Land related disputes in every courts of Nepal occupy more than 60 percent of the total (Bhattarai and Pokharel, 2004).

Commenting on the complications in obtaining justice from the courts on land conflicts, one lawyer of the District Court claimed that the provisions relating to appeals further worsened the matter. He further said;

Even in a small claim where the appeal court does not confirm the decision of the district court, the losing party

⁸ They are related to boundary conflict, claims over or partition of family property, gifts, lease, claim of tenancy rights, access to and use of common land and pastures, community forestry, right of succession, etc.

can file a second appeal to the Supreme Court⁹. The misery of the winning party does not end here. Even after she wins the case the enforcement again takes years due to frustratingly cumbersome procedures. These procedures are again full of legal loopholes, which often times give scope for supplementary disputes. In the absence of an initiative to create a less disputative legal order by suitable legal reforms by helping people to settle disputes through conciliations and mediations at the local level and also by smoothening the court procedures for effective and speedy dispute resolution, the land disputes in Nepal will continue to burden the people and the courts (Bhattarai and Pokharel, 2004: 64-65).

This quotation is self explanatory and it illustrates the level of complexity of land conflicts dealt by the court proceedings.

6.7 Conclusions

Land in Nepal is not only the means of livelihood for many people but also a stable source of power and prestige and consequently the basis of exploitation of poor and marginalised people. Exclusion and discrimination are some of the major constraints in achieving equitable land titles and access to natural resources for the poor and marginalised people. Even though marginalised communities and disadvantaged groups are protecting and promoting biodiversity, their contributions are rarely recognised in policy. The land titles are denied to some of the disadvantaged groups because of lack of their access to power centres. Consequently, they are excluded from various land based benefits provided by the state (e.g. agricultural loan, inputs, etc.).

For centuries, most of the policies and legislations of Nepal were not sensitive to social inequalities (based on the social structure of caste, ethnicity, clan and class) and derived from the patronage politics. Some of the policy and legislations were also

⁹ Nepal contains a three tiered court system, with the District Court at the bottom, Appellate Court to hear the first appeal and the Supreme Court as the highest court.

restricting the basic rights of indigenous peoples to have access to resources. Indeed, they have been using those resources since past many years to derive livelihoods and support traditional occupations. Most of these policies and regulations assumed communities as static and relatively homogenous entities to be regulated by central governing system. However, after the 2006 people's movement, the situation has significantly changed and the concerns of the Dalits, the marginalised and the excluded groups are getting heard.

There are two major problems in assuring benefits to the poor and the marginalised people from land and related natural resource. First, policies and legislations are not sensitive enough to the concerns of the poor and the marginalised people. Second, the existing policies and laws are not sincerely translated into practices. Rather, they are manipulated in interests of the elites and landlords. Further, lack of democratic and inclusive resource governance practices, weak institutional responses and mal-effects of rapid globalisation are posing enormous threats on natural resources (Upreti, 2003).

The disharmony and contradictions within and between land resources related laws and policies have great ramifications in Nepal. Along with this, they are causing negative consequences to the poor and the marginalised people. Tendency of maintaining supremacy of each law or policy related to particular natural resource (land or forest or water) and lack of integrated approach are adding other complications. Several contradictions have been observed in the absence of a coordinated approach at the central level among the concerned ministries (Water Resources, Agriculture and Cooperative, Land Reforms, Forest and Soil Conservation, etc.).

Tensions between peasants and large land owners on the issue of land ownership are often linked with historical context. If land distribution is focused on large-scale programme to socially

excluded groups as in Mozambique and Vietnam, land ownership issue can indeed be addressed.

If land is intended to be used as a means of conflict resolution and peace building, then land distribution system has to foster economic efficiency, environmental sustainability, long-term stability and equity as well as social justice. This system should ensure clear property rights. The political context and the people's movement of 2006 have provided great opportunity to address the century old land based inequalities, discriminations and manipulations. State restructuring and federalisation of the country could provide great opportunity if the political actors are committed. The measures discussed in Chapter 13 provide several ways of addressing land based problems in the changing context of Nepal.

References

1. Ali, A.G. (2000). 'The Economics of Conflict in Africa: An Overview' *Journal of African Economies*. Vol. 9.
2. Aliston, L.G, Libecap, G. and Muller, B. (2000). 'Land Reform Policies, the Sources of Violent Conflict and Implications for Deforestation in the Brazilian Amazon,' *Journal of Environmental Economics and Management*. Vol. 39.
3. Andre, C. and Platteau, J. P. (1998). Land Relations under Unendurable Stress: Rwanda caught in the Malthusian Trap. *Journal of Economic Behaviour and Organisation*, Vol. 34.
4. Arcand, J-L and Chauvelt, I. (2002), *'Foreign Aid, Rent-Seeking Behavior and Civil War.'* CERDI-CNRS, Université d'Auvergne.
5. Arcand, J-L. and Nicolas, P-V. (2003). Land and Violent Conflict: Exploring ways of Using Land Policy to Secure Sustained Peace. (Draft) prepared for the Informal Experts Meeting on "Land and Conflict: What Role for donors?" held in June 19-20, 2003 at the Paris: OECD, Paris, France).
6. Badal Commission Report (1996). *Badal Uchachastariya Bhumisudhar Sujhab Aayog 1994*. Kathmandu: P.B. Publisher.

7. Benda-Beckmann, F. (1999). Between Free Riders and Free Raiders: Property Rights and Soil Degradation in Context. Paper presented in International Workshop on 'Economic Policy Reforms and Sustainable Land Use in LDCs: Recent Advances in Quantitative Analyses.' June 30 to July 2, 1999. Wageningen: WUR.
8. Bhandari, S. (2003). Study on Farmers Rights in Nepal. Kathmandu: Action Aid Nepal.
9. Bhattarai, A.M and Pokharel M.R (2004). Property and Land Relations in Nepal: Tenants, Land Reform and Land-use Planning (A Draft Report). Kathmandu: Action Aid Nepal.
10. Bigombe, B.; Collier, P. and Sambanis, N. (2000). 'Policies for Building Post-conflict Peace.' *Journal of African Economies* Vol. 9. No. 3. Pp. 323-348.
11. Binswanger, H.; Deininger, K and Feder, G. (1995). 'Power, Distortions, Revolt and Reform in Agricultural Land Relations.' In Behrman, J. and T. Srinivasan, (Eds.). *Handbook of Development Economics*. Vol.3. (Amsterdam; New York and Oxford: Elsevier Science., North Holland).
12. Bista, D.B. (1991). *Fatalism and Development: Nepal's Struggle for Modernisation*. Calcutta: Oreint Longman.
13. Bista, D.B.; I. Ijima; Hiroshi, M.Y. and N. Nyshi. (1982). *Anthropological and Linguistic Studies of the Gandaki Areas of Nepal*. Initiative for the Study of Language and Culture of Asia and Pacific.
14. Brockett, C. (1992). 'Measuring Political Violence in Central America.' *American Political Science Review*. Vol. 86. No. 1.
15. Bromley, D.W. (1992). *Making the Commons Work: Theory, Practice and Policy*. California: Institute of Contemporary Studies.
16. Buckles, D. (Ed.). (1999). *Cultivating Peace: Conflict and Collaboration in Natural Resource Management*. Ottawa /Washington: IDRC/ World Bank Institute.
17. Caplan, L. (2000). Land and Social Change in East Nepal. A Study of Hindu Indigenous Relations. Kathmandu: Himal Books.
18. Caplan, L. (1990). Tribes in the Ethnography of Nepal: Some Comments on Debate. *Contributions to Nepalese Studies*. Vol. 17. No. 2. Pp. 129-145.
19. Chapagain, D.P. (2001). *Status Review and Dialogue: Land and Agriculture*. Kathmandu: World Conservation Union (IUCN).
20. Chapagain, D.P. (1999). Land Tenure in Nepal: Status and Main Issues. A paper prepared for GTZ/IMU Nepal.

21. Chapagain, D. P.; Pyakuryal, K. N. and Pokharel, B. K. (1998). Land Policy, Land Management and Land Degradation in the HKH Region. Nepal Country Paper. Kathmandu: ICIMOD.
22. Clastres, P. (1974). *Society against the State*. Washington.
23. Collier, P. and Hoeffler, A. (2002). 'Aid, Policy and Growth in Post-Conflict Societies.' World Bank Policy Research Working Paper 2902 (October).
24. Collier, P. and Hoeffler, A. (2001). 'Greed and Grievance in Civil War.' Working Paper. Washington: The World Bank.
25. Collier, P. (2000). 'Doing Well out of War: An Economic Perspective.' In Berdal, M. and D.M. Malone (Eds.). *Greed and Grievance: Economic Agendas in Civil Wars*. Boulder and London: IDRC/Lynne Rienner.
26. Collier, P. and Hoeffler, A. (1998). 'On the Economic Causes of Civil War.' *Oxford Economic Papers*. Vol. 50. Pp. 563-573.
27. Cramer, C. and Weeks, J. (2000). Conflict and Agriculture in Developing Countries. In FAO, State of Food and Agriculture 2000. Rome: FAO.
28. CSRC. (2005). Land Rights: Bi-Annual Publication, December 2005. Kathmandu: Community Self Reliance Centre.
29. CSRC. (2004). *Advocacy for Land Rights*. Kathmandu: Community Self Reliance Centre
30. CSRC. (2003). A Study Report on Land Rights in Nepal: Present Reality and Strategies for Future. July, 2003. Kathmandu: Community Self Reliance Centre.
31. Deininger, K. (2003). *Causes and Consequences of Civil Strife. Micro-Level Evidence from Uganda*. Washington: The World Bank.
32. Dowding, K. (1996). *Power*. Minnesota: University of Minnesota Press.
33. Elbadawi, I and Sambanis, N. (2000). 'Why Are There So Many Civil Wars in Africa? Understanding and Preventing Violent Conflict.' *Journal of African Economies*. Vol. 9.
34. Fitzpatrick, D. (2002). Land policy in post-conflict circumstances: Some Lessons from East-Timor. Working Paper No. 58. 'New Issue in Refugee Research Series'. UNHCR.
35. French, J.R.P. & Raven, B. (1959). 'The Bases of Social Power.' In D.Cartwright (Ed.). *Studies in Social Power*. Ann Arbor, MI: University of Michigan Press.

36. Gaige, F. H. (1975). *Regionalism and Nationalism in Nepal*. Delhi: Vikash Publishing House.
37. Ghale, Y. and Upreti, B.R. (1999). Indigenous Knowledge and Food Security in Developing Countries: Opportunities and Challenges. A paper prepared for the 16th Symposium of the International Farming Systems Association 27-29, November 2000. Santiago, Chile.
38. Ghimire, K. (1992). *Forest or Farm? The Politics of Poverty and Land Hunger in Nepal*. Delhi: Oxford University Press.
39. Grossman, H. (1991). 'A general Equilibrium Model of Insurrections'. *American Economic Review*. Vol. 81. Pp. 912-921.
40. Hardin, G. (1968). The Tragedy of Commons. *Science*. 162: Pp.1243-1248.
41. Herbst, J. (2000). 'Economic Incentives, Natural Resources and Conflict in Africa,' *Journal of African Economies*. Vol. 9. Pp.270-294.
42. Hirschman, A.O. (1981). The Changing Tolerance for Income Inequality in the Course of Economic Development. In *Essays in Trespassing: Economics to Politics and Beyond*. Cambridge: CUP.
43. HRW (Human Rights Watch). (2002). *Fast Track Land Reform in Zimbabwe*. Human Rights Watch Report. Vol. 14. No. 1.
44. Hussein, K.; Seddon, D. and Sumberg, J. (1999). 'Increasing Violent Conflict between Herders and Farmers in Africa: Claims and Evidence'. *Development Policy Review*. Vol. 17.
45. ICIMOD. (2000). Land Policies, Land Management and Land Degradation in the Hindu Kush-Himalayas: Nepal Study Report. Mountain Farming Systems Case Study Series, No. 00/2. Kathmandu: Socioeconomic and Ethno-Political Research and Training Consultancy (P) Ltd. and ICIMOD.
46. Mathew, R. and Upreti, B. (2005). Nepal: Environmental Stress, Demographic Changes and the Maoists. Environmental Change and Security Programme Report. Issue 11. Woodrow Wilson International Centre for Scholars. Pp-29-39.
47. McCay, B.J. and Acheson, J.M. (Eds.). (1987). *The Questions of the Commons: The Culture and Ecology of Communal Resources*. Tucson: University of Arizona Press.
48. Muller, E. and Seligson, M. (1987). 'Inequality and Insurgency'. *American Political Science Review*. Vol. 82. Pp.425-451.
49. Murdoch, J. and Sandler, T. (2002). 'Economic Growth, Civil Wars and Spatial Spillovers.' *Journal of Conflict Resolution*. Vol. 46. Pp. 91-110.

50. Nafziger, E.W. and Auvinen, J. (2002). 'Economic Development, Inequality, War and State Violence.' *World Development*. Vol. 30. No. 2.
51. New Era. (1988). A Study of Legal System and Legal Situation in Rural Areas of the Kingdom of Nepal. Kathmandu: Friedrich Naumann Foundation.
52. OECD. (2001). The DAC Guidelines. Helping Prevent Violent Conflict. OECD.
53. Ostrom, E. (1990). *Governing the Commons: The Evolution of Institutions for Collective Actions*. New York: Cambridge University Press.
54. Panday, D.R. (1999). *Nepal's Failed Development: Reflections on the Mission and the Melodies*. Kathmandu: Nepal South Asia Centre.
55. Platteau, J-P. (1996). The Evolutionary Theory of Land Rights As Applied to Sub Saharan Africa: A Critical Assessment. *Development and Change*. Vol. 27. Pp. 29-86.
56. Pokharel, D.M. (2005). Legal Aspects of Land Rights in Nepal. *Land First*. A Biannual Publication of CSRC. Kathmandu: CSRC. Pp. 8-10.
57. Pradhan, R.; F. Benda-Beckmann, F. and Benda-Beckmann, K. (Eds.). (2000). *Water Land and Laws: Changing Rights to Land and Water in Nepal*. Kathmandu: FREEDEAL.
58. Regmi, M.C. (1978). *Land Tenure and Taxation in Nepal*. Kathmandu: Ratna Pustak Bhandar.
59. Regmi, M.C. (1976). *Land Ownership in Nepal*. Berkeley: University of California Press.
60. Regmi, M.C. (1972). A Study of Nepali Economic History 1768-1846. Delhi: Adroit Publihers
61. Regmi, M.C. (1963). *Land Tenure and Taxation in Nepal*. Vol.1. The State as Landlord: Raikar Tenure. Berkeley: University of California Press.
62. Richards, M. (1997). The Tragedy of the Commons for Community Based Forest Management in Latin America. *Natural Resource Perspective* No. 22. London: Overseas Development Institute.
63. Russett, B.M. (1964). 'Inequality and Insurgency: The Relation of Land Tenure to Politics.' *World Politics*. Vol.16.
64. Schlager, E. and E. Ostrom (1992). Property Right Regimes and Natural Resources. *Land Economics*. 68(8): 249-262.

65. Seddon, D. and Adhikari, J. (2005). *Conflict and Food Security. A Preliminary Analysis*. Kathmandu: RRN.
66. Shrestha, N.R. (1997). *In the Name of Development: A Reflection in Nepal*. Kathmandu: Educational Enterprise.
67. Singer, J.D. and Small, M. (1994). '*Correlates of War Project: International and Civil War Data*. (1816-1992),' Inter-University Consortium for Political and Social Research. Ann Arbor, MI.
68. Skaperdas, S. (1992). 'Cooperation, Conflict and Power in the Absence of Property Rights,' *American Economic Review*. Vol.82. Pp. 720-739.
69. Steins, N.A. (1999). All Hands on Deck: An Interactive Perspective on Complex Common Pool Resource Management Based on Case Studies in the Coastal Waters of the Isle of Wight (UK), Connemara (Ireland) and the Dutch Wadden Sea. Published PhD Dissertation. Wageningen: Wageningen University.
70. Stewart, F. (2000). 'Crisis Prevention: Tackling Horizontal Inequalities.' *Oxford Development Studies*. Vol. 28. Pp. 245-262.
71. Story, A. (1999). 'Economics and Ethnic Conflict: Structural Adjustment in Rwanda.' *Development Policy Review*. Vol. 17.
72. Tarnow, E. (2000). A Quantitative Model of the Amplification of Power through Order and the Concept of Group Defense.
<http://cogprints.org/4275/> (23 January 2007)
73. Thapa, H.B. (2002). *Anatomy of Corruption*. Kathmandu: Sangita Thapa.
74. Theotocatos, N. and Zetter, R. (2003). 'Land, Property and Peace Building: The Role of Property Commissions in Post-Conflict Reconciliation and the Restitution of Property.' Research Project. Unpublished.
75. UNDP. (2004). Nepal Human Development Report. Kathmandu: United Nations Development Programme.
76. Upreti, B.R. (2006). *Armed Conflict and Peace Process in Nepal: The Maoist Insurgency, Past Negotiation and Opportunities for Conflict Transformation*. New Delhi: Adroit Publishers.
77. Upreti, B.R. (2004a). 'Resource Conflict and Conflict Resolution in Nepal'. *Mountain Research and Development*. Vol. 24. No. 1. Pp. 60-66.
78. Upreti, B.R. (2004b). *The Price of Neglect: From Resource Conflict to the Maoist Insurgency in the Himalayan Kingdom*. Kathmandu: Bhrikuti Academic Publishers.

79. Upreti, B.R. (2004c). 'Land Conflict in Nepal: Peasants' Struggle to Change Unequal Agrarian Social Relations.' *Journal of Community, Work and Family*. Vol. 7. No. 3. Pp. 371-394.
80. Upreti, B.R. (2004d). 'Dynamics of Resource Governance, Resource Scarcity and Conflict in Nepal.' *Journal of Forest and Livelihoods*. Vol. 4. No.1.
81. Upreti, B.R. (2003). Environmental Governance to Address Resource Scarcity and Conflict in Nepal. Paper presented on June 7th, 2003 at the Environmental Conflict Resolution: A Right Based Approach. Kathmandu: Environmental Law Committee of Nepal Bar Association.
82. Upreti, B.R. (2002). *Management of Social and Natural Resource Conflict in Nepal: Realities and Alternatives*. New Delhi: Adroit Publishers.
83. Upreti, B.R. (2001). *Conflict Management in Natural Resources: A Study of Land, Water and Forest Conflict in Nepal*. Published PhD Dissertation. Wagenignen: Wagenignen University.
84. Upreti, B.R. (2000). The Effects of Changing Land Use Systems in Agricultural Biodiversity: Experiences and Lessons from Nepal. In Xu Jianchu (Ed.). *Links between the Culture and Biodiversity*. Proceedings of the Culture and Biodiversity Congress. 20-30 July, Cunming, Yunnan, China, 21-30 July, 2000. Yunnan Science and Technology. Pp. 327-337.
85. Upreti, B.R. and Ghale, Y. (2002). Factors Leading to Agro-biodiversity Loss in Developing Countries: The Case of Nepal. *Biodiversity and Conservation*. 11 (9) Pp. 1607-1621.
86. Upreti, B.R. and Adhikari, J. (2006). 'Reality Revisited: Marginalised Indigenous Communities.' *Access to Natural Resources in Nepal: National Laws, Policies and Practices*. A Research Report submitted to Action Aid International Nepal and Food and Agricultural Organisation of the UN. Kathmandu.
87. Willy, L.A. (2003). 'Land Rights in Crisis: Restoring Tenure Security in Afghanistan.' AREU/UN.
88. Wolf, E. (1969). *Peasant Wars of the Twentieth Century*. New York: Harper and Row.
89. Yadav, R.P. (2005). *Land Tenure and Taxation in Nepal*: Winrock International Policy Outlook Series No. 7. Kathmandu: Winrock International.
90. Zimmermann, W. and Hubner-Schmid, K. (2000). *Land Tenure Issues in Post-Conflict Countries: The Case of Bosnia and Herzegovina*. GTZ Project Report.

Women, Globalisation and Land Based Exclusion in Nepal

7.1 The Context

This chapter briefly discusses about land-based exclusion of women in Nepal. It argues that the land-based exclusion is an inherent problem created by age-old structural gender-based inequalities, which is widely prevalent but covertly accepted practice of injustice. These forms of inequalities, exclusions and injustice are intrinsically embedded in the patriarchal, feudalistic societal mindset and centralised state operating system.

Social exclusion, in this chapter, covers the systems, mechanisms, processes, attitudes and practices of state and non-state actors that exclude women and disadvantaged people from political and economic decision making processes, access to basic means of livelihoods and social security (Bryne, 1999; Nayak, 1998). When state's governance structures and actions are not conducive to promote inclusion, there are high chances of exclusion of women's interests and also tapping of opportunities and responsibilities. The exclusionary processes consequently make women's livelihood insecure (Upreti, 2003). In case of Nepal, women, powerless, poor and disadvantaged people are the victims of different forms of social exclusion. Over the period, exclusionary societal attitude and practices are developed as a norm by the centralised state, socio-political

culture and skewed power relations (Byrne, 1999; Upreti, 2001, 2002). In the changing context of globalisation, the process of liberalisation and privatisation of means of production and associated services has posed further threat to secure women's rights over land. Hence, women's exclusion is mainly a manifestation of socio-economic, political and cultural discriminations based on skewed power relations (Ghale, 2005).

Access to productive resources largely determines intra-household and societal power relation. In a developing country like Nepal, land ownership to women is even more important. It provides legal basis not only to enhance their social status and psychological wellbeing but also to facilitate in access to other means of production and livelihoods options. The discussion on the following sections, therefore, reveals that women are excluded from all forms of power exercise, be it the state mechanism, or the political and societal transformation process. When women are excluded from such decision making process, it is difficult to challenge the feudal societal attitude, policies and practices that determine land management and ownership mechanism. Therefore, participation and representation in such decision making processes are important to influence the types of ownership, holding size, location and quality of land women can have. In a nutshell, land based discrimination is largely a socio-political and an economic issue. Within this crucial power exercise space, women's access to and ownership on land is a widespread problem across the all caste and ethnic groups though in a varied extent (Bennett, 2004).

The Constituent Assembly (CA) in May 2008 has ended the age-old monarchy, which was one of the superstructures of exclusion and discrimination in Nepal. However, there are other strong foundations of exploitation and discrimination existing in Nepal. They need to be challenged and transformed to establish women's access to land resource and to promote equality. The state restructuring process is in place after the successful completion of CA election. It is hoped to provide opportunities

to address concerns of women and disadvantaged groups, specifically access to and ownership over means of production.

7.2 Resource Concentration and Exclusion of Women

The access and ownership pattern of resources largely influence the power relation in a society. Access to and control over land and other means of production strengthen one's position in the society that ultimately determines human, natural, physical, financial and socio-political status (Upreti, 2004a, 2004b; Aahuti, 2007b). Likewise, power provides space to acquire access and use different resources. As concentration of resources determines the status quo, power relations have always remained unchallenged in Nepal. It has, thus, created and sustained unequal power structures and patron-client mode of relationship. Such power relation has promoted exclusion and marginalisation and has persistently hindered social transformation process in Nepal (Bennett, 2004). The power relations have systematically perpetuated the mindset of individuals and thus failed to address exclusion of women and other disadvantaged groups of society (Upreti, 2004c).

As explained in the consequent paragraphs and other chapters within this book, land remains a prime asset to determine status and power of individuals in a society. Land has always been the main factor to determine state power and exclusionary practices. During the Rana Regime, land was broadly categorised into royal and public (*Raikar*). Most of the productive land was under the royal category and controlled by the Rana rulers. Of the total royal category, half of the land was allocated to compensate for services and was used for *Birta* and *Guthi*. Rest of the land that remained with public as *Raikar* was allowed to cultivate and required to pay tariff to the government (Roka, 2007). Even within the *Raikar* land, women's entitlement and ownership was not guaranteed.

In Nepal, women are mainly engaged in land based interventions like agriculture, livestock, forestry and conservation but are excluded from legal entitlement and ownership (Ghale, 2004). The series of political changes (1951, 1960, 1990 and 2006) should have and still have to deliver fundamental transformation in the resource distribution mechanism and adoption. Since 1980s, in the gradual process of socio-economic transformation, Nepal adopted liberalised policy which widely expanded during the 1990s. The process of economic globalisation leads to further concentration of resources and power. The liberalised economic policy has thus posed threat of further exclusion of the disadvantaged groups-particularly that of women.

The exclusion of women needs to be analysed with a broader perspective. Women are not only excluded from the land resource but also left far behind in all important affairs of the state. Women's participation in politics at both national and local levels is quite low. Table 7.1 below demonstrates that, even at the time of multiparty democracy, women's representation in political affairs was extremely low. For example, in the 1997 election, women's representation was only 1.5 percent in District Development Councils, 6.7 percent in District Development Committees (DDCs), 19.5 percent in Municipalities, 7.7 percent in Village Development Committees (VDCs), 2.1 percent in Village Councils and 20 percent in Ward Committees.

Table 7.1: Women's Representation in Local Government (1997-2002)

Local Bodies	Total Representation	Share of Women (%)
District Development Councils	10000	1.5
DDC	1117	6.7
Municipalities	4146	19.5
Village Development Committees	50857	7.7
Village Councils	183865	2.1
Ward Committees	176031	20.0

Source: UNDP (2004)

Similarly, women's participation in the parliament was not very encouraging. The comparison of the three consequent parliamentary elections (1991, 1994 and 1999) also demonstrates no major shift in women's representation in the parliament. Table 7.2 shows that 3.4 percent of women were elected in 1991 and 1994 elections with a slight increment to 5.8 percent in 1999.

Table 7.2: Women's Representation in the Parliament (1991-1999) - Lower House

Year	Sex	Number	%
1991	Male	198	96.6
	Female	7	3.4
1994	Male	198	96.6
	Female	7	3.4
1999	Male	193	94.2
	Female	12	5.8

Source: Election Commission (1991, 1994, 1999); UNDP (2004)

Women's representation in the civil service is also very low. Table 7.3 shows that women represent less than 8 percent of the total civil service. They hold less than 5 percent senior positions in the government. Their presence in senior level has decreased in 2000 as compared to 1991. This low representation of women in civil service is a glaring example of social exclusion.

Table 7.3: Women's Representation in Civil Service by Class and Level (1991 and 2000)

Class	Total civil servant	% of women	
		1991	2000
Special	85	3.5	2.4
First class	633	5.1	4.1
Second	2719	4.9	3.2
Third	7418	5.3	5.2
Non gazetted	87834	8.0	8.2
Total	98689	7.7	7.8

Source: UNDP (2004)

However, the situation of inclusion of women and other marginalised groups in the CA is quite progressive. Though women are proportionally less represented, their presence is nearly one third (197 out of 596 member). Therefore, the existing composition of CA members is said to be a 'rainbow coalition.'

Table 7.4: Party-wise Gender Composition of Members of Constituent Assembly

S. N.	Party Name	Candidate		Total	Elected		
		Female	Male		Female	Male	Total
1	Communist Party of Nepal (Maoist)	43	197	240	24	96	120
2	Nepali Congress	26	214	240	2	35	37
3	Communist Party of Nepal (UML)	27	212	239	1	32	33
4	Madhesi People's Rights Forum, Nepal	3	100	103	2	27	29
5	Terai Madhes Loktantrik Party	4	90	94	1	8	9
6	Sadhvawana Party	4	83	87	0	4	4
7	Janamorchha Nepal	28	175	203	0	2	2
8	Nepal Workers and Peasants Party	27	71	98	0	2	2
9	Independent	42	774	816	0	2	2
10	Rastriya Janamorchha	15	107	122	0	1	1
11	Rastriya Janshakti Party	14	184	198	0	0	0
12	Rastriya Prajatantra Party	22	210	232	0	0	0
13	Samajwadi Prajatantrik Janata Party, Nepal	7	43	50	0	0	0
14	Nepal Rastriya Bikas Party	0	13	13	0	0	0
15	Socialist Party of Nepal	0	5	5	0	0	0
16	Rastriya Janamukti Party	8	76	84	0	0	0
17	Rastriya Prajatantra Party Nepal	8	196	204	0	0	0
18	Communist Party of Nepal (Unified)	10	126	136	0	0	0
19	Communist Party of Nepal (M.L.)	11	105	116	0	0	0
20	Rastriya Janata Dal	0	8	8	0	0	0
21	Communist Party of Nepal (United)	6	49	55	0	0	0

Women, Globalisation and Land Based Exclusion in Nepal

22	Nepal Samata Party	2	12	14	0	0	0
23	Dalit Janajati Party	1	49	50	0	0	0
24	Nepal Sadhvawana Party (Aanandidevi)	13	91	104	0	0	0
25	Communist Party of Nepal (United Marxist)	5	43	48	0	0	0
26	Communist Party of Nepal (Marxist)	1	7	8	0	0	0
27	Hindu Democratic Party	0	4	4	0	0	0
28	Nav Janawadi Morcha	1	14	15	0	0	0
29	Nepal Rastriya Janakalyan Party	0	3	3	0	0	0
30	Rastriya Bikas Party	0	21	21	0	0	0
31	Muskan Sena Nepal Party	2	32	34	0	0	0
32	League Nepal Shanti Ekata Party	0	10	10	0	0	0
33	Nepal Janavawana Party	0	2	2	0	0	0
34	Nepal Shanti Kshetra Parishad	1	2	3	0	0	0
35	Rastrawadi Yuwa Morcha	1	4	5	0	0	0
36	Liberal Samajwadi Party	0	3	3	0	0	0
37	Nepali Janata Dal	10	30	40	0	0	0
38	Nepal Rastriya Lokatantrik Dal	1	1	2	0	0	0
39	Rastrawadi Ekata Party	2	0	2	0	0	0
40	Janamukti Party, Nepal	0	3	3	0	0	0
41	Sa-Shakti Nepal	6	0	6	0	0	0
42	Rastriya Janata Dal Nepal	0	17	17	0	0	0
43	Shanti Party Nepal	4	8	12	0	0	0
44	Nepal Janata Party	2	23	25	0	0	0
45	Lok Kalyankari Janata Party Nepal	2	32	34	0	0	0
46	Mongol National Organisation	0	17	17	0	0	0
47	Nepal Samyawadi Dal	0	1	1	0	0	0
48	Federal Democratic National Forum	2	43	45	0	0	0
49	Nepa: Rastriya Party	1	5	6	0	0	0
50	Nepal Lokatantrik Samajbadi Dal	0	11	11	0	0	0

51	Nepal Sukumbasi Party (Loktantrik)	3	8	11	0	0	0
52	Nepal Dalit Shramik Morcha	0	1	1	0	0	0
53	Chure Bhawar Rastriya Ekata Party Nepal	1	21	22	0	0	0
54	Tamsaling Nepal Rastriya Dal	3	19	22	0	0	0
55	Nawanepal Prajatantrik Dal	0	2	2	0	0	0
	Total	369	357	3946	30	209	239

Source: Election Commission (2008)

Table 7.4 shows that political parties were comparatively liberal to provide candidacy to women in the CA election (369 out of 3577 candidates). Though the percentage of women in the total candidacy was low (10.32%), the winning percentage was relatively high (18.30%). This indicates that women are not only popular, but also capable to win when they are given the opportunity and are provided favourable environment.

Table 7.5: First-Past-The-Post (FPTP) Party-wise Candidates of Constituent Assembly

S.N	Party	Total Candidate	Women (No.)	%	Janajati (No.)	%	Madhesi (No.)	%	Dalit (No.)	%
1	CPN (UML)	240	26	10.8	65	27.1	65	27.08	2	0.8
2	Nepali Congress	240	25	10.4	62	25.8	51	21.2	1	0.4
3	CPN (M)	240	42	17.5	85	35.4	68	28.3	16	3.3
4	RPP	237	25	10.5	77	32.5	67	28.2	3	1.2
5	Janamorchha Nepal	214	29	13.5	47	21.9	54	25.2	26	12.1
6	Rastriya Janamorchha	125	14	11.2	32	25.6	16	12.8	12	9.6
7	CPN (United)	142	10	7.04	68	57.8	14	9.8	4	2.8
8	MPRF	105	3	2.8	20	19	96	91.4	0	0
9	TMLP									
10	Sadhbhawana Party	93	5	5.3	20	21.5	87	93.5	0	0
11	Rastriya Janashakti Party	201	14	6.9	59	29.3	48	23.8	6	2.9

Women, Globalisation and Land Based Exclusion in Nepal

12	RPP (Nepal)	207	9	4.3	55	26.5	50	24.15	2	0.96
13	Nepal Sadbhawana Party (A)	105	12	11.4	17	16.1	88	83.8	10	9.5
14	CPN (ML)	120	12	10	15	12.5	28	23.3	10	8.3
15	Nepal Majdoor Kisan Party	98	27	27.5	33	33.6	34	34.6	6	6.1
16	Rastriya Janamukti Party	84	8	9.5	71	84.5	10	11.9	6	7.1

Source: Dahal and Kafle (2008)

The table 7.5 shows that political parties are still resistant to provide opportunities to women in mainstream politics. The three big parties were not even able to meet the Constitutional provisions of providing 33 percent candidacy of women. Among these parties, the CPN (M) gave 42 women candidacies out of 240 (17.5%), the CPN (UML) gave 26 (10.8%) and the Nepali Congress gave 25 (10.4%). Nepal Peasant and Worker's Party is comparatively in a better position in providing more candidacy of women (27 out of 98 candidates-27.5%).

Likewise, women's position in overall bureaucratic machineries is very weak. Women's participation and representation in different structures like National Planning Commission, different sectoral ministries, regional and district based offices are very weak. Likewise, number of female students in the technical fields of agriculture, forestry, livestock, land administration, etc. is still quite low. Therefore, it is not possible to see immediate changes in the bureaucratic machineries and service delivery mechanisms in near future.

After 1990, different social movements of disadvantaged groups such as women and Dalits are organised to change the subordination and marginalisation process. They are aimed to secure justice and establish 'egalitarian society' (Ghale, 2007). However, the lessons and experiences of such social movements are still to be consolidated for the better positioning and influence to public policies and societal attitudes. Furthermore,

most of the social movements are still being operated in the form of NGOs. For instance, there are more than 200 NGOs working for Dalits' rights. They hold with approximate budget of 250 million rupees on annual basis (Roka, 2007). Ironically and irritatingly, the resources are not meaningfully aligned with social movements. The social movements need to deal with multiple issues like organisation of rights holders and coordination and collaboration among different stakeholders. In this context, effective resource generation and mobilisation is very crucial. At the moment, majority of the social movements are quite de-linked with other relevant issues and are claimed under resource constraint.

7.3 Denial of Access to and Control over Productive Resources for Women

Women are the most excluded groups who do not have access to and ownership over productive resources and sharing of benefits. Denial of access to and ownership over productive resources, thus, has systematically limited their representation in societal statute and state machineries. It is further institutionalised through religious, cultural and traditional systems in agrarian societies that have further strengthened the centuries old exploitative practices and systems (Ghale, 2004; Upreti 2004a). To promote women's access to and ownership over means of production, particularly over land, it requires planned, coordinated and multi-pronged initiatives. Access and ownership over productive resources not only determines the productive aspects of economy, but also influence the societal structure largely and guides laws, policies and rules (UNDP, 2004; Upreti, 2003). Thus, women's access to and ownership over productive resources facilitate the individual, society and state functionaries to recognise, encourage and ensure meaningful participation, representation and ownership in holistic development.

7.4 Religion and Culture: Caste and Gender-based Discriminations

Chapter 8, in this book, discusses the relationship between caste structure and access to land resources. Historically, the caste system in Nepal was devised to maintain the status quo and rule the others. The same notion was applied in resource politics specially the land. The caste system was introduced in Nepal during the *Lichchhavi* era. It was institutionalised as strengthening of power in the *Malla* era by Jayasthiti Malla immediately after the Lichchhavi regime. He introduced strict caste system based on *Manusmriti* (Basnet and Darnal, 2007). Initially, the caste system was used for physical task but later it was institutionalised as a strictly discriminatory social and cultural system in Nepal. The migrated Aryans from India following Hindu religion strengthened the Hindu caste system. The evolution of *Brahmin*, *Kshetri*, *Vaishya* and *Shudra* was strengthened by the Hindu culture. It is believed that Aryans made Dalit from the *Drabids* who lost the battle (Roka, 2007). They were forced to serve them and were engaged in agricultural and other professions like sewing, carpentry, iron work, etc. The Hindu belief system highlights that *Brahmins* emerged from the head and *Kshetris* from hand and therefore were considered as 'pure' while the *Vaishya* emerged from the lower part of body and *Shudras* from the feet and therefore were considered impure (Aahuti, 2007a; Basnet and Darnal, 2007).

The *Shudras* (the term Dalits is more in use after the political change of 1990 to give respect and a positive connotation) were considered as service providers for other groups and were supposed to work hard and perform dirty tasks such as scavenging. Over time, the exploitation and discrimination further strengthened and the Dalits were prohibited to enter the main social and religious centres (Bennett, 2004). This forced them to remain in the outskirts, difficult and unproductive areas.

So, there was virtually no chance of acquiring access to and control over productive lands (Roka, 2007; Sharma, 2008). It shows Dalits, in general, do not have any special territorial concentration (*That Thalo*) and ancestral ownership over land. In such a context, recognition of Dalits, especially women, as right holders is merely a daydream (Aahuti, 2007b).

In the process of social transformation, the 1990 Constitution made caste-based discrimination punishable. The Dalits are considered as educationally deprived, economically exploited, socially excluded, politically neglected and religiously oppressed, once said by the ex-chairperson of Nepal Dalits Commission¹⁰. Therefore, access to productive resources is not only a means of presenting own economic prosperity but equally also an issue of self identity and social justice for all disadvantaged groups and women in particular (Ghale, 2005).

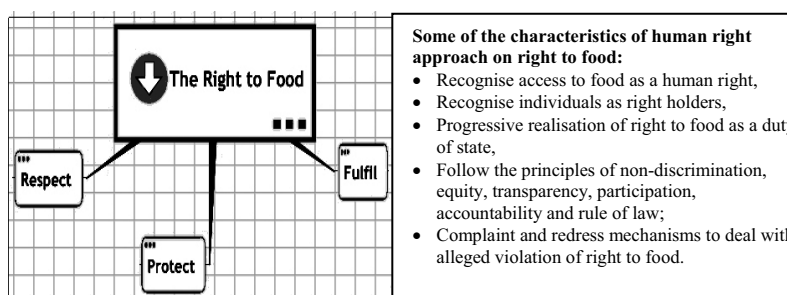
Among the different categories of work-based classification, women were merely considered as service providers. The rulers thus tended to avoid sharing position, power and politics, as well as transferring knowledge and skill to women. Women thus always remained the producers and caretakers of productive resources, but did not possess any legal rights. Hence, they became more vulnerable and were forced to be in sub-ordinate position and were unable to enjoy their rights (Bennett, 2004). Women became the victims of religious, cultural and socio-political discriminations. They were excluded from mainstream politics and were deliberately kept on subordinate positions limiting access to and ownership over different forms of resources (Bennett, 2004).

¹⁰ Expressed in a discussion programme by Padam Singh Vishwakarma, on June 23, 2006, Kathmandu.

7.5 International Provisions: Land, Food and Gender Relations

UN adopted the Universal Declaration of Human Rights (UDHR) in 1948 to articulate the rights as entailed in the UN Charter. There are many international instruments that specifically deal with the right to food and fight against hunger. All the member nations/states of the UN have the responsibility to realise the right to food in their local context. Some of these provisions are legally binding and some are voluntary. Since the right to food is a moral issue, it is an obvious obligation to respect these concerns based on basic principles of human rights. In this endeavour, the state has the responsibility to respect, protect and fulfil people's right to food as shown in the schematic diagram 7.1.

Figure 7.1: Components of the Right to Food and Some Characteristics of Human Rights Approach to Food Security



Source: FAO, (2006)

The right to food is not only right to feed but also a process of facilitating an individual to be able to feed by him/herself. So, the right to food is a political commitment and it needs series of structural interventions from the state. In the Nepalese context, right to food has been undermined or overlooked for decades by the periodic plans and policies. However, these concerns are getting attention after the popular Peoples' Movement-1990 and

April Movement-2006. The government of Nepal has shown its solidarity to International Convention on Economic, Social and Cultural Rights (ICESCR), Convention on Elimination of all forms of Discrimination against Women (CEDAW) and other human rights related international obligations and it has to be accountable also to its own Constitution. So, it is solely responsible to materialise its commitment in ensuring people's access to means of production, creating an enabling environment either to make them feed themselves or earn a decent living. At the same time, the state is responsible to adopt safety measures for those who are not able to fulfil their needs by themselves.

Article 25 of the Universal Declaration of Human Rights (UDHR) 1948 considers right to food, shelter and clothing as basic human rights. Article 11 of the ICESCR and general comment 12 of Committee on Economic, Social and Cultural Rights has specifically mentioned the right to adequate food. Article 14 of CEDAW specifies about women's right to agricultural production inputs and equal treatment in land and agrarian reform. The International Labour Organisation (ILO) Convention 169, Article 15 defines rights of indigenous communities on use, management and conservation pertaining to their land.

Similarly, the Constitution of Food and Agriculture Organisation of UN (FAO) 1965, in its preamble, highlights the importance of collective action to raise nutrition and standards of living and thus ensures human freedom from hunger. The World Food Summit (WFS) of 1996 further acknowledges the right of everyone to be free from hunger. Besides, FAO also offers practical guidelines on Right to Food (RtF)¹¹ in November 2004. It focuses in formulating necessary legal frameworks and monitoring mechanisms to ensure the right to food to their

¹¹ The guideline though is not a binding document but has provided practical options to implement the obligations as part of their commitment as well as moral obligation.

citizens by all member states, which can also be adopted by the non-members on the moral ground.

Article 8 of the Declaration on the Right to Development (RtD) 1986 (GA Res. 41/128) states the provision for all necessary measures for the realisation of the right to development. It was aimed to ensure equality of opportunity for all in their access to basic resources, food, employment and the fair distribution of income. Regarding the means of production, particularly to conservation, management and use of biodiversity, the Convention of Biological Diversity (CBD) and International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGR) have clearly highlighted farmers' and communities' rights over biodiversity resources, which are inherently linked with land. Likewise, the trade related agreements under World Trade Organisation (WTO) emphasise on the importance of trade and its relation with agricultural production, marketing, food aid, intellectual property rights, food quality, export and import of food items (Adhikari *et. al.* 2000; Bhandari *et. al.* 2005).

The UN Declaration on Millennium Development Goal (MDG) has identified the following specific goals, most of which are clearly linked with women and land;

- Goal 1: Eradicate extreme poverty and hunger
- Goal 2: Achieve universal primary education
- Goal 3: Promote gender equality and empower women
- Goal 4: Reduce child mortality
- Goal 5: Improve maternal health
- Goal 6: Combat HIV/AIDS, malaria and other diseases
- Goal 7: Ensure environmental sustainability
- Goal 8: Develop a global partnership for development

All these provisions¹² have shown ample opportunities and agricultural potentials to realise right to food and livelihood. International provisions, in many ways, emphasise on the relationship among production, conservation and distribution of food; which is possible only by ensuring women's access to land and land based resources. Women's access to land is not the destination, but a minimum requirement. Food security of women and associated families can be enhanced by ensuring women's access to land and other productive resources by making full use of technical and scientific knowledge, reforming agrarian systems and enhancing better management and utilisation of land resource. Hence, unless women's right to access, own, manage and utilise land resources is ensured, sustainable food security can not be achieved.

The above discussion shows importance given by the international provisions to ensure everyone's access to and ownership of land and land-based resources including women. It is then the responsibility of the nation/states to translate these international provisions into action to address the issues related to women and their access to and control over productive resources.

In this context, Nepal, being a signatory or party of the international provisions and declarations discussed above, has legal obligations or moral responsibility to abide by the provisions. Further, Nepal has to abide by its own Interim Constitution that has recognised the Right to Food as a human right and facilitated land reform and women's ownership of land. The Interim Constitution¹³ of Democratic Federal Republic of Nepal recognises the food sovereignty as a fundamental right of its citizens (GoN, 2006). The recent global dynamics as well as local awareness in Nepal has forced to

¹² For detailed debate in all these international provisions and arrangements see FAO (2006).

¹³ The Interim Constitution of Nepal 2007 promulgated by the reinstituted Parliament through People's Movement of April 2006, recognises 'Food Sovereignty' and 'Scientific Land Reform'.

consider food security as an integral part of human rights and a state obligation to its citizen. The emerging right-based approach considers people as the focus and food as the basic means for their survival. In this context, it is the right time for the state and society to ensure the right to food. The Three Years Interim Plan (2007-2010) has considered land reform and management as an important function to address poverty incidences and resource based exclusion of women (NPC, 2007).

Some of the international instruments which Nepal has signed are presented in Table 7.6 below:

Table 7.6: Some of the Relevant International Instruments Ratified by the Government of Nepal

International Instruments on Right to Food, Genetic Resources, Women and Trade that are Related to Land and Agriculture	Year
Universal Declaration on Human Rights (UDHR)	1948
International Convention on Economic, Social and Cultural Rights (ICESCR)	1991
Convention on Elimination of all Forms of Discrimination against Women (CEDAW)	1991
Convention of Biological Diversity (CBD)	1992
World Trade Organisation (WTO)	2004
International Labour Organisation (ILO) Convention 169	2007
International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRA)	2007

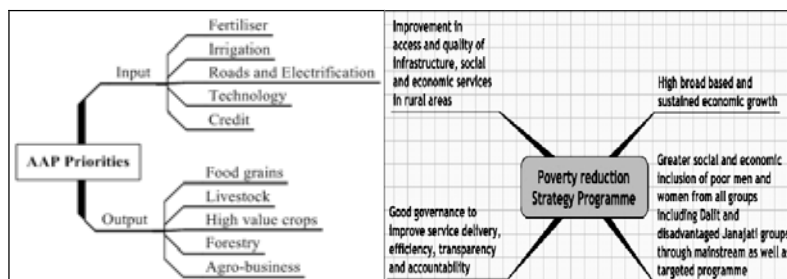
Source: Compiled from various sources by the author

Since the GoN respects all the above-mentioned international provisions, it must fulfil all the legal and moral bindings associated with them. Creating an enabling environment to exercise the universal and specific rights requires comprehensive national vision of the state and clear understanding. Besides, acceptance of broader and inclusive approaches and proper functioning mechanism are equally important. In this context, different sectoral vision papers and strategic guidelines have been devised. But they could not be flawless. They, therefore, need further refinement and alignment with other inter-related sectors to develop

harmonised understanding and approaches. Among them, agriculture sector is claimed as one of the well-thought priority sectors to deal with resources. The GoN has, thus, developed 20-year-vision document named as the Agricultural Perspective Plan (APP). The priority inputs as defined by APP are fertilisers, irrigation, rural roads, electrification and credit to achieve the desired output of food production, livestock, high value crops, forestry and agro-business. The APP has, thus, been able to conceive agriculture development in a broader framework, but not been able to establish the links between people and resources. Likewise, the Poverty Reduction Strategy Paper (PRSP), which is the most recent and widely referred document, is also a 10th periodic plan of Nepal. The PRSP has identified four major components (NPC, 2002), within which it has tried to capture the wider notion of inclusion, though not very explicit, on resource sharing aspects. They are:

- a) Good governance to improve service delivery, efficiency, transparency and accountability in operation,
- b) Greater social and economic inclusion of poor men and women from all groups including Dalit and disadvantaged ethnic groups through mainstream and targeted programme,
- c) Improvement in access and quality of infrastructures and social and economic services in rural areas, and
- d) High broad-based and sustained economic growth.

Figure 7.2: APP and PRSP Priorities



Source: Adapted from GoN (1995; 2003)

Certain components, like social inclusion and sustained economic growth, require long term and comprehensive commitments. So majority of the elements of these components, as captured by the Three Years Interim Plan (2007/08-2010/2011), gives space for further continuity and builds on learning of PRSP. However, because of several reasons such as prolonged armed conflict, bad governance and weak political commitment, the expected results are yet to be achieved. The essence of this perspective is summarised in the figure 7.2.

7.6 An Overview of Legal Provisions on Women's Access to Land Resource in Various Countries

In this section, a brief examination of constitutional arrangements on land and women is presented. The following table clearly shows that women's access to and control over land resource is a challenge not only for Nepal but also for other countries. Some of the countries are comparatively progressive than the others, but overall challenge remains the same. Therefore, more attempts are required to build gender responsive policies and programme to ensure women's rights over means of production, particularly over the land.

Table 7.7: Country-wise Gender and Ethnicity on Access to Land Resources in Selected Countries

Country	Status of Gender and Ethnic Minority in Terms of Access on Land Resources
Africa	
Ghana	It tried to protect the rights of widows and children through some laws but most of them are still unaware of those provisions.
Kenya	A task force was set up to deal with vulnerability of women but it still remains pending due to the resistance against affirmative actions on land issues.
Malawi	The 1990 Constitution guarantees women's right to acquire property but proper mechanism to ensure the decision in consistence with the Constitution is still lacking.
Mozambique	The 1990 Constitution provides equality among men and women. Community right is granted on communal land but is still not able to address the distributional inequalities disadvantaging the peasant families.
Tanzania	The Land Act and Village Land Act 1999 prescribe for co-ownership. But in practice, they have not been able to address the concerns around land scarcity and dispossession. At the same time, there is intense focus on passing those laws without constituting proper monitoring mechanisms.
Uganda	The 1998 Land Act still excludes women from acquiring land property. The decisions of the local councils are generally gender-biased.
Burundi	Article 17 of Interim Constitution has provisioned equal rights of men and women over land resources.
Burkina Faso	Article 15 of the Constitution of 1991 has guaranteed equal rights of men and women over land resources.
Eritrea	The Land Vision Paper of Eritrea has guaranteed women's rights over land resources and ensures no discrimination based on class, caste, sex and religion.
Asia	<p>In many Asian countries such as India, Nepal, Pakistan, etc. the sons inheriting the joint family property is a common phenomenon. However, in certain states of India such as Kerala, Tamil Nadu and Andhra Pradesh, such paternal inheritances that allow only the sons to inherit the property systems, as provisioned by the Hindu Succession Act 1956, have been abolished. In Vietnam, there is a provision that requires the signature from wife while selling land but it is generally done under pressure than out of her own interest. The Interim Constitution of Nepal has guaranteed some legal provisions to ensure women's rights over land resources. Article 21.4 of Interim Constitution provisioned for equal access of women over parental property and Article 37.13 ensures about special protection of women, Dalits, indigenous nationalities over land resources.</p> <p>The Constitution of Republic Philippines- 1987 has very specific provisions to ensure right of tenants and indigenous nationalities and promotion of holistic agrarian reform. However, it has not been able to establish women's rights over land yet.</p>

Latin America	In most of the countries of Latin America, the Constitution as well as Civil Codes has recognised dual headed household system but there is very low incidence of joint registration. The issue of joint ownership also remains silent where the land is already in the name of only husband. The 2001 Affirmative Action Programme of Brazil also targets for 30 percent female representation in credit schemes to purchase land, access trainings, etc., but it has not identified specific concerns of single, divorced and widowed women. Similarly, the Latin American Civil Code provides equal inheritance rights to children, but the daughters are still excluded from this right. Similarly, the law of Brazil provides access to only one quarter of property for widows, but they cannot hold it anymore if they remarry. Another scheme of Land Bank programme created by 1999 Decree in Guatemala requires joint titles on land as well as demand for credit but because of insufficient funding for Land Bank, the peasants' access have been severely restricted.
----------------------	--

Source: Compiled from Musembi (2004) and Basnet (2008)

In the global context, it is observed that different countries have made efforts to address the structural causes of exclusion on resource ownership through various constitutional legal provisions especially after 1990s. However, the information presented in the table above clearly demonstrates that dealing with land is complex and requires addressing multiple issues together.

7.7 Land and Globalisation: Brief Observation

This particular section briefly deals on the relationship between land and globalisation and its consequences on women.

7.7.1 Issues of Resource Rights: Access and Ownership of Women

The access and ownership patterns are greatly influenced by property relations. Property can thus be considered as a right and obligation of individuals or groups to use available resource base. Property rights are complex because resource tenure often involves bundles of rights, including users' rights, rights to exclude others, rights to manage and rights to sell (Schlager and Ostrom, 1992).

The historical debate on 'whose resource' is equally valid in the development discourse and social transformation process in Nepal. The history of Nepal has very clearly demonstrated how land has been the basis of power and means of exclusion of certain sections of society such as women. Land has multiple meanings to determine individual's identity, social status and determining other legal entitlements. One of the main causes of the decade-long armed conflict is believed to be rooted in discriminatory policy and practice of denial on access to and control over land and other productive resources. Series of development plans and commitments of political parties as reflected in their manifestos to address gender-based inequality have merely been translated in effective policies and programmes.

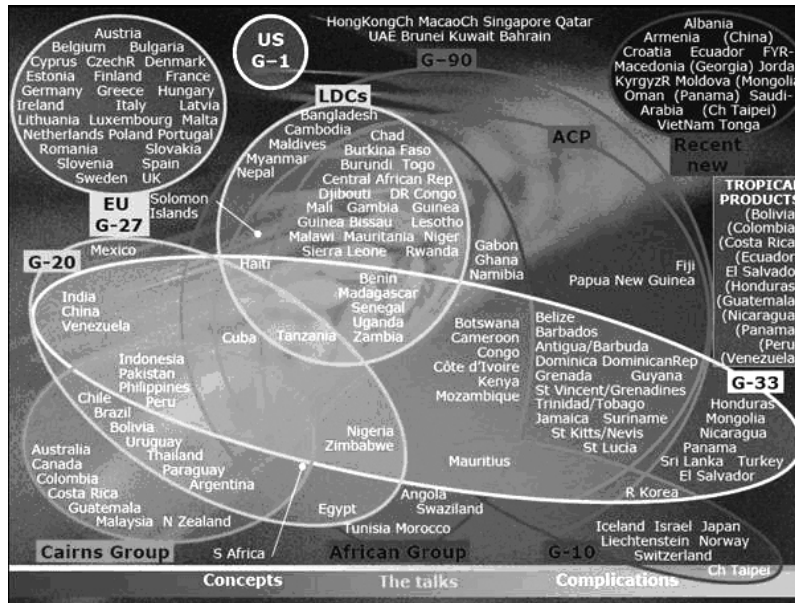
Since early 1990s, Nepal has been initiating the process of privatisation as a part of the Structural Adjustment Programme (SAP). In 2004, it became a member of World Trade Organisation (WTO), which required Nepal to fulfil additional obligations, and was exposed to new challenges and opportunities including land related complexities (Bhandari *et. al.* 2005). Historically, land does not seem to be an entry point for investments by International Financial Institutions (IFIs) and/or private enterprises, but it has always been a crucial sector associated with the privatisation process of different enterprises. In the decade of 1990s and afterward, privatisation of productive resources also has been witnessed quite rapidly. The concept of 'common heritage' since then is much challenged in different forms. The motive to promote 'individual property and monopoly' is gaining much attention in global and national economic forums. This phenomenon can further be scaled-up during the time of political instability, unpredictable policy procedures, weak institutional mechanisms and low ownership and awareness of citizens about their rights and responsibilities dealing with productive resources specially the land. Therefore, the state as a caretaker has to realise land as an inbuilt part of socio-political and economic transformation. Similarly, the non-state stakeholders, including the private sectors, development actors and the rights holders need to work in harmony for the

common agenda of establishing equitable right over the means of production for the formation of inclusive and just society. Many people especially women are dependent on agriculture for their livelihood in Nepal. It is, therefore, even more important to secure women's right over the means of production to be more productive and to secure resource rights in the context of globalisation.

7.7.2 Globalisation and Resource Concentration

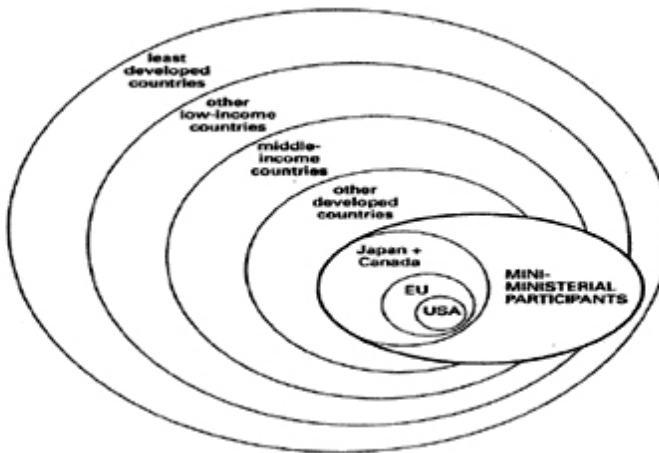
Globalisation is now largely accepted as an unavoidable phenomenon. It has offered both opportunities and additional challenges. The economic agenda promoted by the globalisation process is becoming a powerful driving force and a power circle among different state and non-state stakeholders. Hence, it is waxing as unpredictable and complex issue as seen in Figure 7.3. The challenge in front of developing countries, specifically Least Developed Countries (LDCs) like Nepal; is highly determined by the political processes, public private partnership mechanisms and informed bargaining capacity. The globalisation process at the moment is under high influence of developed countries and multinational companies (MNCs), which are not always conducive for LDCs. The power circle in the WTO can be depicted in Figure 7.4, which shows LDC's position in the outer circle and with almost no access to decision making processes. Therefore, it is up to the capacity of the nation state and its citizens to tap the benefits of globalisation and mitigate the negative consequences that come along the process. For this, orientation and motive of political leaders, policy makers and the civil society have important role in shaping the economic policies and resource management in the respective countries (Bhandari *et. al.* 2005).

Figure 7.3: Complexity of Different Groups within the WTO Members



Source: The WTO (2008)

Figure 7.4: Power Circle in the WTO



Source: Jawara, F. and Kwa, A. (2003)

7.7.2.1 Emergence of Privatisation in Nepal

Nepal adopted privatisation policy in the early 1990s as part of SAP. The privatisation process was initiated since the Sixth Plan (1980-85) but the Seventh Plan (1985-90) could not bestow proper platform for necessary homework to exercise privatisation in Nepal (Manandhar and Bajryacharya, 1999). During this period, the government formed a Privatisation Cell within the Ministry of Finance. But actual implementation of privatisation was started only in 1992. For the first phase, 51 public enterprises were identified for privatisation. The government had adopted four pronged strategies to facilitate privatisation process: a) immediate privatisation, b) privatisation with preparation, c) liquidation and d) restructuring. Accordingly, The Ninth Plan further defined the long term strategy in privatisation process (NPC, 1997).

The initial deal of privatisation was supported by the World Bank (WB) and the International Monetary Fund (IMF) which was later associated with various loan conditions of WB and the Asian Development Bank (ADB). The technical supports to expedite the privatisation process was extended by United Nations Development Programme (UNDP), WB, USAID, DANIDA and since 1998 was supported by Adam Smith Institute, a British Consulting Firm funded by DFID (ibid). To regulate and expedite the process, Privatisation Act was promulgated in 1994. The Privatisation Act provided six options: (1) Selling of shares (2) Formation of cooperatives (3) Sale of assets (4) Lease (5) Management contracts, and (6) Other approaches as deemed necessary by the government. Despite multiple arrangement options, it is interesting to note that 51-72 percent of the shares were sold to either single or a small group of entrepreneurs. According to Manandhar and Bajracharya (1999), three enterprises in the first phase, Bhrikuti Paper, Harisiddhi Bricks and Bansbari Shoe Factory had a deal to sell only machines of the company excluding the prime land.

The privatisation deal was never a common agenda for governments formed at different times. The Nepali Congress (NC) considered privatisation as an internal necessity whereas the Communist Party of Nepal (UML) felt it as an external compulsion. Likewise, other forms of criticism came from the persistent fear of growing role of foreigners in the Nepalese economy, possible concentration of economic power in the hands of few rich business houses, lack of transparency and under-valuation of assets. However, the fears remained unresolved as the government could not really come out to address all those valid concerns. It is also reported that the farmers received higher compensation from Harisiddhi Bricks with the effect of privatisation. The proponents of privatisation thus believe on Foreign Direct Investment (FDI). It clearly shows that the link between privatisation, investment and its association with land resources are guided by political interests and economic motivations.

Nepal is in the process of integration into global and regional trade platforms, which requires series of commitments to open up other sectors for privatisation and liberalisation. Being a member of the WTO, Nepal has legal binding to align its economic and subsequent policies with the global requirements as per the WTO regulations in the days to come. Furthermore, Land Bank concept was promoted and introduced in Nepal with the focus on market approach (Bhusal, 2006). However, ensuring land to tenants and making women's access to land resource is not yet certain and this issue has been well elaborated in chapter 4. Therefore, land has always been the part and parcel of liberalisation and privatisation even in the service sectors. Thus, it should not be dealt in isolation.

7.7.2.2 International Engagement in Nepal's Land Issues

The role of International Financial Institutions (IFIs) and donors has been the part and parcel of land management in Nepal since

1990s when SAP was initiated (See Chapter 4 for details). The land management plan and programmes of GoN do not seem to be directly associated with privatisation per se. However, the commitment of GoN to privatise public enterprises had some links with the land deal. Therefore, engagement of IFIs and donors in Land Use Management can be seen in two different spheres: (1) Direct land management (2) Indirect association through privatisation process and support in agriculture and other development sectors.

The ADB and WB are the two donors actively engaged in Land Use Management of Nepal. The GoN had initiated Land Use Management Project with the Technical Assistance (TA) of the ADB and WB in 1990s. In the later stage, the Land Bank initiative introduced by the WB remained as one of the most controversial projects. Its implementation was halted due to the objection from land rights movement groups in Nepal. Other donors like Canadian International Development Agency (CIDA), German Agency for Technical Assistance (GTZ) and USAID were providing support in the Land Use Management Programme of Nepal since early 1990s. The support from CIDA on Land Resource Survey and Evaluation, GTZ and the WB assistance in establishing National Remote Sensing Centre and the support of USAID in Watershed Management and Soil Conservation projects were the main components of Land Use Management project at that time. The basic objective of the project was to develop a Land Use Plan which can contribute in increasing productive use of land resource and avoiding environmental degradation. It shows direct and indirect engagement of IFIs and donors (multilateral and bilateral) in the land deal. Land is a highly political issue. So it requires state commitment, political visioning and linkage of resources to people as foremost criteria to run Land Use Management Programme successfully. Likewise, the role and interests of donors in determining the priority and inclusive policies and

programmes in countries like Nepal can not simply be overlooked.

7.7.2.3 Land Issues in Nepal's Development Agenda

Nepal has very limited arable land. Out of its total, only 23 percent is under cultivation, of which another 20 percent remains fallow. The available arable land distribution and use pattern is highly skewed. Studies have shown that out of the total cultivable area, 13 percent people in the upper economic category hold 48 percent of cultivable area and lower 40 percent farmers own only 9 percent of arable land (Aahuti, 2007a). It shows the degree of variability of land ownership pattern. The land ownership of women is even more pathetic. According to the National Agriculture Census 2001-02, only 8.1 percent of women in total have official entitlement compared to 6.3 percent in 1981/82 (CBS, 2004). It shows very minimal efforts from state and non-state stakeholders to enhance equitable resource sharing mechanism in Nepal. The Dalits and indigenous nationalities are other categories that hold minimal and mostly unproductive land for their livelihoods. According to different studies, 24.4 percent Dalits (23% of hill Dalits and 44% Terai Dalits) are landless (Aahuti, 2007a). It is estimated that there are 25 percent farmer households that are landless throughout the nation. In the recent decades, the land rights movement has gained momentum to establish social justice in resource distribution mechanism and adopt Comprehensive Land Use Management in Nepal. However, Yadav (2006) argues that there is no land to distribute to the landless people, which have remained as a contested issue.

The resource based politics in Nepal always considers land as a central focus of power exercise. Women and other marginalised groups have been kept aside of this jurisdiction in the name of culture and tradition throughout the history. The exclusionary practice has been rooted in the conservative mindset of the ruling class. Therefore, in spite of several land related legal and regulatory provisions available in Nepal, the effectiveness in

implementation has always been questioned. Some of these legal provisions made in the past are presented in Box 7.1.

Box 7.1: Some of the Legal Provisions Directly Affecting Women's Access to Land Resources

<p>General laws related to natural resources</p> <ul style="list-style-type: none"> • Interim Constitution of Nepal 2006 • <i>Muluki Ain</i> (National Code) 1963 • Local Administration Act 1971 • Public Offence and Punishment Act 1970 • Local Self Governance Act 1998¹⁴ 	<p>Land-related laws</p> <ul style="list-style-type: none"> • Public Roads Act 1974 • Land Acquisition Act 1977 • Nepal Mines Act 1966 • Soil Conservation and Water Management Act 1982 • Land Act 1964 • <i>Birta</i> Abolition Act 1959 • Trust Corporation (<i>Guthi</i>) Act 1976 • Tenancy Right Acquisition Act 1963 • Land Survey and Measurement Act 1963 • Land Tax Act 1961 • Mines and Minerals Act 1985 • Pasture Land Nationalisation Act 1973 • Land Revenue Act 1977
<p>Water-related laws</p> <ul style="list-style-type: none"> • Water Resources Act 1992 • Water Resources Rules 1993 • Fixation of Electricity Tariffs Rules 1993 • Vehicle and Transportation Management Act 1992 • Aquatic-Animal Protection Act 1961 • Trekking and River Rafting Regulation 1981 	
<p>Forest-related laws</p> <ul style="list-style-type: none"> • Forest Act 1993 • Forest Regulations 1995 • Environment Protection Act 1996 • Private Forest Nationalisation Act 1956 • Environment Protection Regulations 1997 • Buffer Zone Management Regulations 1996 	<p>Protection Areas related laws</p> <ul style="list-style-type: none"> • National Park and Wildlife Conservation Act 1973 • Government Management on Conservation Areas Rules, 2000 • Conservation Areas Management Rules, 1996 • Buffer Zone Management Rules, 1996 • Wildlife Reserve Rules, 1977 • National Parks and Wildlife Protection Rules, 1974 • Buffer Zone Management Guidelines, 1999 • Himali National Parks Rules, 1980

Source: Upreti (2006)

¹⁴ Village Development Committee Act 1992, District Development Committee Act 1992 and Municipality Act 1992 have been replaced by Local Self Governance Act 1998.

Land has been central focus in the history of planned development in Nepal. However, the concerted efforts through donor involvement were in prominence since the early 1990s during the SAP period. The Land Use Resource Survey and Evaluation initiative of early 1990s, Land Information and Archive initiative of 2000 and Strengthening Land Administration Services in Nepal are some of the key projects related to land. The long term Agriculture Perspective Plan (APP) of Nepal does not have direct focus on land management; rather it has referred to the Badal Commission Report, which has hardly been referred by scholars involved in the periodic development plans. The 10th plan of Nepal, also known as Poverty Reduction Strategy Paper (PRSP), could not make explicit plan related to land management. However, the Interim Constitution 2007, in the part III, under Fundamental Rights, has recognised the importance of land rights. The Article 20.1 provisioned for scientific land reforms is still vague for many. But, Article 21.4 has explicitly highlighted about women's rights over parental property. In the same Constitution, in part IV under Duty of the State, it mentions the importance of investment in the use of natural resources for self-reliant economic development. Similarly, Article 37.5 talks about land reform and establishing agriculture as an industry and Article 37.13 mentions special protection for women, indigenous people, landless and ex-bonded labourers. At the moment, the GoN has devised a Three-year Interim Plan, which has a separate charter on land. However, linkages with other development sectors and ownership issues are not well emphasised. Likewise, there is no direct land-based intervention envisioned in it as foreseen by the Interim Constitution. Despite of all ambiguities, Nepal will have to deal with direct and

indirect effects of land management and use system more aggressively in the days to come.

7.7.3 Land and Social Justice for Inclusive Development

For a long time, land has been in the centre to determine the social status of the Nepali citizens. Majority of landless people comprises of women, Dalits, and indigenous nationalities. The denial of access to and control over land resources has thus been linked with the power structure. In the long run, the practice set a kind of precedence for an unwritten law. Therefore, land has been linked not only with production chain, but also with self-identity. Access to other basic social services and/or other entitlements like credit facilities and participation and representation of women are directly or indirectly linked with land ownership. Therefore, land is a prime factor to determine the status and identity of individuals. Without inclusive approach of dealing with the issues of women in relation to land, social justice is not possible.

7.7.3.1 Land and Agrarian Reforms

Land has been considered as a political agenda for ages. After the restoration of democracy in 1990, the prominence of land issue as a wider discourse was observed. Since the movement of women, landless and indigenous people are heightening, land deals with different forms of rights. It now requires Comprehensive Land Management Programme to deal with all social, political and economic packages associated with land. For example, in almost all periodic development plans of Nepal, agriculture has been considered as a priority sector to contribute to Gross Domestic Product (GDP) and poverty reduction. However, none of the periodic plans has substantially addressed land use policy and plan. In the era of globalisation, land will be one of the prime factors that determines the future of natural resource base as well as other enterprises. Therefore, land should

be taken as a part and parcel of overall agrarian reform, not only as agricultural development.

Most importantly, the Interim Constitution of Nepal in its Article 13 ('Right to Equality') states: (1) All citizens shall be equal before the law and no person shall be denied the equal protection of the laws. (2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe, origin, language or ideological conviction or any of these. (3) The state shall not discriminate among citizens on grounds of religion, race, caste, tribe, sex, origin, language or ideological conviction or any of these. The same Constitution more specifically states about women's rights. It states in Article 20 ('Right of Women') that: (1) No one shall be discriminated in any form merely for being a woman. (2) Every woman shall have the right to reproductive health and other reproductive matters. (3) No physical, mental or any other form of violence shall be inflicted to any woman and such an act shall be punishable by law. (4) Son and daughter shall have equal rights to their ancestral property.

Similarly, Comprehensive Peace Agreement, signed in by the Government of Nepal and the Communist Party of Nepal (Maoist) on 21st November, 2006, explicitly states the provision related to land. In clauses 3.5 to 3.7, it states various land related measures. The clause 3.5 states: 'End the existing centralised and unitary state system and restructure it into an inclusive and democratic progressive system to address various problems including that of women, Dalits, indigenous communities, Madhesis, oppressed, ignored and minority communities and backward regions by ending the prevailing class, ethnic, linguistic, gender, cultural, religious and regional discriminations'. Clause 3.6 mentions: 'End all forms of feudalism and prepare and implement a minimum common programme of socio-economic transformation on mutual

understanding'. Clause 3.7 writes: 'End feudal land ownership and formulate the policies for scientific land reforms'.

These provisions could really provide basis of broader framework for agrarian reform and broad-based inclusive social change, particularly in the rural areas if they are implemented honestly.

7.7.3.2 Land in the Changing Economy

Globalisation and integration into the mainstream economic development are becoming unavoidable process to a large extent. In this context, land as a common as well as a private property has great potential to harness benefits through effective management plans and procedures. For example, managing public land for the purpose of tourism, domestication of herbal plants, promotion of commercially potential crops, management of pasture lands, protection of native places of indigenous nationalities like *Rautes*, religious areas, commercial production in productive land and use of unproductive land for construction and other purposes can be some alternative thoughts. Therefore, a holistic land reform and management programme is really required to advance equitable economic growth. However, due to certain political and economic constraints, different developing countries have witnessed many challenges to deal with land issues.

In the wider framework of globalisation, land will be a crucial factor in any sector specific development policies and plans such as investment policy, migration scheme, financial sector reform, agriculture and forestry sector reform, intellectual property rights and privatisation of public enterprises. Therefore, Nepal has a great potential to tap benefits by attracting internal and foreign investment and promote inclusive growth through land based intervention. If not able to be visionary and well thoughtful, there is equal chance of losing the sovereign rights over productive resources. It will further weaken autonomy of

women, Dalits, indigenous nationalities and overall Nepali citizens. Therefore, it is a high time for GoN to work in public private partnership. Only then a common vision in Land Use Management can be developed. It will further help the people grasp the benefit of integration in global and regional trade forums dealing with the challenges ahead.

7.8 Ways Ahead

This section briefly deals with land issues vis-à-vis globalisation and women rights.

7.8.1 Human Rights Approach to Resources: Progressive Realisation

Many international instruments like UDHR, CEDAW and ILO 169 have specified provisions to ensure people's access to productive resources, social justice, and food security. These instruments have provided the basis to deal with generic as well as specific needs and aspirations of particular groups like women and indigenous communities. The provisions have acknowledged the fact that every group has different level of association with different productive resources. They also discovered the necessity to protect community specific rights through constitutional arrangement and consequent compliance of policy, rules and plan. Therefore, land is one of the major issues that determines one's human rights, identity, power and Right to Life which is also a global commitment of Millennium Development Goal 3 'Gender Equity and Empowerment of Women'. Therefore, every nation/state including Nepal should adopt progressive realisation approach to deal with women's rights over means of production specially the land.

7.8.2 Inclusion and Social Justice: Principle of Non-discrimination and Equality

Land is still the most important basis to determine social status of individuals in an agrarian country. Nepal holds over 103 castes and ethnicities where more than 50 percent women form the societal structure (Bennett, 2004). Therefore, women's concerns and aspirations should also be equally addressed. Since land has remained a determining factor to enjoy other basic rights of each citizen, dealing with land issues has great importance in ensuring equality in other spheres of life. The constitutional guarantee, thus, creates an environment to accept identity, non-secularism and can explore the potential of each individual to contribute to the nation building. Nepal, in line with international provisions, can adopt inclusive laws, policies, rules and practices with positive attitude to accept others' existence while enjoying its own rights. Likewise, the roles and responsibilities of each citizen towards the nation can be enhanced through inclusive process.

7.8.3 Global Partnership in Economic Transformation: Resource and Benefit Sharing

Globalisation promotes liberalisation and privatisation of resources which can curtail people's rights over productive resources like land. In the process of globalisation, national sovereignty can be jeopardised if the nation state fails to envision and respond to the contemporary challenges. Therefore, the nation state should work in public private partnership to ensure investment in natural resource-based productive sector ensuring ownership of community and equitable benefit sharing aroused out of use of biodiversity and indigenous knowledge and skills within the specific territory of the community and the state. The inclusive process and

common understanding and visioning thus can promote bio-prospect, protect peasants' rights, indigenous knowledge and skills, sovereignty, ensured access and prior-informed consent, benefit sharing mechanisms, provisions for technology transfer, investment and self-employment, understanding resource politics, etc. Thus, it can also contribute to achieve the MDG 8 'Global Partnership for Development'.

7.9 Conclusions

Land based exclusion of women and disadvantaged people is a manifestation of structural causes rooted in patriarchal social power relations (Ghale and Upreti, 2005). Nepalese women have been victims of structural inequalities, systematic discriminations and gender-based exploitations since time immemorial. A study (Upreti, 2004b) shows that economically and socially stratified Nepalese society created gender-based sub-ordination severely hindering women's access to land resources. Land reform and management programmes initiated since 1964 have not been effective to bring substantive changes in securing women's rights over land resources. Various studies (Regmi, 1978; Ghimire, 1992; Zaman, 1973; Upreti, 2004b, 2002, 2001) have shown that the elite-led and feudal-biased land reform measures are the hindering factors to acquire access by women and disadvantaged people to land resources. It shows that feudal landlords and powerbrokers have heavily exploited Nepalese women and the disadvantaged people and practised patron-client relations for centuries. Exclusion of women from entitlement and ownership perpetuates disempowerment and limits in opting different disrespectful livelihood measures. In the changing context of globalisation-led liberalisation and privatisation process, Nepal has to face additional challenges that can further limit women's access and ownership over land resources. Since Nepal is in the phase of state restructuring, it is the prime time for Nepal to address all forms of discrimination,

injustice, and inequality. The state restructuring thus requires new vision, thinking, mechanisms and approaches that can change societal attitude, public policy and implementation procedures to ensure resource rights and gender equality.

References

1. Aahuti. (2007a). *'Dalitka lagi Arachhan Adhikar*. In *Bishesh Adhikar ra Aarakshyanko Rajneeti*'. Basnet, P. and Darnal, S. (Eds.). Kathmandu: Jagaran Media Centre.
2. Aahuti. (2007b). The Class Issue in Nepal and Question of Land Reform in Land Rights, Quarterly Bulletin (Nepali). Kathmandu: CSRC. Year 5. Vol.14.
3. Adhikari R.; Belbase, N. and Ghale, Y. (2000). *Intellectual Property Rights: Implications for Nepal*. Kathmandu: Action Aid Nepal and Pro-Public.
4. Basnet, J. (2008), *'Bibhinna Deshharuma Bhumisudharka Sambaidhanik Prabdhhanharu*. 'Paper presented in Natural Resources Alliance Meeting. Kathmandu.
5. Basnet, P. and Darnal, S. (2007). (Eds.) *'Bishesh Adhikar ra Aarakshyanko Rajneeti*. 'Kathmandu: Jagaran Media Centre.
6. Bennett, L. (2004). *Unequal Citizens: Gender, Caste and Ethnic Exclusion in Nepal*. (Summary) Kathmandu: World Bank and DFID.
7. Bhandari, S.; Shrestha, S. and Ghale, Y. (2005). *Nepal's Accession to the WTO: Opportunities and Challenges for Nepal*. Kathmandu: Action Aid Nepal and Law Associates Nepal.
8. Bhusal, Y.R. (2006). Land Issues and the Role of Land Bank in the context of Agriculture Perspective Plan and Poverty Reduction Strategy in Nepal. Paper presented in the workshop on The APP: From Vision to Action. Kathmandu: National Planning Commission and World Bank.
9. Byrne, D. (1999). *Social Exclusion*. Open University Press.
10. CBS. (2004). National Agricultural Census 2001-2002. Kathmandu: Central Bureau of Statistics.
11. Dahal, G. and Kafle, G.P. (2008). *Manifestos of Political Parties and Result of Constituent Assembly Election 2008* (in Nepali language). Kathmandu.
12. Election Commission. (1999). *'Pratinidhi Sabha Sadashya Nirbachan Parinam 1999*. 'Kathmandu: Election Commission.

13. Election Commission. (1994). *'Pratinidhi Sabha Sadashya Nirbachan Parinam 1994*. 'Kathmandu: Election Commission.
14. Election Commission. (1991). *'Pratinidhi Sabha Sadashya Nirbachan Parinam 1991*. 'Kathmandu: Election Commission.
15. FAO. (2006). *The Right to Food Guidelines: Information Papers and Case Studies*. Rome: Food and Agriculture Organisation
16. Ghale, Y. (2007). *Right to Food is Human Rights*. Kantipur. 16 October, 2007. Kathmandu: Kantipur Publications.
17. Ghale, Y. (2005). *Land in the Realm of Exclusion and Globalisation*. In *Land First*. Kathmandu: CSRC.
18. Ghale, Y. and Upreti, B.R. (2005). *Impact of Armed Conflict on Environment and Human life: A Gender Perspective*. Kathmandu: A paper presented at the 7th Asia-Pacific NGO's Environmental Conference 4-6 November 2005.
19. Ghale, Y. (2004). *Gender Issues in Land Rights*. In *Land First*. Kathmandu: CSRC.
20. Ghimire, K. (1992). *Forest or Farm? The Politics of Poverty and Land Hunger in Nepal*. Delhi: Oxford University Press.
21. GoN. (2006). *Interim Constitution of Nepal 2006*. Kathmandu: Government of Nepal.
22. GoN. (2003). *Poverty Reduction Strategy Paper*. Kathmandu: Government of Nepal.
23. GoN. (1995). *Agriculture Perspective Plan*. Kathmandu: Government of Nepal.
24. Jawara, F. and Kwa, A. (2003). *Behind the Scenes at the WTO: The real world of International Trade Negotiations*. London: Zed Books.
25. Manandhar, N. and Bajracharya, P. (1999). *Privatisation in Nepal: Social Effects and Restructuring*. A paper presented at Sub-regional Meeting on Privatisation in South Asia, Kathmandu. 24-26 November 1999 and Rozana Salih, *Privatisation in Sri Lanka: Social Effects and Restructuring*. A paper presented at sub regional Meeting on Privatisation in South Asia. Kathmandu. 24-26 November, 1999.
26. Musembi, C.N. (2004). *Gender, Food and Hunger: Securing Women's Access and Control over Productive Resources*. London: Action Aid International (Unpublished report).
27. Nayak, P. (1998). *Economic Development and Social Exclusion in India*. Delhi: School of Economics/University of Delhi.

28. NPC. (2007). Three Years Interim Plan 2007-2010. Kathmandu: National Planning Commission.
29. NPC. (2002). Tenth Five Years Plan. Kathmandu: National Planning Commission.
30. NPC. (1997). Ninth Five Years Plan. Kathmandu: National Planning Commission.
31. Pro-public. (2007). Good Governance (Nepali), Monthly Magazine, Year 5, Issue 9, July-August.
32. Regmi, M.C. (1978). *Thatched Huts and Stucco Palaces: Peasants and landlords in 19th Century Nepal*. Varanasi: Nath Publishing House.
33. Roka, H. (2007), Dalit Mukti ra Bhumi Sudhar, In *Bishesh Adhikar ra Aarakshyanko Rajneeti*; (Eds.). Purna Basnet and Suvash Darnal. Kathmandu:, Jagaran Media centre, Pp. 261-276,
34. Schlager, E. and Ostrom, E. (1992). Property Right Regimes and Natural Resources. *Land Economics*. 68(8). Pp. 249-262.
35. Sharma, P. (2008). *Unravelling the Mosaic: Spatial aspects of ethnicity in Nepal*. Kathmandu: Social Science Baha and Himal Books.
36. UNDP. (2004), *Nepal Human Development Report: Empowerment and Poverty Reduction*. Kathmandu: UNDP Nepal.
37. Upreti, B.R. (2006). *Armed Conflict and Peace Process in Nepal: The Maoist Insurgency, Past Negotiation and Opportunities for Conflict Transformation*. New Delhi: Adroit Publishers.
38. Upreti, B.R. (2004a). *The Price of Neglect: From Resource Conflict to Maoist Insurgency in the Himalayan Kingdom*. Kathmandu: Bhrikuti Academic Publications.
39. Upreti, B.R. (2004b). Land Conflict in Nepal: Peasants' Struggle to Change Unequal Agrarian Social Relations. *Journal of Community, Work and Family*. Vol.7. No. 3. Pp. 371-394.
40. Upreti, B.R. (2004c). Dynamics of Resource Governance, Resource Scarcity and Conflict in Nepal, *Journal of Forest and Livelihoods*. Vol. 4(1). July, 2004.
41. Upreti, B.R. (2004d). *The Dynamics of Conflict in Nepal. A Background Paper Submitted to UNDP for the preparation of Human Development Report 2004*. UNDP: Kathmandu
42. Upreti, B.R. (2003). Social Exclusion, Centralism and Conflict: Challenges for Conflict Transformation in Nepal. A paper presented at the international conference on "The Agenda for Transformation: Inclusion in

- Nepali Democracy” organised by Social Science Baha. 24-26 April, 2003, Kathmandu.
43. Upreti, B.R. (2002). *Management of Social and Natural Resource Conflict in Nepal: Reality and Alternative*. New Delhi: Adroit Publishers. Pages 371.
 44. Upreti, B. R. (2001). *Conflict Management in Natural Resources: A Study of Land, Water and Forest Conflict in Nepal*. Published PhD Dissertation. Wagenignen: Wagenignen University.
 45. WTO (2008). http://www.wto.org/english/tratop_e/dda_e/groups_e.pdf, Geneva (Accessed on 22 August 2008)
 46. Yadav, R.P. (2006), Where is the land to distribute? Paper presented in the workshop on The APP: From Vision to Action. Kathmandu: National Planning Commission and World Bank.
 47. Zaman, M.A. (1973). *Evaluation of Land Reform in Nepal*. HMG/N, Kathmandu: Ministry of Land Reform.

Chapter 8

 Purna Nepali

Dalits, Land and Social Exclusion in Nepal

8.1. Introduction

This chapter discusses how Dalits are excluded from land resources. It demonstrates the relationship between the Hindu *Varna*¹⁵ System and Dalits' access to land resource. Further, it links Dalits' land ownership with land reform initiative. Finally, this chapter suggests ways of social inclusion that enhances Dalits' access to and control over land resources.

Social exclusion refers to the relational aspects and is embedded in the formal and informal institutions of a society and the state. The state prevents individuals or groups from full participation in social, economic and political life and from asserting their rights. It derives from exclusionary relationships based on power (Bennett, 2004).

8.2 Context

Dalit is a new term used to refer to the so-called low and untouchable castes, referred to in the Civil Code of 1854 as *Pani nachalne chhoi chhito halnu parne jaat* (caste from whom water is not accepted and whose touch requires sprinkling of holy water) (Dahal *et.al.* 2002). The concept of Dalit, in general, is used to refer the vulnerable and poor groups who are put in the

¹⁵ *Varna* is the basis of social division of Hindu religion. The whole Nepali Hindu society is divided into four *Varnas*. They are Brahmin, Kshetri, Baishya and Shudra (Sharma, 2006).

lowest ring of the status hierarchy in caste system¹⁶. In most writings, the term is also used to identify a group of people who are 'oppressed', 'suppressed' and 'exploited'. Some tend to indicate the association of the term Dalit to the Nepali/Hindu word *Daldal*, meaning swamp. Those favouring these meanings see Dalits as those people who are living in swamps, coming out of which is difficult and extremely hard, if not impossible. The swamp is a metaphor for the socio-cultural milieus in which Dalits find trapped throughout the history. Upreti (2004) has mentioned that the caste structure is based on Hindu *Varna* System which divides people into four categories according to their occupational activities viz., the *Brahmins* (learned, priests), the *Kshetris* (warriors), the *Vaishyas* (traders and agriculturists) and the *Shudras* (people in menial services). Originally, it had merely meant to indicate the type of work they do. But gradually, it became hereditary and socially accepted category. This hereditary transformation of *Varna* was institutionalised into the present complex and rigid caste system in Nepal. The untouchability and discrimination on the basis of caste division was formally abolished or outlawed by the 1963 New Civil Code, Constitution of Nepal 1991, the Parliamentary Declaration of 2006 and the Interim Constitution 2007. But still it prevails widely in Nepalese society. National Census 2001 reveals that Dalits' population was 13 percent (2,945,223) in the country (CBS, 2002). But Dalit NGOs claim that their population is about 20 percent of the total (Malla and Bishwakarma, 2002). Their logic is that the population of few Dalit castes (e.g. Bishwakarma) was reduced, while comparing with the census of 1991 and 2001. But the population theory does not support such a decrease of population in temporal dimensions (ibid).

¹⁶ In a Caste System, membership in the ranked categories of people is hereditary and permanent and marriage between memberships of different categories is prohibited (Berreman, 1987, cited in Thomsan *et. al.* 1994). As an ideal type, the caste system is totally closed: status is ascribed and no matter the efforts, one inherits the social position of one's parents. A caste is an endogamous group bearing a common name, membership of which is hereditary, imposing its members certain restrictions in the matter of social intercourse, following traditional occupation or claiming a common origin and generally regarded as forming a homogeneous community.

In the Old Civil Code 1854, Dalits were kept at the bottom of caste pyramids. It has multiple implications on socio-economic spheres of Dalit population. They are synonymous to poor, deprived and marginalised sections of the nation. Landlessness¹⁷, marginal and small land holdings and food deficiency are general features of the economy of Dalits. Landlessness is acute among Madhesi Dalits. Table 8.1 depicts the marginal status of Dalits who are facing caste based untouchability and human rights violations. Their social dignity and prestige are not properly recognised in public places. Although officially abolished in 1963, the caste based discrimination remains even today.

Table 8.1: Comparative Socio-economic Indicator of Dalits with National Situation

Indicators	Value (Dalit)	Value (National Average)
Life Expectancy	50.30	55.00
Average Income (NRs)	13340	20689
Life Expectancy Index	0.422	0.500
Educational Attainment Index	0.186	0.295
Poverty Percentage	47	31
HDI	0.239	0.325
Mortality under 5 years	171.2	104.8
Infant Mortality	116.5	75.2
Fertility	4.7	4
Use of Contraceptive	28%	44%
Literacy above 6 years	28%	54%
SLC and above	3.8%	17.6%
Bachelors and above	0.4%	3.4%
Landlessness	Hill Dalits 40% Madhesi Dalits 95%	24.4%
Empowerment and Inclusion Index	0.3	0.4

Source: Compiled from NESAC (1998); Bishwakarma (2005); JMC (2005); CBS (2002); (Bennett, 2006)

¹⁷ Landlessness means the situation of a person who is dependant on agriculture but has no land in his/her or any of the family members' names.

8.3 Characteristics of Nepalese Economy

It is essential to examine the economic characteristics of society and their relation with the Dalits. According to Karl Marx (Turner, 2002), economic organisation (especially ownership of property) determines the organisation of rest of the society. Specially, the class structure and institutional arrangements, as well as cultural values, beliefs, religious dogmas and other idea systems are the ultimate reflection of the economic base of a society. As economy controls production, distribution and consumption of goods and services in a society, it enhances the life of people (Thomsan *et. al.* 1994). Similarly, socio-economic progress, status and prestige of an individual are determined largely by production relation. Nepalese nature of production is based on extraction of natural resources like land which is obvious in an agrarian society. It is based on land and it possesses semi-feudal characteristics, such as *Balighare*¹⁸, *Khalo*¹⁹, *Khan*²⁰ and *Haliya*²¹ *Pratha*, etc. Agriculture is a major source of Nepalese economy. It accounts for 38.5 percent of national economy (MoAC, 2006). About 65.5 percent people are engaged in agriculture and this sector also provides employment to 81 percent people of Nepal (CBS, 2002). Thus, land is a broad indicator of socio-economic status in an agrarian society like Nepal. It is the fundamental asset of a person's property, a major source of livelihood, pride and dignity and a symbol of prosperity. Further, it makes one of the bases for perpetuating the level of injustice and continuation of the practices of feudal customs in Nepali society (Regmi, 1999).

^{18, 19, 20} Various services of Dalits are supplied in the context of an ongoing relationship between a client and craftsman, a system also known as patron-client relationship. These relationships are known by different names in different parts of country such as *Bali Ghare Pratha* (Eastern Nepal), *Khalo Pratha* (Western Nepal) and *Khan System* (in Terai).

²¹ *Haliya Pratha* refers to system of hiring people for ploughing landlord's land. Semi bondage, caste based exploitation and unfair wages are the common problems being faced by them.

8.4 Historical Perspectives

Hindu elites of Nepal and India are influencing the society based on *Varna* system. Though a number of scholars believe that it has implication only in religion and cultural spheres, in reality it has direct implications on feudalistic mode of production relation and state governing system. According to *Varna* system, so-called upper caste is continuously regulating the society. Consequently, Dalits are structurally at the bottom of society and have been devoid of socio-economic and political rights such as land rights, socio-political rights and social dignity.

Originally, this *Varna* system was only for division of labour. Later the caste based untouchability was imposed. It was extended to Nepal from India. Dalits have been limited only to the services of menial jobs. The vertical hierarchy of *Varna* system is directly converted into various stratified classes in a continuum (i.e. from rich to poor). The implication of this is that Dalits are always devoid of access to productive resources like land and socio-economic rights and culture. Consequently, they are becoming landless and caught in vicious circle of poverty.

Even after the unification of Nepal by Prithvi Narayan Shah (1722-75), feudalistic Hindu *Varna* system continued. Indigenous nationality²² or *Janajati* also started to practice caste based discrimination though they do not fall under caste system. This stratification/hierarchy function was used as a basis for 'divide and rule' and 'avoiding the socio-economic rights' of the deprived and marginalised groups. As a result, land rights and other human rights of Dalits were violated.

²² Indigenous nationality refers to those ethnic groups whose cultures are similar, but they do not fall under category of caste system. They are popularly called *Janajati* in Nepali. The Nepal Federation of Indigenous Nationality (NEFIN) identified 59 *Janajati* groups.

Table 8.2: Dalits and Land Ownership

Categories	Percentage
Totally landless	23
Less than 5 <i>Ropani</i>	48.7
Having 6-10 <i>Ropani</i>	15.6
Having 10-20 <i>Ropani</i>	9.6
More than 21 <i>Ropani</i>	3.1
Total	100.0

Source: NDC (2002)

Dalits have settled in different parts of Nepal and they provide service to other castes and ethnic groups. In this context, various feudalistic systems such as *Balighare*, *Khalo*, *Khan* and *Haliya Pratha* were derived. Table 8.2 shows that land ownership of Dalits is low. About 20 *Ropani* (1.02 ha) is needed for supplying livelihood requirements of a family having 5 members. But, only 3.1 percent family members have sufficient land. Furthermore, 95 percent Madhesi Dalits are landless.

8.5 Political Changes and Dalits' Land Ownership

The major slogan of political parties during the political change of 1951 was 'Land to the Tillers.' However, this slogan neither brought qualitative difference in political arena nor could it abolish the feudal production relation. Hence, it can be said that the political change of 1951 had no significant effect on Dalits' land ownership.

After the royal takeover in 1961, King Mahendra brought Land Reform Programme in 1964. This programme could not bring justice even to other so-called upper caste tenants. It could also not be expected that Dalits and other such deprived and slaved social groups would benefit from such a programme. The *Panchayat* regime did not even accept caste based untouchability as human rights violation.

Multiparty democratic system acknowledged Dalits' rights after the re-establishment of democracy in 1990. However, it was silent on Dalits' land rights. In 1997, the fourth amendment of Land Act (1964) targeted to end dual land ownership, but it was not in favour of the tenants and thus could not bring about remarkable change in the lives of the Dalits.

Though there were popular slogans about revolutionary 'Land Reform' and 'Land to the Tillers' given by major political parties, they could not address landlessness of Dalits. They were not sensitive even towards fundamental source of exploitation of Dalits. I argue that general land policies failed to bring substantial changes in the overall socio-economic transformation of Dalits. The High Level Commission on Land Reform 1995/1996 (commonly known as Badal Commission) is considered as very comprehensive in the analysis of Nepalese context. But it also couldn't raise substantive issues of Dalits.

In sum, the past political changes and the state's policies did not bring much change in the socio-economic status of Dalits. Consequently, political forces and the state failed to address Dalits' rights to land.

8.5.1 Dalits and Land Relation

While examining the land ownership of Dalits, it is imperative to analyse the distribution of land. The various statistics reveals that land distribution in Nepal is skewed and inequitable. The UNDP Human Development Report 2004 (UNDP, 2004) reveals that the bottom 47 percent of land owning households own 15 percent of the total agricultural land with an average size of less than 0.5 hectare (ha), while the top 5 percent occupies more than 37 percent of land.

It is essential to go beyond the aforementioned macro data (at national level) to explain landlessness and look at the disaggregated forms in terms of class and caste. These micro

statistics vary from source to source. Twenty five percent of the total households (1,037,785 households out of 4,253,220) own no or less than 0.1 hectare of land (CBS, 2002). They are considered as agricultural landless. The UNDP Human Development Report 2004 states that there are 24.5 percent landless and 7 percent semi-landless (owning less than 0.2 acres) people. Adhikari (2006) states that there are 287 thousand farmer families practically landless or holding land less than 0.1 ha. There are 2.5 million farm families whose land ownership is less than 1 ha. This data shows that one third of the population is landless. According to Badal Commission Report, there were 50,000 people completely landless in the early 1990s. Similarly, according to CSRC (2004), there are 1.02 million landless families.

Among the landless and semi-landless, Dalits occupy the first place. A significant proportion of Terai Dalits (*Chamar, Batar, Mushhar, Dusad* and *Dom*) is landless. Similarly, majority of Hill Dalits (*Kami, Damai, Sarki, Gaine* and *Badi*) is also landless (Dahal *et. al.*, 2002). Hill Dalit castes are called marginal cultivators due to no or smaller landholding (Adhikari, 2006). Bhattachan *et.al.* (2003) has noted that Dalits in Terai are approximately synonymous to landless people. Even if Terai Dalits own little land, that is either infertile for agricultural production or occupied by the house itself. Dahal *et.al* (2002) has mentioned that proportion of Dalits, either landless or marginal land holders (less than 0.25 ha), is considerably higher than that of non-Dalits. The same report reveals that the average landowning per household among the Dalits group is 0.12 ha of *Khet* (irrigated land) and 0.225 ha of *Pakho* (Sloppy land). They found that the untouchables (Dalits) have the lowest proportion of land (3%) compared to other groups like *Tagadhari* and *Matwali*. Similarly, this report has also found that the extent of land shortage is highest among untouchables (64%) compared to *Taghadhari* and *Matwali*.

Being landless or small land holders, Dalits are bound to face exploitations in the form of *Balighare, Khalo, Khan and Haliya Pratha*. Further, they are often devoid of citizenship, loan from financial institutions and they have no alternative ways of livelihood.

8.5.2 Livelihood Strategies of Dalits

Livelihood of Dalits is miserable due to landlessness. Food self-sufficiency is much lower among the Dalits and *Janajati* groups than among that of Brahmins, Kshetris and Newars (The World Bank, 2006). According to a survey conducted by TEAM Consult (1998), cited in Dahal *et. al.* (2002), about 50 percent households surveyed had food deficiency. Dahal *et. al.* (2002), quoting from Sharma *et. al.* (2002), noted that 21 percent of Dalit households produced food grain for less than 3 months, 19.6 percent for 4-6 months, 15.4 percent for 1 year and 5.1 percent produced surplus food grains. Out of 5,162 (99.6%) respondents, food deficiency was reported by 3,686 or 71.4 percent of total respondents. Food deficiency of Dalits by geographic region shows that it was highest in Terai (46.6%), followed by Hill (43.3%) and the least was found to be in the mountains (10.3%). The same study documented that annual income of Dalits was the lowest, when compared to the *Matwalis* and the other so-called higher caste groups. Likewise, the expenditure on items such as clothing, education and medicines were also found to be the lowest among Dalit groups. More than 54 percent of the population were engaged in agriculture followed by service (15.7%), non-farm wage earning (14.2%) and farm wage earning (6.1%) and others. The main economic activity of majority of Dalits was wage labour. In addition, blacksmith, leather work, tailoring, etc. were also important economic activities for their survival.

Historically, Dalits have been practising their traditional caste based occupations and selling the products to their clients to

make a living. In case of *Kami* groups, they make their livelihood by making agricultural tools and household utensils such as sickles, knives, axes, hoes, spades and nails, etc. A goldsmith or *Sunar* makes golden or silver ornaments as demanded by their clients. *Parki* is the group of basket weavers who make a variety of storage baskets and floor mats from bamboos. The *Chunara* blacksmith groups of far-western Nepal make utensils from woods. *Damai* is the group name of tailors who sew clothes for their clients both in cash and kinds. *Sarki* denotes the leather worker who makes shoes and other products from skin of dead animals as cattle and water buffaloes. *Badi* also denotes the group of potters who make different kinds of earthenwares. Particularly they make good earthen pipes for smoking purposes. At the same time, they are singers and dancers. Some *Badi* girls and women practice prostitution to make their living. *Gaine* groups sing songs with their traditional instrument *Sarangi*. In case of Terai Dalits, *Chamar* is known as the leather worker. Their group make and polish shoes and dispose off dead animals for their clients. The *Tanti* groups are weavers and *Dom* and *Halkhor* are sweepers who clean public streets and bathrooms for government as well as individual households. *Dhobi* people are known for being washers by profession who work mostly in cash. *Chamar* women also work as *Sudeni*, the traditional midwives. Though the caste-based occupation is gradually declining, this is one of the major means of livelihood for Dalits even today. As Dalits have little land and they are the least educated people, modernisation of their skills is one of the best alternatives for strengthening their economy in future.

According to Sharma *et. al.* (1994), as cited in Dahal *et. al.* (2002), one of the main economic activities of the majority of Dalits is wage labour. The groups involved in this activity are: *Damasi*, *Sarki*, *Gaine*, *Hudke* and *Badsi*. Bhattachan *et. al.* (2002)

has also identified that the main activity of the Dalits for survival is non-agricultural activities (51%).

In addition to land, there are other sources of livelihood such as service, business, wage labour, remittances, etc. According to TEAM consult (1998), as cited in Dahal *et. al.* 2002, the mean income from service is found to be the lowest among untouchables. The highest mean annual income group was *Tagadhari* (Rs. 33,130), followed by *Matwali* (Rs. 30,300) and untouchable groups (Rs. 25,910). On the other hand, the income from labour was found to be the highest among Dalits (72.4%), followed by *Matwali* (42%) and the *Tagadhari* (24.8%). In Nepali society, wage labour is done only by those people who cannot make a living from the other works.

Dalits' landlessness is not the outcome of fragmentation of land and inheritance laws of property. Dalits have been marginalised systematically through the Hindu caste system and *Muluki Ain* or Civil Code 1854 by placing them at the bottom of the caste hierarchy. Accordingly, rules, regulations and cultural practices have further weakened their position in socio-economic spheres.

8.6 The UN and Property Rights

Private ownership of land is not compatible with socialism, communism, or with global governance as described by the United Nations. Stalin, Hitler, Castro, Mao- all took steps to forcefully nationalise land as an essential first step towards controlling their citizens. The UN, without the use of military force, is attempting to achieve the same results.

The land policy of the United Nations was first officially articulated at the United Nations Conference on Human Settlements (Habitat I), held in Vancouver, May 31-June 11, 1976. Item 10 of the Agenda of the Conference Report set forth the UN's official policy on land. The Preamble says:

Land ... can not be treated as an ordinary asset, controlled by individuals and subject to the pressures and inefficiencies of the market. Private land ownership is also a principal instrument of accumulation and concentration of wealth and therefore contributes to social injustice; if unchecked, it may become a major obstacle in the planning and implementation of development schemes. The provisions of decent dwellings and healthy conditions for people can only be achieved if land is used in the interests of society as a whole. Public control of land use is therefore indispensable...²³

The preamble is followed by specific policy recommendations endorsed by the participating nations including the United States. A few of them are stated as follows:

Recommendation D1

- a. Public ownership or effective control of land in the public interest is the single most means of achieving a more equitable distribution of the benefits of development whilst assuring that environmental impacts are considered.
- b. Land is a scarce resource whose management should be subject to public surveillance or control in the interest of the nation.

Recommendation D2

- a. Agricultural land, particularly on the periphery of urban areas, is an important national resource; without public control land is prey to speculation and urban encroachment.
- b. Change in the use of land.... should be subject to public control and regulation.
- c. Such control may be exercised through:

²³ For details, see <http://www.sovereignty.net/p/land/unpropts.htm> (Retrieved on August 9, 2008).

- i) Zoning and land use planning as a basic instrument of land policy in general and of control of land use changes in particular;
- ii) Direct intervention, e.g. the creation of land reserves and land banks, purchase, compensated expropriation and/or pre-emption, acquisition of development rights, conditioned leasing of public and communal land, formation of public and mixed development enterprises.

Recommendation D3

- a. Excessive profits resulting from the increase in land value due to development and change in use are one of the principal causes of the concentration of wealth in private hands. Taxation should not be seen only as a source of revenue for the community but also as a powerful tool to encourage development of desirable locations, to exercise a controlling effect on the land market and to redistribute to the public at large the benefits of the unearned increase in land values.
- b. The unearned increment resulting from the rise in land values, resulting from change in use of land, from public investment or decision or due to the general growth of the community must be subject to appropriate recapture by public bodies.

Recommendation D4

- a. Public ownership of land cannot be an end in itself, it is justified in so far as it is exercised in favour of the common good rather than to protect the interests of already privileged;
- b. Public ownership should be used to secure and control areas of urban expansion and protection; and to implement

urban and rural land reform processes and supply serviced land at price levels which can secure socially acceptable patterns of development.

Recommendation D5

- a. Past patterns of ownership rights should be transformed to match the changing needs of society and be collectively beneficial.
- b. Method for the separation of land ownership rights from development rights, the latter to be entrusted to a public authority.

Aforementioned preamble and specific recommendations have focused on socialism and public land ownership. Excessive accumulation of land produces social injustice and socio-economic inequalities. Social theory on 'Conflict Perspective' considers private ownership to be a major contributor to social inequalities and exploitation of one social class by another. Under socialism, the state restricts the private land ownership to only few personal items and limits social stratification based on wealth. Under socialism, all means of production are owned and controlled by the state and goods and services are distributed as a cooperative enterprise without regard to personal benefits (Thomas, *et. al.* 1994). Hence, Dalits' empowerment and mainstreaming can be enhanced under such an economic system. It will address social injustices based on socio-economic and cultural inequality which is the basis of exploitation and discrimination. Therefore, the provision of UN property right is a strong basis for policy advocacy that can enhance activism towards Dalits' land right.

8.7 Conclusions

It is concluded that Dalits have been systematically marginalised and excluded from productive resources including land. The

Hindu caste system was institutionally and legally introduced by the state and society leading to untouchability. Dalits had been devoid of economic resources. The Hindu *Varna* system has multiple effects on socio-economic, political and cultural spheres of Dalits. All these socio-economic inequalities were the basis for the decade-long armed conflict in Nepal.

One must focus on the root causes of Dalits' marginalisation and exclusion to address the adverse socio-economic inequalities. Dalits have special and complex nature of problem that has been originated from the introduction of Hindu *Varna* system, state's policies and institutions. This structural cause was practised, well-rooted and also proliferated in Nepalese society. They are found in the forms of bonded or semi-bonded slavery and other forms of discrimination and exploitation.

Land is solely a class issue. As Karl Marx vividly mentioned in his structural analysis (See chapter 5), socio-economic inequality is produced through unequal distribution of symbols, materials and political resources. Production relation in Nepal is largely shaped by feudal economic caste system. It is natural that our class structure has been greatly influenced by feudal Hindu caste system.

Land reform does mean not only fixing land ceilings and distributing land to the needy ones, but also introducing integrated package programmes that aptly address social injustice. Overall, it should ensure social reform. Once Dalits' access to land is established, it will ensure their livelihoods as well as freedom from various kinds of bondage, discriminations and exploitations.

References

1. Aahuti. (2007). Question of Liberation of Dalit Community in Hindu Society (*Hindu Samajma Dalit Jatiya Mukti Ko Prashna*). Merry, D. and Onta, P. (Eds.). *Nepalko Sandarvama Samajshastriya Chintan*. Kathmandu: Social Science Baha. Pp. 475-517.

2. Aahuti. (2004). Landownership of Dalits: A Sample Study Report. Kathmandu: Atma Nirvar Bikas Manch.
3. Adhikari, J. (2006). Land Reform in Nepal: Problems and Prospects. Kathmandu: Nepal Institute of Development Studies (NIDS).
4. Badal Commission Report. (1996). *Badal Uchchastariya Bhumisudhar Sujhab Aayog* 1994. Kathmandu: P. B. Publisher.
5. Bennett, L. (2004). *Unequal Citizens: Gender, Caste and Ethnic Groups in Nepal*. (Summary). Kathmandu: The World Bank and DFID .
6. Bhattachan, K. B.; Hemchuri, K.; Gurung, Y.; and Biswakarma, C.M. (2003). *Existing Practices of Caste-Based Untouchability in Nepal and Strategy for a Campaign for its Elimination*. Kathmandu: Action Aid Nepal.
7. Bishwakarma, M.B. (2005). *Dalits in State Governance*. Kathmandu: Jana Utthan Pratisthan.
8. CBS. (2003). National Sample Census of Agriculture 2001/02 Highlights. Kathmandu: Central Bureau of Statistics.
9. CBS. (2002). Population Census 2001. National Report. Kathmandu: Central Bureau of Statistics.
10. CSRC. (2004). *Land First*: Bi-Annual Publication (August 2005). Kathmandu: Community Self Reliance Centre.
11. Dahal, D.R.; Gurung, Y.B.; Acharya, B.; Hemchuri, K. and Swarnakar, D. (2002). National Dalits Strategy Report (Prepared for National Planning Commission). Kathmandu: Action Aid Nepal, CARE Nepal and Save the Children.
12. Ellis, F. (2000). *Rural Livelihoods and Diversity in Developing Countries*. New York: Oxford University Press.
13. Ghimire, K. (2001). *Land Reform and Peasant Livelihoods*. Kathmandu.
14. <http://www.sovereignty.net/p/land/unproprts.htm>. (Accessed on August 9, 2008).
15. JMC. (2005). *Reservation: Local Discussion and Conclusion*. Kathmandu: Jagaran Media Centre.
16. Karki, L. and Basnet, B.B. (2005). Landownership and Livelihood: A Case Study of Dangighat VDC, Morang District. Kathmandu: Buddha Air Pvt. Ltd.
17. Malla, S.K. and Bishwakarma, P.L. (2002). Darban Declaration and Workplan and Caste Discrimination in Nepal (*Darban Ghoshnapatra ra*

- Karyayojana tatha Nepalma Jatiyabived*). Kathmandu: Jatiya Bibhedhbirudha Bishwa Samajik Manch Nepal.
18. MoAC. (2006). Statistical Information on Nepalese Agriculture 2001/2002 (2058/059). Kathmandu: Agri-Business Promotion and Statistics Division, GoN.
 19. Müller-Böker, U. (1999). *The Chitwan Tharus in Southern Nepal: An Ethno-ecological Approach*. Stuttgart: Franz Steiner Verlag Wiesbaden.
 20. NDC. (2002). *Citizenship and Land Ownership Status of Dalits Community in Nepal*. Kathmandu: National Dalits Commission.
 21. NESAC. (1998). Nepal Human Development Report. Kathmandu: South Asia Center.
 22. NNDSWO. (2006). Demographic and Socio-economic Survey of Dalits 2004/2005. Kathmandu: Nepal National Dalits Social Welfare Organisation.
 23. NNDSWO. (2006). Demographic and Socio-economic Survey of Dalits-II. Kathmandu: Nepal National Dalits Social Welfare Organisation.
 24. NNDSWO. (2006). Ethnographic Study of Terai Dalits in Nepal. Kathmandu: Nepal National Dalits Social Welfare Organisation.
 25. NPC. (2002). Tenth Plan (2002-2007). Kathmandu: National Planning Commission, GoN.
 26. Regmi, M.C. (1999a). *Landownership in Nepal*. Delhi: Adroit Publisher.
 27. Regmi, M.C. (1999b). *Thatched Huts and Stucco Palaces: Peasants and Landlords in 19th Century Nepal*. Delhi: Adroit Publishers.
 28. Rizal, D. and Yokota, Y. (2006). *Understanding Development, Conflict and Violence: The Cases of Bhutan, Nepal, North-East India and the Chittangong Hill Tracts of Bangladesh*. Delhi: Adroit Publishers.
 29. Roka, H. (2007). Dalits Liberation and Land Reform (*Dalit Mukti Ra Bhumisudhar*). In JMC. (2007). (Eds.). *Politics of Special Right and Reservation*. Kathmandu: Jagaran Media Centre.
 30. Sharma, K.P. (2004). Land Reform: A Viable Programme for Poverty Reduction. *Readings on Governance and Development*. Vol. 3. Pp. 143-149.
 31. Sharma, P.R. (2006). *The State and Society in Nepal: Historical Foundations and Contemporary Trends*. Kathmandu: Himal Books.
 32. Shreshtha, N.R. (1990). *Landlessness and Migration in Nepal*. Boulder: West View Press.

33. Thapa, S. (2000). *Historical Study of Agrarian Relations in Nepal (1946-1951)*. Delhi: Adroit Publisher.
34. The World Bank. (2006). Resilience amidst Conflict: An Assessment of Poverty in Nepal (1995-96) and (2003-04). Kathmandu: Central Bureau of Statistics, The World Bank, DFID and ADB.
35. Thompson, W.E. and Hickey, J.V. (1994). *An Introduction to Sociology: Society in Focus*. New York: Harpers Collins College Publishers.
36. Turner, J.H. (2002). *The Structure of Sociological Theory*. (5th Edition). Nagpur: Rawat Publications.
37. UNDP. (2004). Nepal Human Development Report 2004. Kathmandu: United Nation Development Programme.
38. Upreti, B.R. (2004). Land Conflict in Nepal: Peasants' Struggle to Change Unequal Agrarian Social Relation. *Community, Work and Family*. Vol. 7. No 3. Pp. 371-394
39. Yadav, R.P. (2005). Land Tenure Situation in Nepal. *Policy Outlook Series* No. 7. Kathmandu: Winrock International.

Part III
Empirical Cases

Chapter 9

✍ Jagat Deuja and Nari Ram Luhar

Status of *Haliyas* in Nepal

9.1 Introduction

Literally, those who plough the land are called *Halis* (tillers) in Nepal. More specifically, the system of keeping *Halis* as by the landlords as regular labourers is called *Haliya*. This practice of keeping *Halis* is widespread especially in the mid- and far-western hilly regions.

This system is a type of bonded labour and often referred to as a form of semi-slavery. In this system, if anyone takes loan from the landlord, the entire family is bound to work as bonded labourer and this passes on for generations until the loan is paid back. This practice prevails in other parts of the country as well, with different names in different places. It is estimated that there are around 300,000 *Halis* in the country, with around 60,000 in the far-western region only (Gautam and Pransai, 2006). The *Halis*, particularly in mid- and far-western regions of Nepal, are forced to live in extremely miserable and wretched conditions since they do not own any land and have to live in the mercy of the landlords.

9.2 The Beginning of *Haliya* System

There is no reliable information on the beginning of the '*Haliya*' system in Nepal. But it can be assumed that the system must be closely associated with the caste system in Nepal. Because of the caste-based discrimination, some of the professions were

regarded as respectful while others were looked down upon. The Civil Code 1854 legalised the practice of discrimination against the 'untouchables' and barred them from entering into public places as well as prohibiting them from taking part in social gatherings, inter-caste marriages, wearing new jewelleryes, building big houses and even riding horses.

The *Haliya* system came into practice because the so-called upper castes were not supposed to plough in the land. Dalits, who were financially weak and did not even have access to land, were forced to embrace this practice as the only means of earning livelihood. Some became *Halis* for receiving the land, while others opted it to get loans from the landlords. It has been found that in the places where there is a majority of *Brahmins* and *Thakuris*, Dalits are given land in return for their service as *Halis* (Robertson and Mishra, 1997). In some places, the land is registered in the names of *Halis*. But somewhere, *Halis* just own the settlements not the land they are settled in.

There are many similarities between *Haliya* and *Kamaiya* practices. *Kamaiya* practice was more prevalent in the Terai regions while *Haliya* system was practiced in the hilly regions. The Landlords from hilly regions are found to have kept *Halis* in order to till their uplands. As opposed to the *Kamaiya* system, in which the loans taken from the landlords can be repaid from their service, the loan taken in the *Haliya* system is not repaid. This is because the service of *Hali* is accounted merely as the interest on the initial loan taken. Extra income is a far cry for the *Haliyas*, since they are forbidden to go elsewhere for other works. This is why, they are never able to pay the initial loan amount. This type of enforcement eventually leads the *Halis* to become bonded labourers. If a *Hali* dies or is not able to work, he has to be replaced by one of his family members. It is how the *Haliya* system has been transferred from one generation to another.

Neither the landlords nor the *Halis* sense injustice in this practice since the society has been accustomed to it for long. The *Halis* are bound to timelessness. However, in the later years this sense has been gradually changing. Occasionally, there are some poor farmers who own land but still choose to become *Halis* because they are unable to make their living. Such *Halis* cannot afford to till their own land because they are forced to work in the fields of the landlords in cropping seasons. Hence, they start cultivating their own land late that results in poor production. Consequently, they get churned in the vicious cycle of poverty and deprivation.

Two forms of *Haliya* system are commonly practised in Nepal. In one form, the *Halis* live in the landlord's place; while on the other; they go to the landlords only when there is work. The former ones spend their lives almost as bonded labourers while the latter ones are able to live a relatively free life. The *Halis* as well as the landlords have helped in continuing this discriminatory practice. Moreover, the thinking that only the Dalits can work as *Halis* and the so-called higher castes are not supposed to plough the land has been regarded as a tradition. This deep-rooted belief has made this practice very oppressive and discriminatory in these regions.

9.3 Difference between *Kamaiyas* and *Haliyas*

It is observed that *Haliya* system is considered to be of a lower status compared to the *Kamaiya* system. The *Kamaiyas* have partial security of food and shelter whereas the *Halis* do not. The latter ones are called for work only during the cropping season, while in other times they have to manage their bread and butter themselves. Furthermore, if on a given day the landlord has called other tillers as well, the *Hali* gets chance to eat with them. But if he is alone, he is not even guaranteed of getting his basic meal. *Halis* are also made to perform other

tasks, but whether or not they are paid often depends on the mood of the landlord.

Since *Kamaiyas* are mostly from the *Tharu* community, they are allowed to enter and work inside the houses of the landlords, but *Halis* do not get this liberty. This is because most of the *Halis* are Dalits. They are, thus, made to live in much more dreadful conditions than the *Kamaiyas* are made to do. The upper-caste people do not accept the water from the *Halis*. In this regard, it can be argued that *Haliya* system is even more heinous and discriminatory than the *Kamaiya* system.

Table 9.1: Comparison of *Kamaiya* and *Haliya* systems

<i>Kamaiya</i>	<i>Haliya</i>
<ul style="list-style-type: none"> • Mandatory bonded labourer for one year. • Living in small huts (<i>Bukura</i>) of the Landlords. • Have taken cash loans. • The wife of a <i>Kamaiya</i> is called <i>Bukurahi</i>. • The children are called <i>Gaiwar</i>, <i>Bhaiswar</i> and <i>Kamlari</i>. • In case the loan is paid off, the <i>Kamaiya</i> can be changed in <i>Maghi</i> (<i>Tharu</i> Festival). • No practice of caste based untouchability. • Forced to face injustice due to loan. • Even <i>Bukurahis</i> have to provide service for food. • Mostly the landless <i>Tharus</i> are victims of this system. 	<ul style="list-style-type: none"> • Mandatory bonded labourer for one cropping season. • Living in the land provided by the landlords or in their own houses. • Have taken cash and/or land loans. • Women are compulsorily made to work in the fields. • Children are used as herdsmen. • In case the land is given back or the loan is paid off, landlords can change <i>Halis</i> once the cropping season is over. • Have to work for paying off the interest amount. • Extensive caste based discrimination. • Have to take full responsibility for tilling the entire land and doing the chores outside the house for minimal wage. • Mostly the landless Dalits are victims of this system.

Source: Lamichhane (2004); Gautam and Prasain (2006)

The compulsion to stay as bonded labourers has pushed *Halis'* entire life towards darkness. A study conducted by Robertson and Mishra (1997) for Anti-slavery International, in Baitadi, shows that only 405 out of the 2408 *Halis* were found to be literate. This is really appalling. Furthermore, more than 65

percent of the *Halis* said they were compelled to remain as *Hali* due to the lack of food to eat and other compulsive circumstances to beg for loan from the landlords. Consequently, they had to pay up to 6 or 7 times more interest than the bank rate. Interesting to note, they do not have any major complaints against the exploitation of the landlords. Rather, they appreciate the landlords for helps during crises, irrespective of the high rate of interest.

The situation of the caretakers and the servants of the house of the landlords are even more miserable. When will these people, who are compelled to work as machines, be able to make a decent living? Nobody knows. Government has yet to realise this tragic reality.

Box 9.1: Six Generations of *Haliyas* in Baitadi²⁴

The Dalits in Gwallek VDC of Baitadi district have been working as *Halis* for six generations in the hope of getting their own land. Six generations ago, the Joshi Brahmins had given them some land in Magaraun village for making agricultural tools. Even though they have been working for the last six generations, the promised land has not yet been given. Only the ownership of lands in which they have built their house has been transferred to their names.

Some Dalits got registered land in 1988 which was acquired by giving the landlords some money or feeding them meat. However, in this area, most of the Dalits did not own any land.

Box 9.2: Atrocities by Landlords²⁵

Thirty-six years old Chakraram Lawad, from Dehimandu VDC Ward Number 5 of Baitadi, had taken a loan of Rs. 7,000 from Jogendra Bohora of the same village 20 years ago. He started tilling the land as an interest to the loan. After becoming a *Hali*, his work entails him to till, collect and transport firewood, etc. Because of being a *Hali*, he has to follow every order of his landlord. Disgusting to note, he has to work for more than 75 days a year.

²⁴ Interview with 9 members of Dalits at Gwallek VDC Ward No. 6 Magaraun on 6th May, 2007 (23/01/2064).

²⁵ Mr Chakraram Lawad explained this story in public mass meeting held at Amargari Municipality Ward No. 1, Babet Tole on 2nd June, 2007 (2064/2/19).

Since *Haliya* system started as a social custom, system of keeping official records and documents is lacking. Once, Chakraram Lawad was made to take a vow in front of the temple Ninglashaini Bhagawati that he would not cease to be a *Hali*. When the movement against this system started, the landlord took the land of the *Halis* back as collateral and got legal papers from the VDC secretary where the *Haliyas* were forced to sign although they did not know what the documents said.

Six years ago, Chakraram Lawad had a horse. One day the landlord asked him to bring a huge sack of soybeans using his horse. The load was too heavy even for the horse that it threw the sack down. Infuriated, the landlord kicked him. Chakraram Lawad fainted but found nobody to support him at that time. Feeling that he could no longer deal with such humiliation and torture, he left for Pithauragad in India with his family where he worked for 5 years. In September 2006, he returned to home and started working for the landlord again. But the landlord's behaviour had not been changed. The landlord used to scream at him whenever Chakraram crossed his path. It frustrated him a lot and ultimately he dared to file a case against such practices at the District Administration Office with the support of the *Haliya* Rights Forum.

A study conducted by CSRC (2006) shows that *Halis* have to work for 12 to 16 hours a day, and sometimes for even longer as per the direction of the landlords. In total, *Halis* have to work for 6 to 12 months in a year.

Considering the minimum wage fixed by the government (Rs. 60 per day, for 8 hours), a *Hali* is liable to earn at least Rs. 10,800 in six months (CSRC, 2006). If the *Hali* has taken a loan of Rs. 10,000, the annual interest as fixed by the government would be Rs. 1,000, which would be equal to the amount he would receive in a whole year for working as *Hali*! This means that the landlord is charging him by at least Rs. 9,800 more, even when paying only half a year's wage for the whole year's labour.

9.4 Land Deprivation

The *Haruwas* are living a life similar to that of slaves as they have been deprived of land, which is their main source of livelihood. Their access to resources and power has been

severely limited which prevents them from getting out of this situation. These incidents are ongoing even today.

Box 9.3: Choice between Rights and Livelihood²⁶

The plight of Bir Bahadur Tirwa of Durgabawani VDC, Ward Number 5 in Dungari is very miserable. Thirty-two year old Bir Bahadur Tirwa has a family of six members. With land only enough to build a house, their land yields food to the family for barely a month. As it became extremely difficult even to provide meals twice a day for his family, his father had taken a loan from the local landlord Ganesh Bhatta 18 years ago and had become his *Hali*. Bir Bahadur Tirwa has been working for at least 32 days a year since the past 18 years for a loan of Rs. 6,665. The shopkeepers have stopped giving him credit. There is a tradition of wearing new clothes in the Gaura festival of the far-western region, but this year, Bir Bahadur Tirwa celebrated the festival in his old clothes. He did not receive any work in the village because he is involved in the movement against *Haliya* system. Since he had filed a case in the district administration office, he did not have the time to go for work elsewhere. He was unable to afford new clothes after people stopped giving him credit. He cut the cloth he had for himself and made clothes for his two small children. He could not get a loan even when he was willing to keep the property ownership certificate as the collateral.

Box 9.4: Struggle of Dalits²⁷

The first settlement in Ward No. 1 of Kujakot village in Ganeshpur VDC of Dadeldhura district is that of the Luhars (Dalits). The Deubas and Thakuris, in the process of capturing land from Dipayal and Doti, also seized the land in Kujakot. By controlling the Dalits living in that area, the Deubas started collecting Birta for the land and made them serve the Thakuris as *Halis*. According to Jogi Luhar from Kujakot, two Luhar brothers had plenty of lands. Deubas asked them if they wanted fertile land or the hills. Scared that the Deubas might kill them if they said fertile land, they said they wanted the hills. Consequently the fertile land came under the ownership of Deubas. Dalits were made to settle in the barren hills. Now the Deubas are not even agreeing to transfer the ownership of the tenancy lands to the Luhars. They asked for Rs. 10,000 from each family for transferring the land in their names, but the Luhars said that they could not afford to pay that much cash and would instead give them goat and worship them as land

²⁶ Based on informal dialogue between Bir Bahadur Tirwa (*Hali*) and Sarwati Nepali (Activist) on 21st August, 2007.

²⁷ Based on informal dialogue between Dambar Tamata (*Hali*) and Nariram Luhar (Activist) on 13th August, 2007.

provider. But they refused that offer and still they are threatening to seize even the land that has already been given to the Dalits.

There are 19 Sarki families (Shoemakers by profession) who are living in Kholi VDC of Dadeldhura district as tenants. The land in which they are living is under the name of the uncle of former Prime Minister Sher Bahadur Deuba. The Deubas had the land registered under their own names after the Dalits gained access to the land through deforestation and had made it cultivable. When asked to transfer the tenancy land, the Deubas said that they would do so only if they were paid Rs. 15,000 per half a Ropani (0.03 ha) of land.

The situation of Dalits living in Asigram VDC in Dadeldhura district is also similar. There are 11 Dalit families in Faltude. They have been living in the 10 Ropanis (0.53 ha) land of the village chief Sher Bahadur Deuba.

According to the villagers, even former Prime Minister Sher Bahadur Deuba has tenants. He was the Prime Minister who announced revolutionary land reform programmes to give tenancy rights to the tillers but he himself has not yet given tenants their rights.

9.5 Legal Provisions Related to *Haliya*

There is no separate law regarding the *Haliya* System in Nepal. But there is a provision of punishing those who work against the *Halis* even within the existing laws.

It has been mentioned in the Interim Constitution of Nepal that every civilian has the right against oppression. According to the Interim Constituion of Nepal (2007), no one has right to exploit anybody in the name of system, tradition, practice and culture. Nobody shall be allowed to be engaged in human trafficking, slavery, or the practice of bonded labour. Enforcing the work against others' wish is termed punishable. The state's directive provides the socio-economic security of the deprived communities such as the squatters, *Kamaiyas*, *Haliyas*, *Haruwas* and *Charuwas* (GoN, 2007).

Various international laws and declarations including the Universal Declaration of Human Rights, Anti-Slavery Treaty, and Bonded Labour Treaty have prohibited these discriminatory

practices. But the problem remains as these laws have not been strictly enforced by the state.

The *Kamaiya* Labour Prohibition Act prohibits the exploitation of the *Kamaiyas*. It includes labourers such as *Bhaiswar*, *Gaiwar*, *Kamalriya* and even the *Halis*. As per this Act, even the *Halis* should have been liberated along with the *Kamaiyas*. But neither have the *Halis* been liberated, nor have the stakeholders and concerned authorities been able to disseminate the news of their liberation.

Because of the massive pressure created by all the sectors throughout the country, the Supreme Court of Nepal gave the verdict in 2006 stating that nobody should be allowed to keep *Halis*, and it also gave a directive to the government in this regard. But the government has not taken any concrete action on it yet.

Box 9.5: Perpetual Exploitation²⁸

Mane Kami from Chalsa VDC in Achham district has been working as a *Hali* for Padam Singh Thapa from the same VDC for 31 years. Since he is no longer able to work due to old age, his son has replaced him. He takes care of the house and other small chores as he does not have any other alternatives.

Thirty-nine year old Hariram Pahari is working as a *Hali* for a local landlord in Dashrathchand Municipality-6. His father and grandfather were also *Halis*. According to Hariram, they have been working for three generations in return for a loan of Rs. 450 that his grandfather had taken years ago. He tills the land of the landlord all day long, while the women and children are engaged in collecting firewood or visiting the revenue office. He says the landlord refused to take the money when he wanted to pay back the amount of loan.

Bhaniram Lawad from Bhawani VDC, Baitadi, is 64 years old. His father Kaluram had taken a loan of Rs. 75 in the year 1935 from a local landlord on the condition of tilling the landlord's land. Since then, his father started working as a *Hali* and after he passed away, Bhaniram himself has taken his place there. He also has to perform tasks other than ploughing and tilling, but has not been able to pay off the loan of Rs. 75 yet.

²⁸ Case study prepared by Nariram Luhar in September, 2007.

9.6 Conclusions

Legally the system of slavery has already been abolished in Nepal. *Kamaiya* Labour Prohibition Act 2001 has already abolished *Kamaiya* system in the Terai along with the *Haliya* system in the hills. Many political parties are also in favour of ending this system. The Civil Society, NGOs, the media and the human right activists are in favour of ending the *Haliya* system. But the problem still persists. The main reason of continuation of this inhumane bonded labour system is the feudalistic mindset of the ruling elites.

References

1. CSRC. (2006). A Study on *Haliya/Haruwa* and *Charuwa*: Forms, Determinants and Complexities. Kathmandu: CSRC and ILO.
2. Gautam, R. and Pransai, J.N. (2006). *Badhunwa Tatha Badhyakari Shram Sambandhaharu* (Labour Relations related to Bonded Labour and Compelling Arrangements). Kathmandu: Federation of Trade Unions of Nepal (GEFONT).
3. GoN. (2007). Interim Constitution of Nepal 2007. Kathmandu : Government of Nepal
4. Lamichhane, R. (2004). *Mukta Kamaiya* (Freed Bonded-Labour). Kathmandu: Backward Education Society.
5. Robertson, A. and Mishra, S. (1997). *Bonded-Labour in Nepal's Agricultural Economy*. Kathmandu: Anti Slavery International.

Chapter 10

✍ Jagat Deuja, Ganesh Ram and Bishnu Raj Upreti

Haruwas and Charuwas of Terai

10.1 The Context

The term '*Haruwa*' refers to a person (generally male) who regularly ploughs the land of landlords in an annual contract basis where he has to work for the interest and pay back the principal amount. In colloquial term in Terai, *Haruwa* is spelled as '*Harahawa*', which means 'one who ploughs' and the service provided after such a contract is called '*Harwahi*'. In addition to ploughing fields, they also work on other household affairs.

'*Charuwa*' is a male or female herder, who looks after landlord's cattle. Often *Haruwa* is son or sometimes daughter of *Haruwa*. *Charuwa* is common in Terai. Landlords also employ orphan child as *Charuwa* who later turns to *Haruwa* if the *Charuwa* is male. *Haliya* and *Haruwa* have the same meaning but the former is used as colloquial term in the hills whereas *Haruwa* is used in Terai. Usually, both the *Haruwa* and *Charuwa* are also from Dalit communities and they herd the cattle of single landlord but sometimes they also collect the animals of other landlords. This system is more common in Siraha, Saptari and Dhanusha districts of Terai. Mostly *Mushahar* and *Chamar* (Terai Dalits) are working as *Charuwas* for generations.

10.2 The Situation of *Haruwa* and *Charuwa*

Haruwa and *Charuwa* sometimes get nominal wage for their work, but it is not enough to sustain their family needs. Chandra Shumsher Junga Bahadur Rana had declared the abolition of slavery on the 28th of November, 1924. Universal Declaration of Human Rights also advocates that all individuals are equal and entitled to live with dignity. Bonded form of labour is not accepted and it is said to be against the humanitarian value and democratic practices. Similarly, International Labour Organisation (ILO) Convention No. 29, 105 and 182 prohibit forced labour and bonded labour. Nepal has ratified ILO Convention No. 29 and 182. Further, it has promulgated *Kamaiya* Labour Prohibition and Regulation Act and Child Labour Prohibition and Regulation Act. However, a large number of people are still doomed to live in slavery in the form of *Haruwa* and *Charuwa* for their livelihoods.

Haruwas have to work in landlords' field. But notably, his wife and children often need to serve in his master's house, often being unpaid. *Haruwas* and *Charuwas*, in fact, do not work for free; however, their wages vary widely and are usually low. *Haruwas* and *Charuwas* either have their own houses or they live in a *Haliya Chal* provided by the landlord. *Haliya Chal* is generally a 0.34 hectare land of inferior quality, provided to *Haruwas* for cultivation as a payment for their service.

Historically, *Haruwa/Charuwa* system evolved from the feudal characteristics of the state, as it had the practice of distributing land to its functionaries, service providers, close allies of royal families, warriors, priests and servants of ruling elites (Thapa, 2000). For example, a study by Thapa (2000), on ownership change in Bardiya, shows that 35,217.7 hectares of land owned by individual owners (other than *Jamindars*) in 1910 has changed to 16,254.3 hectares in 1951 (Thapa, 2000:144). The *Jamindars* had acquired land mainly from the land grant

practices of ruling elites. In such a land grant process, majority of people not only lost their lands but also were forced to provide free service (*Jhara*) to their landlords. A study by CSRC (2006), in Siraha, Saptari and Dhanusa districts shows that mostly Dalits and marginal farmers were providing such services to landlords. This type of arrangement changed gradually and a relatively permanent mode of service emerged through *Haruwa* and *Charuwa*. Table 10.1 shows that the Dalits are the highest in number among *Haruwas* and *Charuwas* in the three districts of eastern Terai.

The percentage of *Haruwa-Charuwa* from Janajati category is very low. It might be due to their low population and relatively better off economic situation. The actual number of *Haruwas/Charuwas* might be higher than the given data in Table 10.1 because the *Haruwa* children and minors are not included in the study.

Table 10.1: Caste/Ethnic Distribution of *Haruwas* and *Charuwas* in the Study Area

District	Caste/Ethnicity	Number	Percentage
Siraha	Dalit	274	53.3
	Janajati	29	5.6
	Non Dalit	149	29.0
	Muslim	62	12.1
	Sub-Total	514	100 (30.5)
Saptari	Dalit	528	74.6
	Janajati	3	0.4
	Non Dalit	162	22.9
	Muslim	15	2.1
	Sub-Total	708	100 (42)
Dhanusa	Dalit	269	72.3
	Janajati	7	1.9
	Non Dalit	92	24.7
	Muslim	4	1.1
Total	Sub-Total	372	100 (22.1)
	G. Total	1594	100.0

Source: CSRC (2006)

As demonstrated in Table 10.1, large majority of *Haruwas* and *Charuwas* is comprised of Dalits. The following table further depicts the situation of Dalits.

Table 10.2: Landownership among Major Groups of Dalits

S.No.	Caste	Landless %	Less than 1 Ropani %	6-10 Ropani %	11-20 Ropani %	21 and above %	Total number
1	Kami	11.2	46.5	18.8	17.1	6.5	170
2	Damai	28.8	55.1	11.1	3.2	1.3	156
3	Sarki	7.6	47.8	24.2	16.7	3.8	157
4	Badi	39.1	39.1	13.0	4.3	4.3	46
5	Dhobi	33.3	66.7	-	-	-	3
6	Dom	88.2	11.8	-	-	-	17
7	Gaine	41.2	45.1	9.8	3.9	-	51
8	Hudke	100	-	-	-	-	8
9	Kasai	23.5	73.5	2.9	-	-	34
10	Mushahar	33.3	55.6	-	11.1	-	34
11	Pode	21.7	56.6	21.7	-	-	23
Average		23.0	48.7	15.6	9.6	3.1	674

Source: CSRC (2006).

The reasons behind large numbers of Dalits being *Haruwas* and *Charuwas* are their lack of access to and control over the land resources. Table 10.2 demonstrates the situation of land ownership among the main Dalit groups.

Table 10.3: Distribution of households having *Haliya/Haruwa* and *Charuwa* in the Study Area

District	VDC	Total HH	Haruwa - Charuwa	% of Haruwa Charuwa	% of total Haruwa-Charuwa
Dhanusa (6.4%)	Bharatpur	2567	114	4.4	
	Raghunathpur	2218	172	7.8	
	Ramdaiya Bhawadi	1069	86	8.0	
	Sub total	5854	372	6.4	22
Siraha (20.8%)	Bastipur	1060	84	8.0	
	Hanuman Nagar	661	108	16.2	
	Naharari Goul	754	322	42.7	

Haruwas and Charuwas of Terai

	Sub total	2475	514	20.8	30.5
Saptari (24.5%)	Pato	755	82	11.0	
	Jamuni Madhyapura	1107	316	28.5	
	Malekpur	1025	310	31.0	
	Sub total	2887	708	24.5	42
Doti (3.9%)	Daud	1009	21	2.1	
	Panchnali	578	37	6.4	
	Mudvara	818	35	4.3	
	Sub total	2405	93	3.9	5.5
	Grand Total	13621	1687	12.4	100

Source: CSRC (2006).

Table 10.3 shows that, out of the total 13,621 households in the study area, 12.4 percent (1,687) households are of *Haliya/Haruwa* and *Charuwa*, which is quite high. CSRC, in collaboration with ILO, had conducted a study on *Haruwa/Charuwa* in 12 VDCs of 4 districts and found that 4.6 percent of total households in Dhanusa, 20.8 percent households in Siraha, 24.5 percent households in Saptari and 3.9 percent households in Doti districts are Dalits (CSRC, 2006).

Box 10.1: Haruwa System Interwoven with Religious Culture

Shreepanchami, a day of goddess of knowledge, celebrated in the second week of January, is considered as the first working day for a *Haruwa* in Terai. The day is also considered as the beginning of the rainy season, which is also the beginning of agricultural farming. Hence, this day is considered to be the date of appointment of *Haruwa*. Paradoxically, the starting day of literacy is also coincided with the starting day of bondage labour. On this day, a landlord takes a bath early in the morning, which supposedly makes him pious. The *Haruwa* makes sure that the agricultural tools are readied by the *Kami*, a blacksmith. On the day, the landlords also accompany their respective *Haruwas* to the blacksmith's workshop with a little amount of seasonal grains like paddy, wheat, maize, millet, flowers, a *Phali* (an iron blade which is adjusted in a wooden frame of ploughs to lift the soil) and other agriculture tools (viz. sickles, spades, etc.). The *Kami* heats the spade and *Phali* until they get red and sharpens them by hammering. Then, as part of the ritual, grains are put on those hot iron blades. If the grains are puffed, it is considered a good omen for the following year. Those grains which are puffed are considered to be the best type of crops for the following year.

Then, the ritual follows at the landlord's house. In front of the house, the courtyard is cleaned and smeared with cow dung. This is the common practice to convert a mundane space into a sacred space according to Hindu practice. Then, at the centre, the *Phalis* just brought from the blacksmith's workshop are placed. Married women pour grains to cover them, thereby forming a small heap of grain. *Haruwa* encourages and requests to pour more grain over it, because the grain thus offered will be later collected by the *Haruwa*. The *Haruwa* is also 'honoured' with red vermilion powder, which is also the confirmation of the *Haruwa* contract for the year to come. Thus, the ritual is observed to confirm the labour contract as well as to increase the productivity. Later on the same day, landlord and new *Haruwa* go to the field together. *Haruwa* faces towards the direction suggested by the priest and makes three circles of ploughing on a fallow field. Then oxen are also untied and worshipped. This is to appease the oxen and the plough persons and to ensure a better service for the year to come.

Source: CSRC (2006).

10.2.1 Mismatch between Work and Wage

Haruwas and *Charuwas* work daily for more than 12 hours ranging from herding animals to accomplishing domestic chores. However, they get annual wage of Rupees 7 to 10 thousand or 720 kg of rice. The *Haruwas* who plough more than 3 hectares of land get 0.16 hectare of land from the landlords to cultivate for their own purpose. However, the ownership of such land remains with the landlords.

In case of *Charuwas*, they get 15 kg of rice per year for grazing one animal, with an average of 80 animals per year. This means, they get about 100 kg of rice per month which is not sufficient to sustain their families. If the animals damage the crops or are lost, the *Charuwas* have to bear the cost as the punishment. In this sense, *Charuwa* system has been proved to be a self-defeating game for Dalits and the marginalised people.

The *Haruwa* and *Charuwa* families are suffering from economic, social and cultural exploitations even today. Expressing his frustrations, Darsan Mandal, one of the *Haruwas* from Haripur VDC-6, Basanpatti, Saptari said, "Landowners treat their oxen

caringly and repair their plough but they do not treat us humanely." In case of illness, treatment becomes a far cry since the landlord do not help them. Hence, either they have to take loan in high interest rate (generally 5% interest per month) for their treatment, or suffer from illness. One of the *Haruwas*, Rudal Sada, from Dhangari-9, Musharia, Siraha, took Rs. 500 as a loan for treatment in 2004 and he had to pay Rs. 1,700 the next year. They often do not have any collateral and therefore are not able to get loans from the banks. Hence, they are very easily exploited by the local landlords.

Basudev Sada (50 years old) from Pato VDC-9 of Saptari district became a *Charuwa* since he was 10 years old. At present, he has 5 members in his family. He has spent 10 years with one landlord. Sada is still serving as a *Haruwa* to one of the landlords and has received 0.32 hectare of land for cultivation. He has a small hut in fallow land (*Ailani* land). All five members of his family work for the landlords. His wife works at home, he herds animals, collects grass, milks cows, etc. Even at night, he works in his kitchen garden or in fish farm, but all these works go unpaid.

10.2.2 Threatened Livelihood of *Haruwas* and *Charuwas*

Livelihood of *Haruwas* and *Charuwas* is very insecure, as their earnings are usually only enough for less than three months. But they can not quit this occupation due to their inability to pay back the loan. The average daily expense of one family is Rs. 80 to 100, whereas average daily earning is only Rs. 25. Such inconsistency between income and expenditure not only threatens their livelihoods but also pushes them to the vicious circle of deprivation and indebtedness. Their daily working hours are not fixed and mainly depend upon the nature of contract with landlords. If they are in debt-bondage and are working for years, they have to work almost like house servants. They are supposed to help in every household chore (fetch

firewood and water, take care of cleanliness, etc.) in addition to ploughing the field. Their wives and children are also made to go to the field for work during peak agricultural seasons.

10.2.3 Weak Enforcement of Laws

Nepal's Interim Constitution 2007 prohibits any form of slavery, so does the *Kamaiya* Labour Prohibition and Regulation Act 2001. However, in reality, various forms of labour exploitation are in practice. Several examples have been cited in this book (See chapters 8 & 9 for details). On 28th November, 1924, Chandra Shumsher Junga Bahadur Rana declared to abolish slavery and freed 51,782 out of 59,872 slaves by paying Rs. 3,670,000. New National Code came into force in 1963 to provide protection for wage of labour. Constitutions promulgated in 1990 and 2007 had also some provisions on protecting the rights of socially excluded and marginalised people. *Kamaiya* Labour Prohibition Act was announced in 2002, but the actual implementation of this Act was so fickle.

A study conducted by CSRC (2006) in Siraha, Saptari, Dhanusa and Doti shows the following situation of *Haruwas* and *Charuwas*:

- Out of 13,621 households, 1,687 were *Haruwas* and *Charuwas*. Among the *Haruwas* and *Charuwas*; Dalits constituted 68 percent, non-Dalits 25 percent, Muslims 5 percent and the rest were from the Janajatis. Similarly, among the landlords, 88 percent were from high-caste Hindus, 5 percent from the Janajatis, 0.5 percent from Dalits, and 6.5 percent were from Indian origin. In the four study districts, the prevalence of *Haruwas* and *Charuwas* was highest in Saptari (24.5%), 21 percent in Siraha, 6.4 percent in Dhanusa and 4 percent in Doti.
- It was observed that nearly two-third of *Haruwas* and *Charuwas* worked in an annual contract basis. Majority

(58%) of *Haruwas* and *Charuwas* were working for at least ten years. Twenty five percent of them had already served 10-20 years as *Haruwas* and *Charuwas*.

- The same study showed that nearly one-fifth (19%) of bonded labour within this system was children under 16 years, often working as *Charuwas*. Apart from this, 3 percent of the children of *Haruwas* left their village to work as *Charuwas* and house servants.
- Debt-bondage appeared to be one of the prominent reasons behind the long-term labour bondage. Average (median) loan taken by a household in Terai districts was Rs. 9,000 with the minimum of Rs. 200 and Rs. 400,000 at maximum. 59.3 percent *Haruwas* took loan from their landlords with the interest rates of 24 percent to 72 percent and an average interest rate of 60 percent, which is about five times more than any commercial bank rate.

Table 10.4: Categorisation of *Haruwas* According to Contract Type

District	Type/duration	No.	%
Siraha	Seasonal	205	39.9
	Whole year	309	60.1
	Total	514	100
Saptari	Seasonal	411	58.1
	Whole year	297	41.9
	Total	708	100
Dhanusa	Seasonal	38	10.2
	Whole year	334	89.8
	Total	279	100

Source: CSRC (2006)

Table 10.4 shows that more than 60 percent *Haruwas* in Siraha and more than 89 percent in Dhanusa are working under contractual arrangement for their landlords for the whole year. On the contrary, 58 percent of *Haruwas* in Saptari are working as seasonal contractors.

Haruwas work mainly in two types of contractual arrangements. The first type of contract is seasonal, where they need to work for landlords only in the agricultural season and they are free to work elsewhere the rest of the year. In the second contract system, they have to work for their landlords throughout the year.

The following table shows the number of years of working as *Haruwas* and *Charuwas* by different castes and ethnic groups.

Table 10.5: Number of Years Living as *Haruwa/Charuwa* by Caste/Ethnicity

Caste/Ethnic Group	Number of Years Living as <i>Haruwa-Charuwa</i> (%)							Total
	1-10	11-20	21-30	31-40	41-50	51-60	61-70	
Dalit	41.00	17.10	6.80	2.80	0.50	0.10	0.10	68.30
Janajati	1.80	0.50	0.00	0.00	0.00	0.00	0.00	2.30
Non-Dalit	13.40	6.00	3.70	1.00	0.30	0.10	0.00	24.50
Muslim	1.80	1.50	1.10	0.30	0.10	0.00	0.00	4.80
Total	58.00	25.10	11.60	4.10	0.90	0.10	0.10	100.00

Source: CSRC (2006)

In the study area, some of the *Haruwas* and *Charuwas* have been in this bondage for more than 60 years (almost three generations). A high percent (58%) of *Haruwas* is bonded between 1-10 years followed by 11-20 years (over 25%). *Haruwas/Charuwas* working for more than 61 years is small (only 0.1%). The following table (Table 10.6) presents the number of years in the service across different districts.

Table 10.6: Distribution of *Haruwas* by Districts and Number of Years

District	Number of Years Living as <i>Haruwa/Charuwa</i> (in %)						
	1-10	11-20	21-30	31-40	41-50	51-60	61-70
Siraha	59.70	23.90	11.30	4.90	0.20	0	0
Saptari	44.40	30.80	17.40	5.50	1.70	0.10	0.10
Dhanusa	78.00	16.90	2.70	1.30	0.80	0.30	0
Average	60.7	23.9	10.5	3.9	0.9	0.13	0.03

Source: CSRC (2006)

Thus, in terms of work duration, majority of the *Haruwas/Haliyas* (60.7%) have been ploughing the fields of the landlords for 1 to 10 years. Likewise, 23.9 percent of them have been serving as *Haliyas/Haruwas* for 11 to 20 years. A few cases have been reported of ploughing the field for more than 50 years. A comparison of the situation of *Haruwas* in three districts shows similar pattern. The number of *Haliyas* working for 1 to 10 years is high in all three districts but the highest percentage is from Dhanusa (78%) followed by Siraha (59%) and Saptari (44.4%). But the percentage of *Haruwas* working between 11-20 years is higher in Saptari (30.8%) as compared to other two districts (23.9% in Siraha and 16.9% in Dhanusa).

Charuwas can be either boys or girls. The prevalence of *Haruwas* is more serious than *Charuwas*. In the study area, almost 88 percent of bonded labour worked in the form of *Haruwas* and remaining around 12 percent of them worked as *Charuwas*. However, the number of girl children working as *Charuwas* is estimated to be less than 3 percent in total. Table 10.7 gives the statistical overview of the ratio of *Haruwas* and *Charuwas*.

Table 10.7: Percentage Distribution of *Haruwa* and *Charuwa* by District

District	Haruwa	Charuwa	Total*
Siraha	92.6	7.5	97.9
Saptari	91	9	99.9
Dhanusa	80.1	19.8	98.7
Average	87.9	12.1	98.83

Source: CSRC (2006)

* Even though the value of the total sum is hundred percent, in this table, they are regulated according to the rule of decimal mathematics.

10.3 Conclusions and Ways Forward

Despite ploughing the landlord's land for generations, *Halis* and *Haruwas* are not entitled to tenancy rights. According to the

Land Reform Act, people tilling land should be granted tenancy rights. But this inhumane bonded labour system is a serious problem. It can be abolished only by redistributing land for which a radical land reform programme from the state is a must. Transformative Land Reform is possible only by total dismantling of the feudal system. At least, in the short run, land should be granted to those who have been cultivating for generations, even if they possess no land registration certificates.

Exploitation by landlords, lack of alternative mode of livelihood, heavy dependence on agriculture, changing livelihood pattern, etc. are jeopardising the livelihood of *Haliyas/Haruwas* and *Charuwas*. Therefore, context specific support programmes should be combined with a Transformative Land Reform to address the problems of *Haruwas*, *Haliyas* and *Charuwas*.

Exploitation of child labour and abuses of child rights are the most burning problems associated with *Haruwa/Charuwa* bonded labour system. It is often disguised and has not got much attention by the government, non-governmental organisations and human rights activists.

Hence, the following recommendations are made to facilitate the debates and discussions on this issue:

1. The *Haliyas/Haruwas* and *Charuwas* should be brought out of indebtedness and moral bondage, as debt bondage appears to be the most instrumental cause for the *Haliya/Haruwa* practice. For which,
 - i. District Development Committees (DDCs) and Village Development Committees (VDCs) should prepare a village level profile of *Haruwas* and *Charuwas* with the detailed information about their number, number of years served, the amount of loan taken, family size and economic status. The loan taken by *Haruwas/Charuwas* must be exempted. If the landlord is found guilty of

excessive exploitation, he should be brought under the legal prosecution.

- ii. Contract documents of *Haruwas/Charuwas* need to be thoroughly reviewed by the legal experts to liberate them from the debt bondage.
 - iii. Special funds should be created for supporting the *Haruwas/Charuwas* for liberating them and sustaining their livelihoods. Inter-linkage of land-labour and credit is important (Bardhan and Rudra, 1978 and 1980) for improving livelihood of labourers.
2. The state has to strongly enforce the provision of minimum basic wage and fix working hours. All labourers should be paid additional wage if they work beyond the working hours. Wage payment monitoring mechanism should be administered at local level to ensure effective implementation.
 3. Land ownership should be transferred to *Haruwas* and *Charuwas* and the tenancy rights should be granted to them.
 4. Alternative modes of livelihood need to be created. Heavy dependence on subsistence agriculture alone cannot solve the problem. Therefore, they need to be provided with opportunities of alternative employment.
 5. VDCs have to be granted the rights to let marginal and landless people cultivate collectively in the available public land. VDCs should be authorised to identify the land occupied and encroached by the landlords.
 6. Social safety nets and safety ladders should be created for *Haruwas* and *Charuwas*. For example, access to labour migration and livelihood options, safety nets for upward mobility, etc. should be ensured.

7. The issues of *Haliyas/Haruwas* and *Charuwas* are of human rights concerns. Hence, this issue needs to be dealt with human rights framework.
8. Rights of children should be guaranteed and opportunities should be created for educating the children of *Haruwas* and *Charuwas* through an approach of affirmative action and provide them with other means of livelihoods.

References

1. Bardhan, P. and Rudra, A. (1980). 'Types of Labour Attachment in Agriculture: Results of a Survey in West Bengal, 1979.' *Economic and Political Weekly*. Vol. 15. No. 32.
2. Bardhan, P. and Rudra, A. (1978). 'Inter linkage of Land, Labour and Credit Relations: An Analysis of Village Survey Data in East India.' *Economic and Political Weekly*. Vol. 13.
3. CSRC. (2006). A Study on *Haliya/Haruwa* and *Charuwa*: Forms, Determinants and Complexities. A Report submitted to ILO and IPEC. Kathmandu: Community Self Reliance Centre.
4. Gautam, R. and Pransai, J.N. (2006). *Badhunwa Tatha Badhyakari Shramsamandhaharu*. Kathamandu: Federation of Nepal Trade Union (GEFONT).
5. Thapa, S. (2000). *Historical Study of Agrarian Relations in Nepal 1846-1951*. Delhi: Adroit Publishers.

Landlessness in Nepal

11.1 Background

In this chapter, the terms 'landless people' and 'squatters' are used interchangeably. They do not deal with those people who are either from rich families with enough land or are personally engaged in other works such as business, service, etc. Squatters are those people who are landless, homeless and who do not have any concrete alternatives for livelihood and those who do not have any resources for acquiring their own land and houses and those who have become landless because of natural calamities (CSRC, 2004).

According to National Agriculture Census 2001, 65 percent of Nepal's total population is dependent on agriculture for their living. Out of the 4,253,000 families, 217,675 do not even own land big enough to make a shelter. Similarly, 802,615 families do not own any land to cultivate (CBS, 2003). They till the land of others. Majority of such landless population comprises of Dalits and indigenous groups, who are among the poorest in the country. Poverty in Nepal is directly linked with the productivity of land. Those who own land are naturally, both economically and socially, richer than the landless, particularly in rural areas. The landless farmers, agricultural labourers and squatters are consequently living under oppression, humiliation and abject poverty.

The Nepalese society, which has traditionally been feudal in nature, has not been able to get rid of hierarchy and discriminative practices. The ownership of land, high-caste status and wealth are often perceived as being well off and powerful. The ruling elites have always been ignoring the issue of landlessness and the rights of poor farmers, because those exploiting the resources of the state are usually the land owners from the upper class of society.

Land Reform Programmes have been announced time and again in Nepal. They do aim to fix ceilings on the land ownership and to distribute the excess land to the landless and squatters. However, due to weak implementation, most of the landless poor farmers in the country are still compelled to live under oppression.

After the Land Act was introduced in 1964, some of the plots, in excess, were seized and distributed to landless. Surprisingly, the programme could run only for 2 years. Its effectiveness ended afterwards. At that time, 47,962-10-0 *Bighas* (32,483.2 hectares) of land was acquired by imposing ceiling, out of which 43843-7-16 *Bighas* (29,693.7 hectares) was distributed (Giri, 2002). Similarly, the government formed several commissions with landless people and squatters. Ironically, most of these commissions were either politically motivated to fulfil certain vested interests or nearly dysfunctional.

11.2 Causes of Landlessness

Landslide, erosion, low productivity, deforestation, population growth, unemployment, socio-economic oppression, complex and restricted geographical terrain, lack of basic facilities, etc. were some of the major causes of migration from hills. At the same time, control of malaria in Terai, construction of highways and increase in development activities have resulted in a steady rise in the number of squatters and unorganised settlements in

Terai and urban areas. Undoubtedly, landlessness is mainly related to poverty, inequality and discrimination of the poor. Every year, large portions of fertile and cultivable land are swept away by floods causing huge losses to the communities and the country. The major issues concerned with landlessness in Terai are as follows:

1. The problem of landlessness has remained unsolved due to not only the lack of commitment of the government, but also the haphazard and unplanned land distribution.
2. The continuing tendency among the squatters to migrate to other regions for employment and better livelihood has further intensified this problem.
3. Most of the commissions formed to solve the problems distributed the land without properly identifying the genuine squatters. The squatters, sometimes, encroach upon other people's land. This practice results into unorganised settlements and even emergence of conflict among the settlers and the owners.
4. Ineffective land use policy, unscientific land classification and unplanned settlements have further aggravated the problems faced by the squatters.
5. Many communities were displaced due to the expansion and establishment of national parks and strict protection of wildlife sanctuaries. They have not yet received proper and adequate compensation.
6. The government, so far, has focused only on distribution of land but has not created alternative livelihood opportunities for the squatters.
7. The problem has escalated since there is a tendency of the government officials to escape from responsibilities. Further, there is no specific agency to look at the overall issues of

landlessness and therefore it was a responsibility of none. (In practice, 'responsibility of all' became 'responsibility of none').

8. In some cases, problems are also arising from dual registration of land and double distribution of land ownership certificates.

11.3 Implications of Landlessness

Due to the ambiguities and complexities of the existing laws, if people do not have land rights, they are also deprived of other rights. In order to receive loans from the government or to be engaged in property transactions, or even to get electricity and drinking water facilities, it is mandatory to possess land ownership papers. Due to this fact, landless farmers and tillers are deprived of even the basic rights provided by the state.

There is no alternative to land in the rural areas. Land has been linked with social dignity, status and class. Those who own land are revered, but those who do not own any land or are landless are looked down upon. The society always perceives the landless people as low in the hierarchal status. Hence, on one hand, it has helped the landlords to gain access to political and administrative power, while on the other, it has deprived the landless from all opportunities. This situation has further aggravated the problems of the landless people in Nepal.

Box 11.1: Shattered Hope of Landless People to Own Land

Binda Sada²⁹, from Lahan, Siraha, had received the land ownership paper of 7 households in 1999. But even after four years from the date of receiving the papers, she was not able to get the land. She had borrowed Rs 2,500 at the interest rate of 5 percent and submitted it to the chairperson of the District Committee for Resolving Squatters' Problems in Siraha. But she has not received any land even today. She complains that whenever she goes to remind the chairperson about her problems, he scolds her and says, "Why don't you find a vacant land and stay there for now? Why do you keep bickering? I am

²⁹ Interviewed by author on 4th January 2004 at Lahan, Siraha district.

not in any official position now.” A well-known businessperson has acquired 4 *Katthas* (0.14 ha) of land in the main bazaar of the same location, while some district-level political leaders have got 17 *Katthas* (0.58 ha) of land in the name of the squatters. Land mapping has been conducted time and again to provide land certificates to the 70 households of squatters in Ratmate in Mahottari Gauribas 5, but they have not been able to acquire land or the certificates. Squatter Ganesh Rawat³⁰ of the same settlement says, “We even fed chicken to the members of the commission, but couldn't get the papers when we were unable to provide the amount demanded by them.” 105 households of Musahars, in Chandralalpur VDC 6 in Siraha, have not been able to get any land even for shelter. Both the commissions of 1994 -1996 did not give them the papers, citing the reason that they could not present their citizenship certificates. It may be hard to believe, but the 105 families of Musahars are somehow managing to live in only 0.16 hectare of land. Furthermore, the local landlord has been giving them various kinds of troubles to make them evacuate the land.

11.4 Government's Efforts for Addressing Landlessness

It is the responsibility of the state to provide security to its people. People need cultivable land and shelter for their livelihood. The principle of providing basic necessities such as shelter, education, employment and health is even endorsed by the United Nations. However, the state is not able to fulfil this responsibility mainly because of vested interests of ruling elites and politicisation of the problem.

Until before 1950, a major source of revenue for the state was from land tax. Since the population size of the country was not so big, the government used to launch special programmes to collect taxes by giving *Ailani* land, *Parti* land and forests for cultivation. Even though some laws were formed for the protection of government land, such programmes could not be effective because of the increase in the price of land and the rise in population. Realising the insufficient efforts of the government to prevent deforestation and fragmentation of government owned land, encroachment of river banks and

³⁰ Interviewed by author on 12th February 2004 at Gauribas VDC of Mahottari district.

forest areas, government itself launched various package programmes to address the problem.

The first effort of the government to solve the squatters' problem was by implementing the Rapti Valley Development Plan in Chitwan and Makwanpur in 1956. After controlling malaria in Terai, the illegal encroachment upon the area increased rapidly. In 1961, a resettlement company started settling the squatters by deforesting the land in Terai. Realising that the resettlement company had to be under the control of government's forest office, a Resettlement Department was set up in 1969. At the same time, offices of temporary nature such as the Regional Settlement Committee, forest area conservation committees and high-level commission were founded in many districts of Terai, which started investigating and identifying squatters as well as registering the land.

There have been various efforts and activities towards solving the problems of the squatters since the restoration of democracy in 1990. Table 11.1 indicates the complexity of landlessness. Several high level commissions were formed but the problem continued. Here, genuine questions always rise that why these commissions were not able to settle this problem and why the changing of commissions is needed so frequently. This is precisely because the issue is heavily used for the political purposes.

Table 11.1: Major Commissions Formed after 1990's Political Change

Commission led by	Established Date	No. of working districts	No of district committees	No. of identified squatter families	No. of land ownership certificates distributed	Total area of land (ha) distributed	Activities
The Housing	25/11/1991	25					Presentati on of

and Physical Planning Minister							report along with data collection and working policy
Shailaja Acharya	16/11 /1992		22	54170	10278	1555.3853	
Rishiraj Lumsali	15/12 /1994	72	54		58340	14883.3624	
Buddhima n Tamang	6/5/1 996		25				Data collecti on
Prakash Chandra Lohani	-		-	-	-	-	-
Chanda Shah ³¹						886	
Tarani Datta Chataut	15/6/ 1998		75		31995		Papers prepared over a period of 9 months: 85299
Other commissions Land Reform Mminister Siddharaj Ojha;State Minister Gangadhar Lamsal, Aftab Aalam, Ramjanam Chaudhary	2/12/ 1999 to 15/7/ 2001	Total no. of applic ations 277,1 40	No. of families decided to be provide d with the land papers: 30381	Only 33 district committees were active out of the proposed 66 committees.	No. of squatte rs to whom the certific ate was distribu ted: 6202	No of remaining certificates to be distribute d: 24179	

Source: Compiled from various sources by the author.

³¹ This commission had also annulled the registration of 54 *Ropanis* (2. 7 ha) of land that had been distributed by the previous commissions.

Although the government has made some attempts in addressing the problems of squatters, the term 'squatter' (*Sukumbasi*) was not even properly defined until 1991, when a commission was established to specifically address the problems of the squatters and unorganised settlements. A commission was set up to resolve the problems of squatters immediately after the restoration of democracy in 1990, however, it itself was webbed in controversies. The commission was established to provide land to the squatters with free or at low price while charging high prices to the unorganised settlers.

11.5 Landlessness in Eastern Terai

It is imperative to understand the historical background in order to analyse the situation and activities of the present landlords in Terai. The residence of landlords in Terai used to be called *Dyorahi* (palace), which is prevalent even now. If *Dyorahi* landlords and landlordism in Siraha district is examined, the real situation can be properly understood. It is also important to analyse why Land Reform Programme was announced by the King Mahendra in 1964.

When the Land Reform Programme was announced in 1964, there were widespread rumours regarding land ceilings being imposed. The common people and the tenant farmers were not able to get the information about the proposed ceiling on land and Land Reform Programme itself. The landlords had deliberately spread the rumours that the situation of tenant farmers would become much worse due to the proposed. The poor Dalits were uncomfortable with the prospect of imposing tenancy rights on the land because they were afraid of being evicted from the land if their landlords became angry. When the Land Reform was announced by the government, the landlords became strategically successful to hide and protect their lands. They had already annulled the registration of their lands those were in the names of their relatives before 1964. Before the

revenue office was set up, there was a custom of purchasing and selling lands in the houses of the landlords themselves.

Box 11.2: King Mahendra and Land Politics

“Wailing mother Nepal says she can not watch it anymore... Some are eating stuffs on a golden plate while others have nothing on their leaf plates.”

Such quotations of King Mahendra were quite popular around 1964. Indian leaders were not happy with King Mahendra because he had kept political leaders in jail. He had also hurt the sentiments of feudalists of Terai by implementing Land Reform. Because of his decision of implementing Land Reform, King Mahendra was even rumoured to be a communist king. Even though he announced Land Reform, its implementation part was weak. Landlords were able to conceal their land easily. Land was swiftly concealed in the names of servants, trustful neighbours, villagers and relatives. Those to whom land would be transferred were told that they would later be given some cash or some part of the land. Hence, acquisition of land from the Terai landlords was not successful and redistribution of land in Terai was negligible. As a result, the Land Reform of 1964 could not address the landless and squatters' problem in the expected pace.

Box 11.3: Power, Nexus and Land-based Exploitation

Saying that 92.1078 ha out of the total 1489.9786 ha of land would be seized, influential landlord Gokarna Bahadur Gautam from Asanpur VDC suggested Mahato brothers to give the land for building a school or a campus. He proposed that by doing so their name would be immortal and the land would be properly utilised. Gokarna Gautam called on an all-party meeting in April 1967 (2024 Baishakh) to make the landlord brothers agree to the proposal. The Mahato brothers, land reform officer Nityananda Jha and officers R.D. Pravas, Gokarna Gautam, Devnath Shah, among others, participated in the meeting. All the people present in the meeting suggested the brothers to donate the 92.1078 ha (136 *Bighas*) of land to the campus for free rather than letting it to be categorised as the land in excess of the ceiling. The landlords agreed to donate the land to the campus in the condition that they would handover the ownership of the land later on. But when the land reform officer said that the land had to be passed during the meeting itself or it would be seized, there erupted bitter arguments between the landlord and the officer. The landlord said, “This is my land and I have the right to do with it as I wish. I won't give it. Do whatever you can!” Devnath Shah (a powerful local landlord), who was present in the meeting,

recalls that thereafter it was announced that 92.1078 ha (136 *Bighas*) of land had been seized by taking a vote. Afterwards, the land reform officer announced the order of submitting Rs. 1,000 government charge per *Bigha* and Rs. 2,000 per *Bigha* as bribe for the distribution of the land. The wealthy people present in the meeting started reserving the productive and well-placed land. The poor tiller farmers did not even get 0.0339 ha of the 92.1078 ha of land they were tilling. All of the land was acquired by the wealthy people. None of the poor tenant farmers had the capacity to pay Rs. 3,000 (government rate of price and bribe) per *Bigha* right away. Landlords Buddharam and Suddharam did not even take the compensation for the land seized and distributed by the government. During those times, the entire team including the land reform officer used to visit the houses of the landlords. Goats were cut and alcohol was served to welcome them. The daughters and daughter-in-laws of the poor people were made to serve their needs. The land administration officers used to teach landlords the methods of effectively concealing their land. Then as per the suggestions of the landlords, the drama of capturing a small amount of land took place. The landlords promised publicly to give land to campuses, schools and temples in the name of development. That strategy was quite effective to ease pressure. Later they would give small piece of the land to the campuses, schools and the temples and take back a huge chunk of the land. After transferring the land to the names of their relatives and close friends, they would gradually sell off the land³².

Box 11.4: Manipulation of Landlords

Bhelaha Durbar in the Durgapur VDC, Ward Number 3 of Bhelaha village in Siraha district belongs to the landlords Buddharam and Suddharam Mahato (brothers). The Mahato brothers had 1,490 ha of land. Their land was spread over 15 VDCs of the district. After Land Reform was announced, Buddharam and Suddharam started transferring their land in the names of their relatives, family members and the helpers of their houses even before the date of formal announcement of Land Reform. In the process of transferring the ownership of land, 92.1078 ha out of total land could not be concealed and they kept it in their own names. However, the committee formed under the leadership of land reform officer Nityananda Jha opined that the 92.1078 ha of land owned by Mahato brothers should be seized. But, the concealed 1,465.5971 ha of land was not the concern of the committee and Mahato brothers were able to protect their huge areas of land³³.

³² Arjun Thapaliya, a research collaborator of this author, had interviewed Mr. Uddhav Adhikari (VDC Chair) on 22nd July, 2007 and obtained this information.

³³ Arjun Thapaliya, a research collaborator of this author, had interviewed Mr Uddhav Adhikari (VDC Chair) on 22nd July, 2007 and obtained this information.

The above case demonstrates how landlords used their power and influence to manipulate the land resources in the villages and how the poor and landless people suffered.

Meanwhile, the land administration is not effectively functioning. Land Reform Office in Siraha had 1,999 cases to be decided as of 20th August, 2007. Out of the 1,999 cases, there were 510 cases filed by the landlords to evict tenants. These cases have been ongoing for the last 5 years. Although both the landlords and the tenant farmers have been regularly visiting the office to have their cases settled, the cases are not decided.

Similarly, there are 1,489 cases filed against the improper distribution of land, but since the past one year, some 4,000 contestants and defendants have only been taking the dates and going. The government made a law and publicised a notice saying that by the month of March 2008, dual ownership of land would be ended and land would be distributed equally among the tenants and landlords. However, the land reform office had only managed to make a settlement on 645 *Bighas* (438.68 ha) of land out of the total 15,381 *Bighas* (10,459.08 ha) of tenancy land (land with dual ownership) till July 2007. Even though more than 20,000 *Bighas* (13,600 ha) of land was to be seized by imposing ceilings, only 174 *Bighas* (118.32 ha) of land has been captured. Not even half of over 50,000 families who were to receive their tenancy rights on more than 50,000 *Bighas* (34,000 ha) of land have received their tenancy rights.

In 1964, the government had issued one directive named *Bilobandi* in which all the detailed information related to land had to be documented. The landlords were supposed to submit *Bilobandi* form with the details of all the land they owned by 1965. The objective of the *Bilobandi* form was to prepare an overall record of how much land was under the name of which person. That form proved to be a boon to help landlords conceal the land they owned. While filling out the form, they managed to transfer much of their land over the ceiling to the names of their family members or relatives. So, *Bilobandi* form was also a major cause behind the failure of Land Reform Programme.

Box 11.5: Landless and Migration³⁴

We go to work for the whole day. When we return home we are always very tired and exhausted. There is a river nearby. We can never sleep without worries. In the rainy season, we take turns in night to keep an eye on the river. We get worried that flood might come and destroy our house. Even in day time when it rains, we get tensed about our children. I am sending this letter so that our voice would be heard. This is a painful story of Mahummadpur-9 in Bardiya district. There are 40 landless families living in this area. We have gathered here from different parts of the country at different times with the aim of improving our livelihood. Most of us were called to work at the landlord's house. My ancestral house is in Urahari, Dang. I had to bear extreme hardship while tilling the landlord's land. My mother complains even now that the landlord betrayed us by not allowing us to have the tenancy rights. One day, my father heard that things were much better in Bardiya and one could get tenancy right there. So we came here looking for land in 1988.

In the beginning, my father used to work for a landlord, Prem Chaudhary as *Kamaiya*. The landlord would provide shelter in return for our service as *Kamaiyas*. My mother used to assist in household chores and field work. We two sisters were responsible for herding the cattle. In the cropping season, we could even have our meals at the landlord's house. Each year, they would give a new set of clothes to my father but not to us. We were never free except in the times of festivals. Even then, we would often be scolded by the landlord and had to earn our living by engaging in Bataiya (Sharecropping) practice. Later, when we heard that a squatter settlement was going to be established in Kalabhelbar, we went there. We had 15-16 *Katthas* of land with which we could feed ourselves comfortably. At the time of the establishment of that settlement, even leader Madan Bhandari had visited the area. But after the tragic death of Bhandari in 1992, they chased us away accusing us of destroying forest. We were forced to live at the bank of a river for 8 months.

There was a big flood in the Bhaada River (near which we live now) on the day of the Teej festival in 2006. All the houses were destroyed. We saved our lives by taking refuge at the school nearby and in the jungle. We could not eat anything for two days. After some days, we had no option but to build a small hut and live there. We are again spending sleepless nights

³⁴ Information collected by the author from Saiti Chaudhary, a Member of District Land Right Forum, Bardiya on 11th July, 2007.

since the rainy season has started. There are ample safe places in Bardiya where we could be settled. If only we were given a secure place to build our houses, we could at least sleep in the nights. We could protect ourselves from bad weather. There are hundreds of *Bighas* of land in the name of Ranas who never even care to come to this place. Many policeperson, armies and government officials have bought land here. But people like us who have been tilling the land for generations do not even own a small piece of land. I humbly request the political leaders, who claim that they are doing politics for us, to come and visit us once. Please spend one night with us and listen to our stories. We won't ask you to keep an eye on the flooding river, don't worry. I also invite the members of various I/NGOs and Human Rights organisations. The problem will not be solved simply by distributing tents after the flood has destroyed our settlement. At least make arrangements so that we could live in safe places where we don't have to worry about flood. We also want to sleep. I will not say anything to the government officials because they have never treated us as human beings. They are busy buttering the rich people. I've heard that there is a people's government now. I wonder what that government is doing and for whom.

Box 11.6: Don't Eat My Guava

Ninety one year old Shrilal Mahato of Fulkahakatti, Siraha, is a farmer who underwent severe torments from the hands of the landlord. He has the first hand experience of watching the 'game' played by the landlord after the Land Reform of 1964 was implemented. Bihariya Amat from Balhi was a servant for landlord Bihari Adhikari of Bhelaha Durbar. When mending a thatched roof, Bihariya picked up some guavas growing in the land of the landlord. One day Bihariya told the landlord that the guava growing in his field was very tasty. The landlord asked him how many guavas he had had. Bihariya confessed he had eaten six. The landlord got angry and started shouting at him. "There are 25 to 30 servants like you in my house. If everybody started picking up guavas as they liked and eating them, how much loss would I have to bear? Because you ate 6 guavas without taking permission, you are fined Rs. 6." Immediately the person who looked after his legal matters was called and made to prepare the papers stating that Bihariya had taken a loan of Rs. 6 and he was made to sign in upon that. After the paper was signed, Bihariya worked for 6 months without receiving any remuneration. But he was unable to pay off the interest of Rs. 6. He was bound legally by the written agreement. Surrendering, Bihariya told the landlord that he was willing to transfer 6 *Katthas* (0.24 ha) of land he owned to the landlord if he would be set free. The landlord, showing 'extreme generosity' said that he wouldn't have agreed if it had been anybody else. But since Bihariya was an old servant, he would forget about

the loan after 0.24 ha of land was transferred to him. Bihariya earned his freedom by passing on his 0.24 ha of land to the landlord. He lost 6 months of labour and 0.24 ha of land for eating 6 guavas³⁵.

References

1. CBS. (2003). *National Agricultural Census*. Kathmandu: Central Bureau of Statistics.
2. CSRC. (2004). *Kanooni Shrot Pustika* (Legal Resource Book). Kathmandu: Community Self Reliance Centre.
3. Giri, C.P. (2002). *Nepalma Mohiyani Tatha Hadbandi Byabastha* (Tenancy and Land Ceiling Provisions in Nepal). Kathmandu: Community Self Reliance Centre.

³⁵ The author has interviewed Shrilal Mahato of Fulkahakatti, Siraha on 9th August, 2007 at his home.

Labour-Based Exploitation in Nepal in the 21st Century: A Journalist's Perspective

12.1 Background

In general, '*Hali*' means a person who ploughs the field but in practice *Haliya* is the system of keeping *Halis* (plough-men) to plough in land of the landlords. But these two terms are often used interchangeably. In the mid- and far-western regions of Nepal, *Haliya* system is still prevalent as a form of medieval slavery, where *Halis* are kept by feudal landlords to plough their lands and to accomplish other agriculture related works.

Just like *Haliya* in the western Nepal, there is a practice of bonded-labourers called *Haruwas* and *Charuwas* in the eastern and mid-Terai regions. The daily routine of the *Haruwas* is also ploughing fields just like the *Halis*. They are doomed to toil in the land all year long for nothing. They work hard just to benefit their landlords. The landlords who keep *Haruwas* and *Charuwas* are locally called '*Girahat*'. *Haruwa* system was established in eastern Terai to provide service to these *Girahats*. Plagued by the mentality that *Haruwas* and *Charuwas* are below the status of humans, the *Girahats* often treat them in extremely inhumane manner.

Ploughing for their landlords is the main task of the *Haliyas* and *Haruwas*. Furthermore, these bonded labourers also perform other necessary tasks in the houses of their landlords. The

children of *Halis* and *Haruwas* are compelled to herd the cattle of the landlords, while their wives have to be engaged in their fields or household affairs.

It would be unfair to picture the *Haliyas* and *Haruwas* as agricultural labourers who receive wage for ploughing the field of their landlords. The ordinary agricultural labourers have the choice of refusing to go for work if they are not interested, and are free from any form of bondage or pressure. In contrary, *Haliyas* and *Haruwas* do not enjoy such a basic liberty. The conditions of *Haliyas* and *Haruwas* are inexpressibly pathetic and miserable.

This author made a survey in Baitadi and Dadeldhura (far-western districts of Nepal) in March and September 2007. It was found that, there were many *Halis* whose grandparents had taken loans from local landlords. To their dismay, their loan was not cleared by the landlords even after working for three generations. The actual people among whom the original transaction had taken place had passed away long ago. But three generations later, the grandchildren were still working hard just to pay off the interest of the principal amount.

The situation of the *Haruwas* from the eastern Terai is similar to that of the *Halis* in western hills. There are many cases where the son is forced to take on the responsibilities after the father becomes too old to work as *Haruwa*. Usually in such instances, the father, despite the weakness, continues to work for landlords with lighter tools such as spades. Sometimes the *Girahat* gives some land to the *Haruwa* family on rent, and they are made to work in that land almost full time. Thus, they do not get enough time to plough their own rented land. They work hard from dawn to dusk usually to find nothing to eat in the night. Consequently, they are compelled to take extra loan from the landlord. The *Girahat* keeps a written record of the loan, and the

amount mentioned in the document, shamelessly, is often as per his wish.

Only the loan given by the landlord and its interest amount is kept in the record, whereas the labour service provided by the *Halis* and the *Haruwas* is not even counted. According to one 18-year-old Pratap Ram Tamata from Baitadi district, not only the men have to provide free service to the landlords but also the women of the family have to do the work such as tilling the fields and storing and harvesting crops. In one instance, Darshan Mandal (*Khatwe*), from Haripur VDC in Saptari, was made to send his children to herd the cattle of the landlord. Even he thought that it could be a better alternative to sending the children to the school since it would, at least, help them earn some paddy. In other instances, there were examples of *Halis* who were working in India but even they were compelled to come back to work in the fields of the landlords.

President Abraham Lincoln eliminated slavery in the United States on 20th December, 1863. In Nepal, Chandra Shumsher Rana announced the Abolition of Slavery system on 28th November, 1924³⁶. In 1963, the *Muluki Ain* was amended to encompass this in the law. Even though 86 years have passed since the Abolition of the Slavery system in Nepal, the *Haliya/Haruwa* system remains as the residue of slavery in practice. The custom of one landlord paying off the rent of the *Hali* to the other and making him work for himself, or trading *Halis* between the landlords as the commodities is still a common practice. There was one case of a *Hali* sent to work for a landlord in Terai after being traded by a landlord in Baitadi.

12.2 Voices not yet heard: Situation of *Halis*

After the popular movement and restoration of democracy in April 2006, the debate of forming a 'New Nepal' has been hotly

³⁶ For details, see John Whelpton (2005), *A History of Nepal*. London: Cambridge University Press.

discussed in the country. Attractive and heart-warming slogans such as 'Forming New Nepal', 'Commencing New Chapter by Ending the Age-old Feudal Systems', 'Establishment of Socialism of the 21st Century', etc. are parroted especially in the cities and urban areas. However, at this very moment, people in the far-western region are still arduously fighting a losing-battle to end slavery and caste discriminations. While the cities are preparing to take a leap for transformations in an 'inclusive' new Nepal, the far-western district of Mahakali is still crawling towards eliminating slavery and caste-based discriminations. The voices of *Halis* are being heard, but not yet listened to.

Majority of the *Halis* is from Dalit background and those who keep them are from the higher caste hierarchy such as Brahmins, Kshetris and Thakuris. The latter ones are not necessarily economically affluent, but the concept that they have the right to keep *Halis* is deeply rooted in their mind. This is taken as a normal tradition. This feudal mind-set has also contributed in maintaining the *Haliya* system that has consequently strengthened social injustice. The Dalits are gradually realising that they are being exploited but they are helpless. They can not get loans in need, unless abided by the terms of the landlords. They neither have their own land to work on, nor do they get any other alternatives for livelihood.

Dehimandu village in Baitadi district of far-western region is approximately 880 kilometres from Kathmandu. Chandra Ram Lawad, from Chausir village of Dehimandu-2, had taken a loan of Rs. 20,000 from Keshav Bohara 10 years ago. Chandra Ram continually tilled the field of Keshav Bohara for eight years. His wife Kamala also did agricultural works for Bohara. She says, "They ordered me to cut the thorns of plant called 'Khar', but I refused. Because of that Rs. 200 was added in interest amount as a fine for my refusal." ³⁷

³⁷ Interviewed by the author on 11th April, 2007 with Chandra Ram Lawad from Dehimandu-2, Baitadi.

Two years ago, Chandra Ram collapsed while ploughing in the field. His wife continued to work even when he was unable to work. According to Kamala, since both of her sons are in Bombay working as dish washers, there was nobody else to plough the land. Then the landlord scolded her. Kamala says, "At present, even my own small piece of land is under the control of the landlord because of Rs. 20,200 loan."³⁸

Jassu participated in a *Haliya* seminar organised in Dadeldhura in 2005. Injected with the wish for freedom, she filed a case at Baitadi District Administration Office in July 2006. "After that, about three or four drunkards surrounded my house one night. My husband ran away", says Jassu adding, "I went outside challenging their attempts to kill me if they could. And then, they stepped back." Her bold step helped her be from the cruel clutches of the landlord. Since Jassu was liberated paying back no money with the support of the administration, she says she still receives threats of being tied and beaten up. "Even now I'm scared to send my son anywhere and I also never go anywhere alone by myself." She weaves baskets for additional income, since the earning from her field alone is not sufficient. She says, "Even if it is not enough, I am happy for being liberated."³⁹

Eighteen year old Pratap Ram Tamata is studying in the ninth grade in Kulon Secondary School, Durga Bhawani VDC-5, Dyadi, which is close to Dashrath Chand Municipality (the headquarters of Baitadi district). Pratap is still ploughing fields in return of the 5 *Nalis* (52 *Nalis* is equal to 0.68 ha) land taken during the time of his grandfather, Birpal Ram, more than 4 decades ago. The land his grandfather had taken, by accepting to be a *Hali*, is not sufficient to feed his family even for a month. The grandfather has already passed away, his father Babu Bahadur Tamata is also too old to work in the field the new landlord Bahadur Shah owns. They have been living with the

³⁸ Interviewed by the author on 11th April, 2007 with Kamala Lawad from Dehimandu-2, Baitadi.

³⁹ Interviewed by the author on 11th April, 2007 with Jassu Lawad from Dehimandu-2, Baitadi.

traumatic experience for long. Even they have worked for three generations for landlords, neither are they liberated nor are they given the land ownership. Pratap recalls, "We asked him time and again to transfer the land ownership, but he refused." Pratap says he has to forgo 15 to 20 days of school during the cropping season to plough the field. Pratap Ram adds, "I have to keep on ploughing in the entire field, but there is no recognition of our labour. I know it is unfair, but I am ploughing silently because I have no money to pay his principal amount and compounded interests." He wants to be liberated but does not know how. He is also not sure how many generations of his family will have to plough the fields to pay off the debt of the several landlords they have to work for. Pratap's uncle and two brothers Bhim Ram and Masi Ram have gone to work in New Delhi, India. However, they come all the way back to Baitadi to till the land of the landlord during the cultivating season. "They come in October and leave in December after sowing the wheat", says Pratap. "Then they come in April and leave after finishing the paddy plantation in July. They come back since they have to plough the fields of all the landlords at the same time."⁴⁰

The situation in Dadeldhura is also similar. The government announced the liberation of *Haliyas* and *Kamaiyas* on 18th of July, 2000, when the government was run by the Nepali Congress. However, the situation of Dadeldhura, from where Sher Bahadur Deuba became the Prime Minister three times, is the same. Even the situation of Kujakot village of Ganeshpur VDC and the adjoining Ashigram VDC, the ancestral home of former Prime Minister Deuba, is not different. Jogi Luhar, a local *Hali*, said, "I am a *Hali* of Keshar Bahadur Deuba and I am also facing the same situation like other *Halis*."⁴¹ This case loudly speaks the real plight of *Halis* on one hand and faded

⁴⁰ Interviewed by the author on 10th April, 2007 with Pratap from Baitadi district headquarters.

⁴¹ Interviewed by the author on 8th April, 2007 with Jogi Luhar from Kujakot village of Ganeshpur VDC, Dadeldhura district.

commitments of political leaders and political parties to liberate them, on the other.

The entire Ganeshpur VDC houses 30 families of *Tamata, Lohar, Sarki and Damai* castes. Jogi Lohar says, "Deubas came here from Kumau. We are the real inhabitants of this area. But apparently they had measured the entire land under their names during the land survey of 1975. We were initially told that the land owners were called tenants. But, in long run, we instead have become the tenants." Gaganey Damai from the same village informed that the settlement was registered under the name of Karbir Deuba and Lal Bahadur Deuba. Recalling the commitment of the former Prime Minister while going to ask for votes, Gaganey Damai recalls, "He came to us and said he would arrange to transfer the land back to us. We voted for him, but the land is still under the names of the Deubas."⁴²

According to Hem Bahadur Deuba, a teacher at Ashigram VDC-8 in Baapur, there are only four or five landlords who still have *Halis* working for them. The Dalits' land in Kujakot village is in fact under his father's name. Hem Bahadur Deuba had tried to portray that he did not have any *Halis* working for him. But, during the course of discussion, he said, "Since I'm a teacher and my brother is working in India, we are forced to employ *Halis*. They (the *Halis*) do never become satisfied until they eat in our homes." Hem Bahadur even said that he was ready to transfer the land to the names of the Dalits and *Halis*. However, the Dalits have their own quandaries. Dhani Lohar, who is living in the land owned by Hem Bahadur says, "We need to go to India leaving our old parents here. How can we leave our parents here if we fight with them?"⁴³

⁴² Interviewed by the author on 8th April, 2007 with Gaganey Damai from Ganeshpur VDC of Dadeldhura district.

⁴³ Interviewed by the author on 8th April, 2007 with Hem Bahadur Deuba in Baapur, Ashigram VDC-8 Dadeldhura district.

A local landlord, Navaraj Bhandari, was found to have freed 17 Dalit households in Ganeshpur-4, Mailauda village, which is adjoined to Ashigram- by transferring the land they were living in to their names. Bhandari has only transferred 0.0055 hectare per house. While some parts of the land in which the houses have been built were under the name of the *Halis*, the remaining parts are under the name of Ganga Ram Bhandari, a relative of Navaraj Bhandari. Dammar Singh Tamata, president of *Haliya* Rights Forum says, “It is not confirmed if Bhandari came here first or we did, but they have transferred land after we deforested and cultivated.”⁴⁴

Halis are also aware that they will have to bear injustice by taking loans and accepting the terms of the landlords. They can get the loan only if they agree to the terms of ploughing the fields. After the Maoist armed conflict expanded, they had experienced some relief. However, there has not been much progress even after the Maoists joined the government.⁴⁵

12.3 Silent Cry: Situation of the *Haruwas*

The unfathomable predicament of *Haruwa-Charuwa* demonstrates that slavery still exists in disguise in Terai. The slogan of 'Freedom of Madhes and Madhesis' has become popular in Siraha-Saptari regions after the popular peoples' movement of April 2006. In Lahan, which is considered the epicentre of Madesh movement in eastern Terai, all groups ranging from those with the motto of 'An Autonomous Madhes State' to those who are engaged in armed movement demanding a separate state, are chanting the slogan of 'Freedom of Madhesi People.' However, the Madhes movement of mid-2007 was silent about the *Haruwa-Charuwa* slavery practices. So, the real freedom seems to be a mirage for *Haruwas* and *Charuwas*. It

⁴⁴ Interviewed by the author on 7th April, 2007 with Dammar Singh Tamata in Mailauda village, Ganeshpur-4 Dadeldhura district.

⁴⁵ Opinion expressed by group of people of Mailoda village of Ganeshpur VDC of Dadeldhura district on 7th April, 2007 in a discussion meeting.

looks like the agitators do not even want to utter a word about it. Experiences show that there smells a rat in their revolution. Nothing has been said against the liberation of the deprived communities in the district that accounts for one-third of Dalit population, probably because most of the leaders of this movement are the real perpetrators of the *Haruwa-Charuwa* practices.

In mid-2007, the Terai movement aimed to sweep the Maoists out of that region. That was comprised mainly of the middle class people. Despite the Madhes movement, the situation of *Haruwas* still remains as pathetic and miserable as ever.

Fifty five years old Jagbir Sada from Malhanuwa village of Govindapur VDC-6, Siraha, a *Haruwa* of Ram Nath Yadav, has 2 *Katthas* (0.08 ha) of cultivable land. Father of a dozen children, Jagbir faces food crisis all year round. The *Girahat* has given him 0.16 ha of land to cultivate on crop sharing arrangement. He has to work in return. Jagbir says, "I have to work for him all year long. I get four kilograms of paddy for one day's work."⁴⁶ Four kilograms of paddy, at the rate of Rs. 10 per kilo, gives him a wage of merely Rs. 40 per day. He knows that he can earn more if he works elsewhere on wage. But for him, it is a compulsory alternative for living: do or die. Neither does he have his own land, nor is there any other place where he can go to work. He is, indeed, caught in cleft-stick.

The situation of Darshan Mandal (Khatwe) from Haripur VDC in Saptari is even more appalling. His family is the third generation *Haruwa* for the local *Girahat*. "I am the only Haruwa for him," says Darshan. "I plough, while my wife weeds and sows wheat and my 10-year old kid herds the landowner's cattle."⁴⁷ He has been given 0.16 ha of land to make a living, but

⁴⁶ Interviewed by the author on 6th September, 2007 with Jagbir Sada from Govindapur VDC-6, Malhanuwa, Siraha.

⁴⁷ Interviewed by the author on 6th September, 2007 with Darshan Mandal (*Khatwe*) from Haripur VDC, Saptari

it does not yield even 200 kg of wheat in a year. During the cultivating season, he has to till the land of the *Girahat* first, and then when it is over he will be able to work in his own land. Usually, by that time, the season is already over. He does not know how many generations have been working as *Haruwas* in his family. He seeks other jobs when there is no agricultural work, but even when he does get such an opportunity, he has to be responsible for the household chores of the landlord.

Darshan says that he does not even know the interest on the loan he has to pay to the landlord. He assumes that he owes the *Girahat* about Rs. 5,000. The amount keeps on increasing rather than getting reduced, no matter how harder he works. He needs to feed his family of five, buy medicines and celebrate festivals. He had participated in the April movement of 2006, and the 'Terai Movement'. He went to Lahan and even all the way to Rajbiraj. He says, "Girahat told me to go, so I went." But there has been no change in his life even after the success of both the movements. Dalit rights activist Baldev Ram says the *Haruwas* are not able to earn even two and a half kilogram of wheat daily when their annual earning is calculated.⁴⁸

Every year, on the day of 'Shree Panchami', a verbal agreement is made between the landlords and the tillers. On that day, if the father becomes a *Haruwa*, the children become *Charuwas* who herd the cattle of the landlord. Baldev says that the *Girahats* discourage the *Haruwas* from sending their children to school by telling them he would give more food grains if they looked after his cattle. The landlords even encourage the *Haruwas* to keep working for them by giving them money for local booze.

Land-lordship is very much rampant in the oppressed Dalit settlements in Siraha and Saptari districts. Even today the Dalits believe that their masters are right and even wait for their landlord's approval to marry off their daughters. "Many in that

⁴⁸ Interviewed by the author on 8th September, 2007 with Baldev Ram.

community still believe that the landlords have rights over the widows and their daughters", says Baldev.⁴⁹

Musahar, Chamaar, Dusad, Dhobi, Khatwe, Dom, Baantar and Halkor are some of the major Dalit castes of Terai who are the victims of labour-based exploitation. Majority of these castes are landless and squatters and work as *Haruwas*. They are forced to make their children *Charuwas*. *Haruwas* and *Charuwas* in the eastern and mid-Terai are similar to the *Haliyas* and *Kamaiyas* of mid- and far-western districts. The *Haruwas* should also have been legally liberated along with the announcement of freedom of *Kamaiyas*, but there has not been any action taken yet. Baldev Ram claims that the number of *Haruwa-Charuwas* is higher than that of the *Haliyas* and *Kamaiyas*.⁵⁰

12.4 Conclusions

Be it the *Haliyas* from western Nepal or the *Haruwas-Charuwas* from eastern Terai, both groups are landless and suffering from labour-based exploitation and discrimination for generations. The only means of earning livelihood for them is agricultural labour. Both are Dalits as well as poor. The law has kept the *Kamaiyas, Haliyas and Haruwas-Charuwas* in the same category. The Clause 2(B) of the Kamaiya Labour Prohibition Act 2002 states, "Kamaiya labourers should be understood as Bhaiswar, Gaiwar, Bardibar, Kekbar, Haruwa, Charuwa, *Hali*, Shepherds, Kamalariya or any person who is engaged in bonded labour with such names." According to this Act, the *Haliyas* should also have been freed, but this has not happened.

One of the main reasons for the prevalence of *Haliya* system is the lack of commitment of political leaders and parties of those regions. The district leaders of even the big political parties employ *Haliyas* and *Haruwas* for cheap labour. If all the political

⁴⁹ Interviewed by the author on 8th September, 2007 with Baldev Ram.

⁵⁰ Interviewed by the author on 8th September, 2007 with Baldev Ram.

parties were to start a campaign against the *Haliya* and *Haruwa* system, this could be eliminated easily.

If the *Haliya* and *Haruwa* systems are to be abolished, they should be freed by exonerating the loans. The land tilled for generations by the *Haliyas* and *Haruwas* should be transferred to their ownership and they should be compensated appropriately. Also, government should prepare authentic data on the number of *Haliyas* and *Haruwas-Charuwas* within the country. One short-term solution could be to make the *Haliyas* engage in the agriculture sector itself for sustainable livelihood. Both *Haruwas-Charuwas* and *Haliyas* are dependent on land. They should be given their tenancy rights. Merely announcing their liberation is not enough for the solution of their problem. The ownership of the land should be provided to them so that they do not have to bear the brutality in the hands of the landlords in the future.

Part IV
Ways Forward

Chapter 13

Jagat Basnet and Bishnu Raj Upreti

Transformative Land Reform in Nepal: Ways Forward

13.1 Background

Since 1950, the issue of land reform has been limited only to a slogan 'Land to the Tillers'. As a result of this limit, most of those who do not till the land are owners whereas those who till the land do not have any ownership or control over land. As the tillers have no ownership over land, they are reluctant to invest in it. Similarly, owners are also not interested in investing in land management. Consequently, land productivity is not optimum, and so is the contribution of agriculture to GDP.

Since land is a source of power, prestige, property, identity and security of livelihood, the poor people with low or no land ownership are vulnerable to sufferings and seclusion. People in power are not much concerned on this structural issue and the poor people are treated as second-class citizens. Since 1990, seven commissions have been formed, but the landless and the tenants are still unable to receive enough land for their survival. The state has linked all the services with land ownership certificate but most of the poor people are deprived of it. This chapter includes the understanding of land reform, historic control over land, current situation and power structure of land. Likewise, debate of land reform since the start of the Maoist movement to the drafting of the Interim Constitution and alternative land reform models have also been presented here.

Since land is both political and class issue, economic stability and social justice can not be established without addressing it. There is no other alternative to a Transformative Land Reform in New Nepal. Hence, this chapter attempts to explain the concept of a Transformative Land Reform and its importance in achieving stability, social justice, economic growth and protecting livelihoods of the poor farmers.

Generally, land reform is perceived as an act of seizing someone's land and distributing it to others. This understanding has been glued in the minds of political leaders, bureaucrats and even the members of the National Planning Commission (NPC). How to redistribute land is only one issue of Transformative Land Reform. Land reform is necessary not only for the landless, the tenants and the poor farmers, but also for the landlords, the industrialists and the rich engaged in business and non-agriculture sectors.

Another misconception prevails that there is no land for redistribution. It is often argued that land can not be stretched and therefore not possible to distribute. This argument has been put forward time and again. For example, leaders of political parties brought this argument in the sit-in programme organised by National Land Rights Forum (NLRFF), an organisation of land deprived people, in the offices of political parties in May 2007 (Basnet, 2007). It is true that land can not be stretched and be equally distributed to everyone. It is not even necessary. However, being a natural resource, land's redistribution and effective utilisation to enhance social justice and livelihood security of the poor people is absolutely essential. It should be redistributed to the families who are directly engaged in agriculture. It is not necessary to distribute land to everybody. Only the land that is necessary to set up a house and premises should be given to those who are not working on land. Further, professionals working in non-agriculture sector and living in apartments do not need land.

There is still a perception that land reform is related to squatters and encroachers. But it goes beyond such a narrow interpretation and deals with justice and socio-economic progress. It is related not only to distribution but also to effective management, efficient administration and discriminatory practices on land-workers. In this context, there is a need of thorough analysis of the relationship among poverty alleviation, social inequality, class discrimination, oppression and land.

13.2 Historical Process of Control of Land

In Nepal, the ex-monarchs and ex-royal families, the Ranas and other regents constituted the aristocracy which had the ultimate control over the state for 240 years. For a long time, the palace secretariat was the nerve-centre of administrative and political control in Nepal and controlled the policy and decision-making of the country.

In November 1950, the government declared the end of the *Bataiya* (Sharecropping) and the *Hunda* (Contract) systems in western Nepal and distributed all such lands to the cultivators. It was a revolutionary step in the agrarian history of Nepal. But unfortunately, the democratic government formed after that ordered the return of all such lands to the landlords (Thapa, 2001: 119).

The extension of the caste system in reinforcing a rigid division of labour, the gradual alienation of the indigenous people from their land by the dominant Hindu people and the privatisation of large tracts of productive land by the ruling classes (viz. members of aristocracy and nobility, royal priests, senior army and civil officials) were the historical conditions for the economic and agrarian inequalities and any alternation to this situation was largely negated because of the domination of these elements over the state machinery political power (Ghimire,

2001). The government resettlement projects, which should have provided land to the poor and the landless, did not do so in reality. Instead, ex-service persons, politicians, repatriated Nepalese and other influential elites secured significant proportion of land that was being distributed (Thapa, 2000).

The Shahs and the Ranas would elect *Chaudharis* (landlords of Terai) and *Jimmuwals* and *Mukhiyas* (landlords of the hills) to collect taxes and protect their regime. They would, in turn, collect more revenue than was required to be submitted and also took control over the land areas (Regmi, 1999a). When the system was first set up in 1868 to pay taxes in cash, they started putting the loans given out on paper and seizing the land. Similarly, the *Mukhiyas* or landlords made the poor deforest the jungles and had it measured under their own names. Ashigram VDC of Dadeldhura district is an example where the Dalits made cultivable land near the jungle, but in 1975 the survey team put it under the name of a local *Mukhiya*.

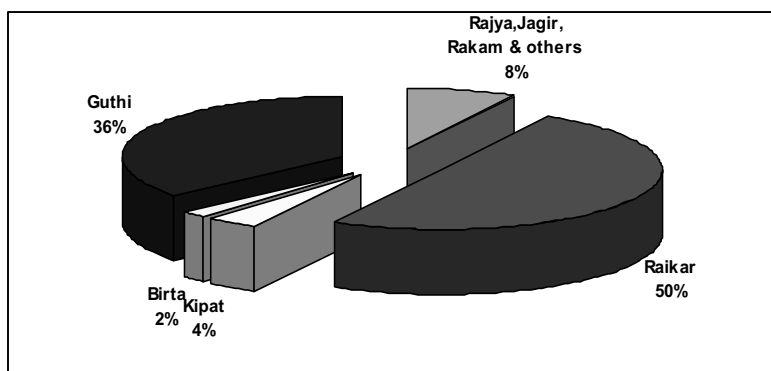
Loans taken by such methods became a means of transfer of land ownership. The process of charging high interest for loans by *Jimmuwal* and *Mukhiyas* and seizing the land when the borrower is unable to pay the credit back was started during Rana Regime and is still prevalent (Thapa, 2000). After 1950, the value of land increased and the poor were unable to buy land, which was further accumulated by the affluent people (Basnet, 2007).

13.3 Poverty, Power and Access to Land

According to the Nepal Living Standard Survey 2005, 31.8 percent of the population in Nepal is living below the poverty line. However, there are others, especially from the civil society, who do not agree with this figure and estimate this figure to be much higher. There are 4.2 million families in Nepal, of whom

1.3 million are landless or near landless (CBS, 2003). Among these landless are the Dalits, ethnic communities and women.

Figure 13.1: Type of Tenorial Land in 1973



Source: Zaman (1973)

Land is the cause not only of economic but also of human poverty. Tillers and the poor are alienated from power. They are disadvantaged, marginalised and denied of their basic human rights. Figure 13.1 shows that until 1950, half of the total land was controlled by the close relatives of the royal families in the name of *Birta*, *Jagir* and *Guthi*.

The socio-cultural institutions are shaped by unequal distribution of the productive assets and the patron-client relationship between the landlords and peasants. As the ownership of means of production is the fundamental factor for politico-economic power, Nepal's rural economy is characterised by massive inequality in the distribution of land (Upreti, 2002; Basnet, 2007). This caused the concentration of power in the hands of a few (about 4 percent) big landlords. These landlords control not only the rural economy but also the political and social life that extends from the village to the national level (Khadka, 1994).

The Land Act 1964 gave unrestricted rights to landlords to evict their tenants, in case of disobedience. The regimes, afterwards, systematically evicted persons who were cultivating land in the villages for years and gave the land to other people when the tenants refused the landlord's order.

A large section of the farming population has been denied the basic tenancy rights. Badal High Commission for Land Reform (1996) states that, even after four decades of promulgation of Land Act 1964, more than 450,000 tenant families are not registered. Even the registered ones have not got their tenancy rights. In 2000/01, the Department of Land Reform and Management conducted a sample survey in 35 districts, which revealed that there were 266,261 registered tenants as eligible claimants of tenancy rights, but they have not yet been able to do so (CSRC and ILO, 2006).

In Nepal, land was managed and administered on the basis of arbitrary decision by the rulers before the first Land Act introduced in 1964. Although the Land Act was enforced in 1964, it neither evolved scientifically nor was implemented sincerely. At that time, 65 percent of poor peasants had 15 percent of land while 39.7 percent of land was possessed by 3.7 percent rich and feudal landlords (CBS, 1962). After the enforcement of the Land Reform Act, the number of affected landlords was only 9,136 with 50,580 hectares of land recorded as above ceilings. Of this, 32,331 hectares was acquired, of which only 64 percent was redistributed. As a result, out of the total cultivated area 9.9 percent rich peasants and landlords owned 60.8 percent of land after the reform (Zaman, 1973). This means that the landowners' rights on the land were almost unaltered. Indeed the land reform was not able to reduce the number of tenants as 31.2 percent of the farmers were found to be tenants even after the implementation of the Land Reform Act (Zaman, 1973). Even after two decades of tenancy rights provision granted by the government, almost 28 percent of the

households were found to have been unregistered tenants in Terai (IDS, 1986; Khanal, 1994).

The autocratic regimes during the last century granted lands to the nobles, military generals and other favoured state functionaries, and only limited land reform was introduced in the 1960s. Nevertheless, many large landowners (who have more land than the approved ceiling) still continue to exist.

In recent years, most of the landlords are not involved in farming and are active in occupations such as business or service sectors, but they control the land. The Table 13.1 is the blatant display of the eviction rights misused by the landlords given to them. As can be seen in the table, in 1961, 40.4 percent of the total agricultural households were tenant households, but that figure has dropped significantly to 12.2 percent in 2001. This is because these families have been evicted by the landlords. Further, the table also clearly shows that the area of land under tenancy has also decreased considerably since 1961.

Table 13.1: Tenants and Tenancy 1961 to 2001

Description	1961	1971	1981	1991	2001
Total tenant households (% of total agricultural households)	40.4	19.0	9.5	15.9	12.2
Area of land under tenancy (ha)	25.5	15.9	6.2	8.5	8.7

Source: Badal (1996) and CBS (2003)

According to the Human Development Report 2004, almost 29 percent of the rural households do not own any farmland (UNDP, 2004). It means more than 5.5 million Nepalese people are landless. Having no land of their own, the landless and land-poor are left at the mercy of big farmers and landlords. They are often forced to sell their labour for a nominal wage which eventually leads to a state of bondage. Most of them are illiterate and have no alternative means of earning their living. Because of landlessness, they have low social status in their own

communities. In a subsistence society, land is the determining factor for self-growth and political participation, as the state's service is connected with land certificate. The landless people are deprived of the services such as bank loan, electricity, potable water, foreign employment and even education. As a result, they are trapped in a vicious circle of poverty. Those having no land are even excluded from non-government services and benefits such as agricultural services. They are treated as second class citizens of the country.

As per the Human Development Report 2004, ninety percent of the people living in abject poverty in Nepal are dependent on agriculture (UNDP, 2004). Some 29 percent of the rural families do not own land. Around 37 percent of the land is in the hands of 5 percent of the wealthy people in Nepal, who themselves are not engaged in cultivation. According to the 2001 census, 1,037,000 families are directly dependent on agriculture.

13.4 Land-related Issues since the Maoists' Armed-conflict to the Constituent Assembly Election

Land reform and other related issues were included in the 40-point demand paper submitted to the government by the Maoists before starting their armed-conflict in February 1996. They had clearly mentioned that land must be in the ownership of the tenants and should be distributed to the landless and slum-dwellers by seizing the land from the feudal landlords. Similarly, there were demands regarding the determination of a minimum wage of agro-labourers, settlement of slum-dwellers and annulment of the loan taken by small farmers from the Agriculture Development Bank as well as ensuring seeds and fertilisers in a cheaper rate for farmers.

The Maoists raised land related concerns in their talks with the government every time they sat for negotiations. In the first round of peace talks (on the 30th of August, 14th of September

and 13th of November, 2001), land issue was not the priority but concern was raised. In the second round of the peace talks held in Kathmandu on the 27th of April and the 10th of May 2003 and on the 15th and 16th of August the same year, they specifically asked to address the land issues.

The 12-point agreement between the Seven-Party Alliance (SPA) and the Maoists signed in on the 22nd of November, 2005 was a milestone for ending the conflict, but land was not a priority that time. After the successful people's movement in April 2006, a 25-point Code of Conduct agreement was signed in between the SPA government and the Maoists on the 26th of May; but land issue was again ignored. In the like manner, land issue was not included in the Eight Point Agreement reached between SPA and the Maoists on the 16th of June, 2006.

However, the issue of land reform was mentioned in the Interim Constitution of Nepal (it was agreed by SPA and CPN (Maoist) on the 8th of November, 2006). The land issue is included in Part 4 Article 33 (Duties of the State) of the Interim Constitution. It writes in (f) "Pursue the policy of adopting scientific land reform programmes by gradually ending capitalistic land ownership practices" and in (i) "Adopt a policy of providing economic and social security to the class that are socio-economically backward such as the landless, bonded labourers, tillers and shepherds."

In the Minimum Common Programme agreed by the 8 major political parties at the time of the formation of the interim government (22nd March, 2006), Scientific Land Reform and Management was mentioned.

The Interim Constitution of Nepal (2007) has also highlighted the need of Scientific Land Reform (GoN, 2007). The Three-Year Interim Plan (2007-2010) of Nepal mentions land issues in its objective, highlighting the necessity of improving the living standard of farmers through Scientific Land Reform. Further, the plan has set specific objectives to ascertain the land rights to

the landless slum dwellers, freed bonded-labourers and tenants as well as to address poverty by making land more productive.

Manifestos of major political parties⁴⁸ have also highlighted the land reform issues. Nepali Congress Party has stated that it will give priority to social security and development of landless people, *Badis*, *Kamaiyas* and other marginalised groups. It has also proposed land reform based on scientific policy and political consensus for equality and prosperity of Nepalese people.

The CPN (UML) has proposed to implement Scientific Land Reform that brings change in the existing semi-feudal production relations. Its proposed land reform has emphasised on the modernisation and commercialisation of agriculture. It has recommended forming various land-related commissions while distributing and managing land and increasing agricultural productivity.

The CPN (Maoist) Party has proposed a more radical agenda of land reform compared to the other political party. Some of the provisions related to land reform in its election manifesto are: land to the actual tillers, ending all forms of feudal mode of production relations, execution of Revolutionary Land Reform for rapid economic growth, issuing land ownership certificates in the name of both women and men, ending feudal relation in agriculture absentee landlordism and granting free land to tenants, landless and the poor peasants. Rastriya Janamorchha Party, Janamorchha Nepal Party, Nepal Communist Party United and Nepal Workers-Peasants Party have also presented progressive land reform in their manifestos (CSRC, 2007).

Nonetheless, sincere implementation of their election manifestos into action is yet to be seen. As many landlords are in the decision making role of all political parties and so do not

⁴⁸ Constituent Assembly Election manifestos of Nepali Congress Party, CPN (UML), CPN (Maoist), Rastriya Janamorchha, Janamorchha Nepal, Communist Party (United) and Nepal Workers- Peasants Party and Terai Madhes Democratic Party were consulted to assess their commitment related to land reform.

want to promote Transformative Land Reform, it is under the question mark. One of the main causes of failure of land reform in the past was the overt obstruction by the political leaders and decision makers.

13.5 Transformative Land Reform: An Alternative Perspective

It is observed that there are three models of land reform practised in the world. First is the conventional model of land reform that does not favour the landless. Second is the reformative model that brings cosmetic changes in policies and programmes but does not accept structural changes. Third is the Transformative Land Reform model that addresses structural issues and fundamental changes in the land-based power structures. The Transformative Model advocates for the ownership of land to the tillers.

Transformative Land Reform should have the following objectives:

1. Enhancing production and productivity in agriculture;
2. Guaranteeing the ownership of land to the landless and tenants willing to be engaged in agriculture through redistribution that ensures power-balance in the society and promotes equitable sharing of natural resources;
3. Enhancing the pace of national development by mobilising passive human resources and capital that exists in land sector; and
4. Promoting equitable economic growth and social justice.

To meet these objectives, the government has to establish a permanent, powerful and resourceful 'Land Authority' in each federal state and at the central level. Further, land to the farmers and housing land for all Nepalese should be guaranteed in the

new Constitution. The new Constitution of the Federal Democratic Republic of Nepal should also contain the provision of no compensation to the land above ceiling, elimination of semi-feudal system (*Haruwa-Charuwa*, *Kamlari*, etc.) and joint ownership rights for both males and females.

The government needs to ensure the following conditions for a Transformative Land Reform:

1. Tenants and landless farmers tilling the land should not be evicted during Land Reform. Forceful eviction should be punishable until Land Reform is accomplished.
2. The Land Reform Act 1964 should be abolished and a new Land Act should be formulated within the provisions of federal structure of the states outlined in the new Constitution.
3. Focus should be pin-pointed upon equity as well as economic growth.

In the new Constitution, we think the following provisions are essential to ensure rights of farmers and tenants:

- All Nepali citizens should have the right to a secure homestead.
- All farmers should have the rights for ownership, control and management of cultivable land.
- Men and women should have equal rights over residential and agricultural land.

The new Constitution should also make the following land rights provisions to promote Transformative Land Reform:

- No compensation for acquiring land above ceiling and acquired as various forms of gift from the Royals or Rana Regimes or those acquired illegally.

- Land within ceiling acquired by the owner's fair earning including inherited land with fair earning from parental property has to be reasonably compensated by the state to facilitate Transformative Land Reform.

Abolition of exploitative *Haliya*, *Haruwa*, *Charuwa* and all other forms of bonded-labour and surety of social justice to all farmers have to be constitutionally guaranteed. Farmers' rights to participate in all decisions that directly affect their lives have to be ensured.

The objectives of Transformative Land Reform of the state will be to end the feudal economic mode of production and distribution system and ensure ownership of land to tillers as well as contribute to equitable economic growth and social justice. Transformative Land Reform also has to industrialise rural areas, creating employment and boosting up the economy through the optimum utilisation of natural resources.

Some of the other points that need to be considered by a Transformative Land Reform are:

- Take necessary legal measures to ensure private or communal ownership of tilling land by the landless, tillers and regular land labourers.
- Sanction effective land ceilings and ensure comprehensive agricultural support and rural development policies.
- Ensure the participation of tenants, landless people, *Haliyas*, *Haruwas-Charuwas*, *Kamaiyas*, *Kamlaris*, agricultural labourers and other economically marginalised communities and independent farmers' organisations in the planning and management of land, agricultural and natural resources programmes.

- Promote appropriate technologies, research, financial support and market infrastructures for agricultural transformation.
- Determine conditions for the usage of public land (limitation, area and rental conditions) with respect to its development and agricultural reform under the principle of environment conservation and social justice.
- Encourage land owners to invest in agricultural improvement programmes for industrialising the rural area.
- Create an independent constitutional commission on dealing with the issues of land and agricultural development.
- Develop a comprehensive Land Use Database and develop land-based development plan accordingly.

The following section includes proposals for some of the major elements of Transformative Land Reform.

13.5.1 Land Ceiling

Since Nepal is going to be a Federal Democratic Republic, the authority to decide land ceiling should be given to the federal states (or provinces) or to the local levels. For the land ceiling, there should be specific criteria: quality, quantity and number of family members working in agricultural farming.

So far, land ceilings have been proposed by various sources without any comprehensive study and they are mostly guided by vested interests. However, to define the appropriate land ceiling, a thorough and comprehensive study has to be conducted that will define the exact land ceiling based on the need of families working in agriculture, quality of the land (land use classification), land market price, availability of the basic infrastructures, fertility status and availability of irrigation, etc.

Although the maximum and minimum ceilings of land depend upon various factors described above, it is better to fix the minimum and maximum ceilings to prevent land fragmentation and to maximise the productivity and effective use of land resources. For example, Japan (except Hokkaido Island), Taiwan and South Korea have fixed the maximum ceiling of 3 hectares per family (Medaille, 2005). These countries are recognised as 'progressive' in land reform.

Defining land ceiling requires rigorous study and evidence to precisely identify the per capita land holding. However, based on observation of the existing ceiling and experiences of land ceilings in different countries, we are proposing the following ceiling for debate:

- A. If there are 5 or less family members:
- Up to 0.75 hectare (15 *Ropanis* or 1.02 *Bighas*) within the municipalities of Kathmandu, Lalitpur and Bhaktapur (depending upon land value and location).
 - 0.75 hectare within Kathmandu valley.
 - 0.75 hectare in the municipalities outside the valley.
 - 3 hectares (4.5 *Bighas*) in irrigated land or 4 hectares (6 *Bighas*) in dry land in Terai.
 - 3 hectares in irrigated land and 4 hectares in un-fallow land in hilly region.
 - 4 hectares (80 *Ropanis*) in Himalayan region.
- B. If there are 6 or more family members, each adult member would get to have additional land as:
- 0.05 hectare within the urban area of Kathmandu valley.
 - 0.5 hectare in the inner central region including entire Terai, hilly and Himalayan region.
 - 0.1 hectare outside the urban areas in Kathmandu valley and other mentioned urban areas.

- C. For those families residing within urban areas of Kathmandu valley who do not cultivate themselves and are engaged in other services or business, there should be a ceiling of 0.05 ha (1 *Ropani*) to 0.2 ha (4 *Ropanis*) depending upon the valuation of land, quality and location.
- D. For those families residing within the municipalities outside Kathmandu valley, there should be different ceilings based of the valuation of the land. Municipalities should be categorised as: (a) municipalities with high land value (for example, land in Itahari, Bharatpur, Pokhara, etc.), (b) municipalities with medium values of land (e.g. Dhangari, Chandragari, etc.) and (c) municipalities with low value of land (e.g. Bhimeshwor, Panauti, Amargari, etc.). People working in service sector or business other than agriculture should have land ceiling of not more than 0.3 hectare (6 *Ropanis* or 9 *Katthas*).

13.5.2 Rights and Obligations of Land Owners

In Transformative Land Reform, rights, duties and obligations of the land owners will be crucially important. Following are some examples of the obligations and rights of the land owners:

Obligations:

1. They can not lease out any part of their land.
2. They can not use their land for any purpose other than the purpose for which the land is held or was settled unless they receive a written permission from the state authority.
3. They must 'personally cultivate' their land. Personal cultivation means cultivation by the landowner's own labour, the labour of his or her family or the labour of any servant or labourer paid in cash or in kind. (The clause 'servants or labourer' does not apply if the landowner is seeking to resume the possession of tenant land.)

Furthermore, to satisfy the definition of personal cultivation, the landowner or a member of the landowner's family must reside for the greater part of a year in the locality where the land is situated and the produce from the land must be the principal source of the landowner's income. If these requirements are not satisfied for three consecutive years, the land vests in the state and the state becomes obligated to compensate the landowner. Compensation is, however, well below the land's market value. Additionally, landowners must maintain and preserve their land to ensure that it is not degraded, its character is not changed and it is not converted to any use other than the purpose for which it was settled or previously held, except by a written permission of the Commission. The penalties for violation of this requirement, while serious, do not include deprivation of the land. Violators of this provision can be imprisoned for certain years and/or be ordered to pay fine of fixed amount of cash. They should not leave the land fallow unless agreed with the state authority.

4. Productive agricultural land should not be used for other purposes.
5. The landlord should use the principle of fair wage.

Rights:

1. The land owners have the right to sell, transfer or use their land for mortgages.
2. Other rights will be as per the Constitution and laws of the state.

13.5.3 Land Consolidation

Transformative Land Reform needs to ensure a clear provision of land consolidation to promote commercial farming by

collective efforts of small or subsistence farmers. Land consolidation will help to develop subsistence farmers into commercial farmers where the state will provide compensations and other suitable frameworks. While consolidating land, there will be standard criteria. For example, the West Bengal state of India has fixed the size of less than 1 hectare for consolidation by bringing together at least 7 subsistence farmers. The actual size of the land to be consolidated needs to be determined by the local circumstances, market availability, mode of production and production potential. The size of the land for consolidation will differ from place to place or region to region.

13.5.4 Agricultural Cooperative

One of the important provisions of Transformative Land Reform is to have the provision of creation and operation of cooperative farming society. A cooperative farming society can be formed by 15 or more landowners owning land in a compact block or intending to acquire such land. The main objective of developing a cooperative society is to strengthen the cooperative farming for business purpose. In making a cooperative society, the state should provide support for a certain period to develop their confidence and meet the basic requirements. Further, the state should provide subsidies for cooperative farming where appropriate.

13.5.5 Comprehensive land-based Information System

One of the fundamental elements of success or failure of Transformative Land Reform is the availability of scientific and comprehensive land-based information. The comprehensive land-based information system should cover but not be limited to:

- Detailed land classification based on Geographical Information System (GIS) and Global Positioning System (GPS),

- Recording of land ownership of individuals into a comprehensive database,
- Land-use mapping,
- Comprehensive land-survey records,
- Socio-economic profile,
- Resource mapping,
- Infrastructure mapping,
- Land division, sharing and consolidations,
- Settlement mapping,
- Land tax and taxation recording system.

Exploitation of land owners by land technicians (*Amin*) is rampant as they have to measure land area. This is one of the serious operational problems. To overcome this problem, fixing coordinate point (with longitude and latitude) in each corner of each plot is essential as it provides accurate area. This can minimise manipulation of land areas by land technicians.

13.5.6 Land Administration

Success of land reform programme depends upon the autonomous, independent, resourceful, people-oriented and competent land administration authority. Experience of land administration in West Bengal shows that effective and transparent implementation of land reform largely depends on the land authority described above.

At present, parallel institutions for land administration such as Land Revenue Office, Land Measurement office, Guthi office, etc. exist in the districts. Lack of coordination, competition and non-accountability are persistent characteristics of these organisations. Therefore, a single 'Land Management Office' at district levels, with competent officials, (e.g. Geometric Engineers, GIS Experts, Land Information Technology Experts, etc) is essential to address land related manipulations at local

level. Many of the land related tasks have to be dealt even at local levels. Devolution of authority and responsibility to local levels with proper monitoring can improve the situation. However, fundamental restructuring of land administration with the assigned responsibility and authority to federal units is needed.

13.5.7 Integrated Approach: Agricultural Productivity

Increasing agricultural productivity is one of the important aims of Transformative Land Reform. But distribution of land alone will not contribute to the economic growth, creation of employment and livelihood security. Hence, an integrated approach of enhancing agricultural productivity is needed. The state has to facilitate land reform as well as provide agricultural inputs such as training, improved seeds, irrigation, fertilisers, farming (crops and animals) insurance, market linkages, subsidies, agricultural road and capacity building measures for farmers. Integrated approach will help transfer subsistence farming into agro-business and will contribute to GDP.

Commercialisation of agriculture will not work without land reform and it has to be tied with land reform. Subsidy to low and middle-class farmers instead of paying compensation to large absentee landlords is essential. Identification of landless, squatters, tenants and people with no alternative to agriculture and provision of subsidy for agricultural inputs are essential. Once land reform is accomplished, if farmers want to go out of agricultural sector, they will have to be compensated and agricultural farming will have to be expanded into commercial agriculture with the remaining farmers.

Capacity development of local level organisations and staging the concept of Transformative Land Reform are equally important. All plans and programmes related to agriculture and land-use have to be the responsibility of the local government

and the role of the centre has to be focused on providing conducive policy framework, resources and capacity building measures to the local government. Transformative Land Reform should be an integral part of the development programmes of local government and it should facilitate commercialisation of agriculture and promotion of agro-based industries. Revenue collected from land and agriculture by the government should be invested in land management and agricultural production system. Transformative Land Reform is a form of agrarian transformation and a model of rural development that enhances economic growth and contributes to the realisation of New Nepal.

13.6 Contribution of Transformative Land Reform in State Transformation⁴⁹

Nepal is in the historical process of transformation in term of politics, social relations and economic development. Land is one of the fundamental sectors of political focus and therefore is becoming a major area of transformation. In this section, a Transformative Land Reform model is presented to contribute to the debate of state restructuring.

13.6.1 Poverty Reduction and Economic Growth

Poverty is one of the major hindrances for the development of Nepal. According to CBS (2003), 1.6 out of 4.2 families are facing land related problems. Transformative Land Reform has to address these problems and contribute to poverty reduction.

Experiences of Taiwan shows that annual rice yields was increased to 60 percent on average in the decade following Taiwan's successful 'Land to the Tillers' programme of 1949-53 (Ramachandran and Swaminathan, 2002). During that period,

⁴⁹ Some of the insights and contents of this section are drawn from the work done for DFID by the lead author of this chapter. The author would like to thank DFID for giving opportunity to work in this important area.

the average farm household's income grew up to 150 percent from the diversification of high-value crops. Over the long run, Taiwan's secure and marketable land rights provided the capital to transform farmers into entrepreneurs. Land reform experiences of South Korea and Japan demonstrated that they had enjoyed similar success after World War II⁵⁰. Therefore, the focus of Transformative Land Reform in Nepal must be on poverty alleviation and uplifting the socio-economic conditions of the farmers. Population is growing rapidly but the agricultural production and productivity have not increased as expected over the past five decades. Land is the main means of production in the country. Hence, Transformative Land Reform has to ensure equitable growth.

Cropping intensity, an indicator of efficient use of land and agriculture productivity, is higher in small holdings (CBS, 2003). Cropping intensity in small-size holdings of less than 0.5 hectare is 1.94. This growth is obviously not the outcome of making the land small, but it means that small pieces of land are tended by the owners themselves. Sole ownership of the land has direct impact on growth. There are absentee landlords, who prefer to leave the agricultural land barren instead of giving to the tenants for cultivation.

Experiences of post land reform in China show that agriculture has made a substantial contribution to national capital formation. In fact, estimates by Victor Lippit suggest that by 1952 almost 35 percent of the country's gross investment was financed by savings generated as a direct consequence of the land reform measures (Lippit, 1974, as cited in Ramachandran and Swaminathan, 2002). Land reform was complemented by other measures to promote rural development such as improvement in agriculture's terms of trade, liberalisation of output markets and improved access to inputs. The result was

⁵⁰ For details, see Zhu Keliang and Roy Prosterman, July-August 2006, at www.chinabusinessreview.com.

sharp acceleration in the rate of growth of agriculture output, namely from 2.8 percent a year between 1965 and 1975 to 5.7 percent a year between 1978 and 1988 (Ramachandran and Swaminathan, 2002). Nepal can learn from the land reform of China.

13.6.2 Promotion of Inclusion and End of Discrimination

The poor are deprived from the entire development and political processes and consequently are powerless. To have power, one has to have access to land resource. Transformative Land Reform brings about changes in the power dynamics by enabling the poor to have access to land and land-related resources, which will gradually enable them to reclaim the decision making power. When the neglected and marginalised people rise to power, they will, it can be plausibly expected, play a crucial role in ending the deep-rooted discrimination existing in the society. It can be recalled that 15.32 percent of hill Dalits and 43.98 percent of Terai Dalits are landless (UNDP, 2004). Transformative Land Reform has to address this issue to end such discriminations.

13.6.3 Contributing to Building an Equitable Society

As demonstrated in the various chapters of this book, landlessness has direct bearings on powerlessness, discrimination and alienation. Discriminated and alienated mass of people work like a time bomb for a nation. The end of landlessness is, on the other hand, the beginning of the formation of a just, inclusive, participatory and democratic state in which all groups and communities of people are interconnected to benefit from each other. In the current process of state restructuring, Transformative Land Reform can be instrumental in changing the existing land-based unjust socio-economic power structure and practices in Nepal. It can

also boost up the ongoing state restructuring and conflict transformation process.

13.6.4 Land as a Means of Addressing New Challenges

Transformative Land Reform has to address new challenges. This means land should be used as a means of addressing problems related to climate change (e.g., the excessive rainfall in the hills and mountains causes sedimentation in river basin of plains) and food insecurities or environmental insecurity. Poor management of land resulting into low production and productivity is one of the main reasons of food insecurity. Land can be an effective means of addressing these challenges.

13.7 Conclusions: From Conflict to Peace, Stability and Prosperity

Nepal is in the crucial path of transformation from conflict, instability, marginalisation, exclusion and inequality to peace, stability, equality and inclusion. This process will take time and requires vision, commitment, resources, appropriate state structures and collaboration among all concerned. The rapid changes in the past 12 years (the Armed Conflict, Peoples' Movement II, Comprehensive Peace Agreement, Constituent Assembly Election and declaration of Nepal as a Federal Democratic Republic) have laid the foundation for the desired transformation, but there is still a very long way to go to materialise the imagination into action. Transformation is required in all sectors and issues. Land is one of them, as it is a basis of the agrarian production relation system (Upreti, 2004; Regmi, 1999a).

The relationship between ownership, size of the land and productivity is contentious. There is one argument that high productivity is in small size (inverse relation) of own (not rented) land. Another argument is that land size has positive

correlation with productivity (the greater the size of the farm, the higher the productivity). Other equally important issues are the issues of land ownership and associated effects on productivity. Transformative Land Reform has to decide the land ownership issue by strongly tying with productivity. Owning of land by those who do not maximise or optimise its productivity has to be prohibited. The very first condition of ownership of land has to be fully utilising the potential productivity of land.

References

1. Badal High Commission Report. (1996). *Badal Uchchastariya Bhumisudhar Sujhab Aayog* 1995. Kathmandu: P. B. Publisher.
2. Basnet, J. (2007). Land Reform and Restructuring of Nepal. A paper presented in the National Interaction Programme organised by INSEC on 25th November, 2007 at Hotel Annapurna, Kathmandu.
3. Caplan, L. (2000). *Land and Social Change in East Nepal: A Study of Hindu-tribal Relation*. Patan: Himal Books.
4. CBS. (2006). National Agricultural Census 2001-2002. Kathmandu: Central Bureau of Statistics.
5. CBS. (2003). National Sample Census of Agriculture Nepal 2001-2002: Highlights. Kathmandu: Central Bureau of Statistics.
6. CBS. (1962). Agriculture Census of Nepal. Kathmandu: Central Bureau of Statistics.
7. CSRC. (2006). A Study on *Haliya/Haruwa* and *Charuwa*. Forms, Determinants and Complexities. A Report submitted to ILO and IPEC. Kathmandu: Community Self Reliance Centre.
8. CSRC. (2007). *Chunabi Gosanapatra ra Dastabejharuma Bhumisudhar* (Election Manifestos and Land Reform issues in Peace Process). Kathmandu: Community Self-Reliance Centre.
9. Ghimire, K.B. (2001). *Land Reform and Peasant Livelihoods*. London: ITDG Publishing.

10. GoN. (2007). *Interim Constitution of Nepal 2007*. Kathmandu: Government of Nepal
11. IDS. (1986). *Study on the Land Tenure System of Nepal*. Kathmandu: Institute of Development Studies.
12. Keliang, Z. and Prosterman, R. (2006). From Land Rights to Economic Boom. Webpage: www.chinabusinessreview.com (Accessed on 5th September, 2008)
13. Khadka, N. (1994). *Politics and Development in Nepal*. Jaypur: Nirala Publications.
14. Khanal, D.R. (1994). *Agrarian Reform and Land Tenure System in Nepal*. Rome: FAO
15. Medaille, J.C. (2005). Taiwan and the 'Land to the Tiller' Programme. Chapter 14 from the book *The Vocation of Business: Catholic Social Teaching for the Business Person*, a work in progress, copyrighted by the author and reprinted here by permission. July 2005.
16. Ramachandran, V.K. and Swaminathan, M. (2002). *Agrarian Studies*. Delhi: Tulika Publications.
17. Regmi, M.C. (1999a). *Thatched Huts and Stucco Palaces: Peasants and Landlords in 19th Century Nepal*. Delhi: Adroit Publishers (Reprint).
18. Regmi, M.C. (1999b). *A Study in Nepali Economic History*. Delhi: Adroit Publishers.
19. Thapa, S. (2001). *Peasant Insurgence in Nepal 1951-1960*. Bhaktapur: Nirmala KC.
20. Thapa, S. (2000). *Historical Study of Agrarian Relations in Nepal 1846-1951*. Delhi: Adroit Publishers.
21. UNDP. (2004). Nepal Human Development Report. Kathmandu: United Nations Development Programme.
22. Upreti, B.R. (2004). *The Price of Neglect: From Resource Conflict to the Maoist Insurgency in the Himalayan Kingdom*. Kathmandu: Bhrikuti Academic Publishers.

23. Upreti, B.R. (2002). *Management of Social and Natural Resource Conflict in Nepal: Realities and Alternatives*. Delhi: Adroit Publishers.
24. Zaman, M. A. (1973). *Evaluation of Land Reform in Nepal*. HMG/N, Kathmandu: Ministry of Land Reform.

Chapter 14

Sagar Raj Sharma

Land and the Incomplete Debate: Towards a Holistic Approach

The issues discussed and arguments put forward in the preceding chapters of this book have clearly highlighted the deep rooted problems and complexities of land related issues. The chapters have been written by people from different backgrounds and professions. They have illustrated different perspectives regarding the existing social inequalities caused by access to, or lack thereof, and control over land resources in Nepal. All these arguments have been put forward with the same intention of highlighting the ramifications of the negligence by the state in addressing the issue of land reform in Nepal. There can be no denial that land and land related issues are very crucial in understanding the existing socio-political structure of Nepal. Without addressing the issue of land reform, sustainable development and lasting peace would be impossible in the country. But we need to hastily add a cautionary note here. Most of the debates at the national level are, by and large, based on politically motivated arguments. There has been very little trans-disciplinary research, despite all the hype, actually done on this issue. Owing to this, there is inadequate and misleading information regarding the actual situation, data and status of the landless farmers and the land use pattern in Nepal.

However, if one wants a healthy and balanced view on the overall issue of social inequalities and discriminations existing in

Nepal, one has to consider it in a more holistic approach. Development of a society, and consequently of a nation, does not come only through land reforms. It would be tantamount to wishful thinking that all the disparities in the society would disappear once the issue of land is resolved. It is our intention to open up this debate in this chapter. Although a sincere land reform is absolutely necessary in this country, we have proposed a Transformative Land Reform in this book (See Chapter 13). Certainly, land alone would not solve all the problems, and we need to look at it as a component of a whole, from a holistic perspective. There are other issues and sectors that are also equally important. The whole debate would be incomplete without considering these (and other) alternative options and giving development a more holistic and integrated approach.

14.1 Land-centred Contemporary Debate

Various chapters in this book have thoroughly argued that land provides a huge opportunity for livelihoods for a large number of poor farmers and minorities. It is perceived as a source of power and a symbol of pride, dignity and prosperity. Agrarian classes of different socio-economic and political status are results, this school of thought argues, of the skewed and inequitable land distribution prevalent throughout the country. These agrarian relations are further aggravated by the existing caste system, where the Dalits and other socially excluded groups are particularly affected. On that line, Chapter 6 of this book has argued that denying access to the ownership of land and land-based natural resources makes room for uncertainties, confusion and conflict. And there are others such as Yadav (2005) who argue that there is no more land to distribute in Nepal as it is already too fragmented, and that the market should be allowed to solve the problem of proper distribution and land use system (See Chapter 4 for detailed discussion).

One often cited data, in this debate, is the land distribution situation of Nepal shown in Table 14.1. The table depicts a general land ownership situation in the country. It shows that more than 24 percent people are landless and another 6.98 percent people are semi-landless. When more than 30 percent of the population of subsistence agriculture-based country is landless, they face livelihood insecurity and for their survival they can take up even extreme measures. This argument, as true and noteworthy as it may be, does not give the whole picture. What are the other options available, or can be made available, to these people? Will simply distributing land to these people solve all the problems of social discrimination and injustice they face? What would be the best way to solve the problem of the absentee landlordism and how much land will be available from them? Yet another challenge is the presence of quite a substantial area of fallow land in Nepal. Such land has been kept unused due to the poor factors of production (unavailability of agricultural inputs, lack of better and secured market, and lack of skilled labour force required for agriculture). What is the exact area, and what would be the best way to ensure proper and full use of such land? At the same time, there is also an understandable uncertainty and fear among landlords. They fear that renting out the land for sharecropping could encourage the sharecroppers to claim property as legal tenants. What measures should the nation-state take, particularly in the changing socio-political context and coming federal structures of Nepal, and encourage investment in the land to improve it and thereby increase agricultural productivity? All these are very sensitive issues, and unless measures are taken to address them seriously and sincerely, land reform will only remain a convenient slogan for the politicians and other key actors involved in this debate, and a free and just society will be a distant dream for many years to come.

Table 14.1: Land Distribution Situation in Nepal

S.N.	Category of people	% of total population
1	Landless	24.44
2	Semi-landless (owning less than 0.20 acre or 0.08 ha)	6.98
3	Marginal cultivators (owning 0.21 to 1 acre or 0.084 to 0.4046 ha)	27.59
4	Small cultivators (1.01 to 2 acres or 0.4087 to 0.809 ha)	20.15
5	Semi-medium cultivators (2.01 to 4 acres or 0.809 to 1.618 ha)	13.42
6	Medium cultivators (4 to 10 acres or 1.659 to 4.05 ha)	6.25
7	Large cultivators (more than 10.01 acre or 4.06 ha)	1.17

Source: UNDP (2004: 176), Table 11

14.1.1 Need for Research-based Policies

To come up with pragmatic, feasible and reasonable solutions to all of the above very difficult, challenging and important questions, one feels a genuine need from all sides to encourage and initiate in-depth studies and trans-disciplinary research on land related issues in Nepal. There is a long-felt need for research-based policies (as opposed to policies hurriedly made out of political interests) in land reform. For this purpose, the efforts and sincerity of the government and the donor community in promoting trans-disciplinary research on land related issues will be highly crucial. The data in Table 14.1 is often the only information used to describe the situation of land distribution in Nepal. It is rather outdated data, and is often manipulated by the politicians and the decision makers for their respective vested interests. We have to start with the realisation that we do not even have a complete set of updated data, be it the number of the landless, the actual area of fallow land, the land use pattern in the country, or the number of absent landlords. But, having an updated data alone would not still be sufficient. It should further be properly dissected and analysed from a trans-disciplinary approach. A comprehensive land resource mapping and land use database is needed to proceed further in making any informed land-related policy decisions.

Policy without research is about as useless as a plough without its nail, and will instead have negative impacts.

14.1.2 Need for Engaging the Landlords in the Debates

Another characteristic of the ongoing land-related national level debates in Nepal is that they are often seen to be filled with biases against the landlords or the 'upper-class' people. When they launched their armed insurgency against the state, even the Maoists made it clear that it was primarily a class-based struggle. While the campaigns against these landlords have evolved over the years and as the peasants have started to get more and more organised for their rights, the landlords have been kept out of the debate. But this kind of approach is not balanced and has a danger of further polarising the society. It is true that there are, still to date, many landlords who are very cruelly exploiting the *Halis*, *Haruwas* and *Charuwas* as shown in chapters 9, 10, 11 and 12, but avoiding debates with them would not be part of the solution. Similarly, it would not be wise to treat all landlords always as the opponents of land reform. It is equally true that there are many landlords who have simply remained indifferent to this whole debate, but they too need to be brought into the mainstream debate. Due to the changing structure and dynamics of the society caused by both internal and external factors, many such landlords have long given up farming and agriculture, and are living in urban areas, engaged in some other businesses for their livelihood. They too would be interested in a realistic land reform if they were convinced. It is of utmost importance to engage these landlords in policy dialogues and land related debates, as there are many of them who are also seeking a just and free society.

14.2 Other Alternatives

If one were to take the overall socio-economic 'development' of a country as a prerequisite to a just and free society, then it

would be appropriate to ask what causes that development. Why has Nepal failed in its development efforts in the past? Or, looking at it from strictly a land perspective, why have all the previous land reform attempts failed in the country? Is it inappropriate allocation of resources, inefficient management, poor governance or the growing disparities between different classes of people that has been detrimental to economic development in Nepal? Can a new federal Nepal sustain in the long term as a viable nation-state? One needs to consider other alternatives as well and look at the issue of land from a broader perspective in order to get a balanced view.

It is important that all the landless people and the poor farmers should also be given other livelihood options so that they can make their own informed choices. The current situation does not provide them with any alternative choices but to keep working on the land of their landlords; as a result, they are stuck in the vicious trap of poverty (See chapters 9, 10, 11 and 12). But it is the duty of the state, and hence of the government, to be responsible to all its citizens and provide them with other alternatives as well. Land is too complicated an issue and needs a considerable amount of time and efforts to get near to the solution. Thus it makes that much more sense that the government and all the other stakeholders start thinking seriously about developing alternative livelihood options for these poor farmers. When land distribution and access to resources are inequitable, alternative employment opportunities and livelihood options become critical to sustaining and restoring dignity. Employment generation in formal and informal sectors, skill development programmes, labour-intensive production techniques, growth of agricultural productivity, as well as access to information and state's decision-making process are vital in achieving socio-economic development. The Transformative Land Reform package, proposed in Chapter 13, can be considered as a prerequisite to

these other alternative areas of socio-economic development and employment generation for the poor. Potentials of some of these other sectors are given below.

14.2.1 Developing Hydropower

Despite Nepal's huge potential in hydropower, it has been a very sluggish performance with just over a 600 MW of production currently (NEA, 2007). If the frequently quoted 83,000 MW of hydropower potential is harnessed more effectively, it would be possible to meet domestic requirements as well as generate surplus electricity for export. The lack of electricity has been a major constraint to economic development and poverty alleviation in the country. But with some big projects, it would be possible not only to generate surplus electricity for export, but also to create new employment opportunities, and together with export, could increase the size of GNI. The 750 MW West Seti Hydroelectric Project in the far-western region is a promising step towards this objective. For that to be materialised, however, a realistic and mutually beneficial understanding has to take place with India, Nepal's most important trading partner and the largest potential market for the electricity produced. If that happens, this sector could absorb a large chunk of the unemployed and underemployed youths in the country as well as those who are looking for alternative livelihood options.

14.2.2 Promoting Tourism

Another sector, with huge potential for creating employment opportunities and contributing to the overall development of Nepal, is the tourism sector. Nepal has been a popular destination for many from all over the world for decades. Although during the conflict years the number of tourists arriving in Nepal declined, it has again started increasing, crossing the 500,000 mark for the first time in 2007/08 (NTB,

2008). However, very little has been done by the stakeholders, including the government and the private sector, to create more opportunities and make tourism more attractive to both domestic and international tourists. Tourism can also be developed in such a way that it can be both eco-friendly and beneficial to the rural communities, such that it creates new employment opportunities, increases foreign currency earnings and thereby contributes to decrease the regional imbalances within the country. These potentials have not been fully realised yet.

14.2.3 Increasing Agricultural Productivity

One other area where the government, the donor community and all the stakeholders need to focus on is increasing agricultural productivity in Nepal. Nepal has had to face a severe food shortage in the recent years, particularly in the remote areas. The main reasons for this shortage have been high population growth, slow growth in agricultural output, improper use of land and lack of alternative livelihood opportunities. Failure of the World Trade Organisation (WTO) talks recently held in Geneva (July 2008) has served as an eye opener in that it is not too reliable to depend on international trade, at least not as yet, for overcoming our shortages. Tackling food scarcity will not be possible without increasing low volume, high value and specialised productivity in one's own land, and for that modernising agriculture would be most important. Making agriculture more modern would not only attract youths, but also provide them with opportunities to increase their self sufficiency. There are ample opportunities in this sector, such as increasing production and cultivation of non-timber forest products and herbal products. By strengthening agricultural production base and creating participatory institutional arrangements, thereby providing new employment opportunities and capacity building programmes, it would be

possible to make agriculture more beneficial to the rural population.

These are only some of the other areas worth exploring for creating alternative livelihood options for the rural poor of Nepal. Other such areas with similar potentials are, for example, creating more opportunities for foreign employment that would provide yet another opportunity to earn foreign currency through remittance, and providing the youths with technical and vocational skills that would give them more choices of employment. Taking cooperative farming programmes to the district and VDC levels can be another possible option for ensuring secure livelihood for the poorest of the poor. All these measures, and possibly others as well, need to be considered seriously from all sides.

14.3 Conclusions

Land is undoubtedly a major productive asset and traditional source of power in Nepal. Its ownership has played a symbolic role in defining the economic and social status, and poverty is closely linked with the distribution of land holding and its productivity. It is imperative that the land issue be addressed sincerely and systematically. Sustainable peace and a free and just society in Nepal cannot even be imagined without a sincere and transformative land reform package. However, it is equally important that other alternatives of livelihood options for the poor are explored seriously. There are other perspectives as well regarding the ways for the overall socio-economic development of Nepal, and they also deserve equal attention. An integrated approach towards a sustainable development is the need of the hour, and for that, research, policy and practice should go hand in hand.

References

1. NEA. (2007). *A Year in Review: Fiscal Year 2006/07*. Kathmandu: Nepal Electricity Authority.
2. NTB. (2008). *Statistics 2008*. www.welcomenepal.com. Kathmandu: Nepal Tourism Board. (Accessed on August 1, 2008).
3. UNDP (2004), *Nepal Human Development Report: Empowerment and Poverty Reduction*. Kathmandu: UNDP Nepal.
4. Yadav, R.P. (2005). *Land Tenure Situation in Nepal in Policy Outlook*. Series No. 7. Kathmandu: Winrock International.

About the authors

Basnet, Jagat, a renowned land right activist, is the executive director of Community Self Reliance Center (CSRC). He is supporting tillers' organisations those focus on the capacity building of tenants. He is also educating the tillers about land related conflicts and training them to become leaders, campaigners, negotiators and facilitators. He was awarded the Maza Koine Social Activist Award 2006, from India and Ashoka Fellowship 2007 for innovation and contribution to the land reform of Nepal. He has written more than 100 articles on land reform and social movements.

Deuja, Jagat is a renowned land right activist working in the field of land rights since 1996. He has started land right activism from Sindhupalchowk district. Extensively written about the land issues in various dailies, weeklies, fortnightlies, monthly newspapers and magazines, he has contributed in different edited books, reports and manuals as a co-author. He is also a national trainer-cum-facilitator in social movement mainly focusing on education and land.

Dhungel, Madhav is an investigative journalist actively writing in the field of human rights, political issues, Dalit rights and land rights. He is currently working in a famous weekly magazine *Nepal*. He has written more than 190 articles on human rights issues. A member of Nepal Journalist Federation, he also holds the same posts in Education Journalist Group and Chartered Accountant Association.

Ghale, Yamuna holds MSc in Ecological Agriculture from Wageningen University, the Netherlands. During her 17 years

of professional engagement with international organisations such as The Netherlands' development organisation SNV Nepal, International Centre for Integrated Mountain Development (ICIMOD), Action Aid Nepal and SDC Nepal, she has gained professional experience and expertise on areas of agriculture, natural resource management, social inclusion, trade and globalisation and gender issues. She has extensively written scientific papers in national and international journals, books, manuals and discussion papers and articles in daily, weekly, fortnightly and monthly newspapers and magazines, in the field of agriculture, trade and gender. She has frequently been quoted in national and international media on food security, farmers' rights and natural resource management. Currently she is working as a Senior Programme Officer in Swiss Agency for Development and Cooperation Nepal.

Luhar, Nariram is a land right activist from Bishalpur VDC of Baitadi District. He is actively engaged in training, orienting and supporting land rights and Dalit activists since 2004. He is also the Baitadi District secretary of Rastriya Dalit Network. He is also working as a trainer-cum-practitioner on popular education in Dadeldhura and Baitadi Districts.

Nepali, Purna is a PhD student at Human and Natural Resource Studies Centre at Kathmandu University. He is doing his doctoral research on 'Access to land and livelihood options of socially excluded people'. He also has experience of working in different national and international organisations.

Ram, Ganesh is a locally renowned Dalit and land rights activist in Saptari District. He is also active in Chamar movement and has taken part in various anti-Dalit exploitation movements. He is the Vice-chair of Executive Committee of Community Self Reliance Centre, Kathmandu.

Pyakuryal, Kailash Nath is an eminent Rural Sociologist of Nepal. He possesses PhD (Sociology) from Michigan State University, Michigan, USA. He has 42 years of work experience: eleven with the Government in the Ministry of Agriculture (1965-1976) and 30 with Tribhuvan University (1976-2006), and since last year he is a Faculty on Contract at Kathmandu University. Professor Pyakuryal has served as the Department Head, Assistant Dean and the Dean of Agriculture at the Institute of Agriculture and Animal Science. He had also served as the Head of the Department of Sociology and Anthropology, Tribhuvan University, Kirtipur, Nepal. He is an experienced researcher and a consultant in the areas of natural resource management (agriculture, forestry and irrigation management) and comparative research; he is a specialist in poverty research, farming systems research, institution building, as well as human resource development. In the past, he has offered consultancy services in the above-mentioned areas to several clients including USAID, ADB, WB, UNDP, FAO, GTZ, Plan Nepal and China Tibetology Research Centre, Beijing. Professor Pyakuryal has nearly 50 research publications to his credit. His latest edited book is entitled, *Conflict in Nepal: Theoretical Underpinnings, Conflict Management, Conflict Transformation and Peace Building*.

Sharma, Sagar Raj holds PhD in Development Economics from Fukuoka University, Japan. He has worked extensively in the fields related to Foreign Aid, Development, Private Sector and Land Reform in Nepal. He has the experience of working in the development sector both as an academician and a practitioner. He also has the experience of teaching Development Economics and International Development Management in Fukuoka University, Japan. In addition, he has worked as an Economic Advisor at the Nepalese Consulate Office in Japan and as the National Development Consultant for the UN Habitat. He is currently the In-charge of the graduate programme at the

Human and Natural Resources Studies Centre (HNRSC) under Kathmandu University.

Upreti, Bishnu Raj holds PhD in conflict management (2001) from Wageningen University, the Netherlands. He is actively engaged in conflict transformation and peace related research and teaching. During 26 years of professional career, he is engaged in teaching and research at University of London and University of Surrey in the UK, and Kathmandu University, Nepal. He had worked in different international organisations such as DFID, SNV, WWF, IUCN, DANIDA, Action Aid, CARE, WFP, FAO, UNDP, Asian Development Bank and MS-Nepal, in the capacity of professional staff, resource person and consultant. He has also spent some years in government service selected from the Public Service Commission. He has fifteen books to his credit on conflict related subject and many articles in different national and international journals, magazines and edited books. He is widely quoted in national and international media with reference to Nepal's armed conflict. He has served as a resource person for several international organisations and visiting fellow in Uppsala University. Currently, he is the Regional Coordinator in South Asia Coordination Office of Swiss National Centre of Competence in Research (NCCR) North-South, based in Kathmandu.

Index

A

Abad Santos: 57
 Access to land: 88, 89, 91, 99,
 109, 118, 137, 151, 162,
 176, 179, 180, 189, 276
 Afghanistan: 128, 148
 Agrarian: 10, 23, 88, 92, 99,
 105, 108, 118, 120, 125,
 144, 174, 176, 191, 195, 302
 Agricultural Perspective Plan:
 132, 178
 Agricultural production: 75,
 83, 174, 208, 293, 306
 Agricultural productivity: 56,
 83, 282, 292, 308
 Agriculture: 43, 53, 71, 89,
 100, 164, 193, 243, 259,
 283, 308
 Aid disbursements: 73, 76, 78,
 80, 83
 America: 44, 56, 58, 149
 Anti-Slavery Treaty: 228
 Arable land: 56, 119, 151, 188
 Armed conflict: 91, 131, 132,
 182, 215, 266, 296
 Asia: 44, 87, 101
 Asian Development Bank: 76,
 85, 132, 185
 Ayala: 45

B

Bada Hakim: 29

Badal Commission: 150, 190,
 207, 208
 Badi: 35, 208, 210
 Bagdari: 34
 Balighare Pratha: 100, 204,
 209
 Bangladesh: 79, 124
 Bario united defense crops: 58
 Basu Pasa: 26
 Bataiya: 23, 256, 275
 Bethbegari: 25
 Bhaiswar: 224, 229, 269
 Bhakari phod: 32
 Bhim dutta panta: 27, 30
 Bilobandi: 255
 Birta: 26, 33, 34, 81, 110, 134,
 163
 Bolivia: 59, 60, 62
 Bolshevik movement: 50
 Bondage: 112, 204, 235, 239
 Brazil: 94, 127, 146, 181
 Britti system: 81
 Bureaucratic inertia: 120

C

Capitalism: 107
 Caste system: 23, 112, 121,
 138, 171, 202, 205, 211,
 215, 275, 302
 Ceiling: 92, 120, 149, 150, 215,
 243, 253, 286
 Chaco war: 60

Charuwa: 19, 39, 100, 112,
117, 138, 228, 231, 232,
236, 237, 240, 241, 259
Chhintang movement: 32
China: 53, 54, 55, 56, 295
Colombo plan: 72
Commercialisation: 6, 93, 282,
292
Common heritage: 182
Communal plot: 51
Comprehensive peace
agreement: 192, 296
Conflict: 3, 19, 50, 92, 99, 125,
127, 131, 137, 141, 146,
147, 182, 214, 266, 280,
296, 302, 307
Conflictual power: 102
Consensual power: 102
Constituent assembly: 3, 47,
52, 86, 162, 166, 280, 296
Constitution: 47, 147, 172,
174, 176, 180, 192, 202,
228, 238, 273
Cooperative farming: 286, 309

D

Dalit: 112, 114, 121, 138, 153,
169, 171, 188, 191, 201,
203, 206, 207, 209, 225,
227, 238, 243, 262, 268
Development: 4, 19, 53, 71,
74, 99, 137, 170, 188, 213,
246, 254, 286, 305
Dharmabhakari Aandolan: 26

Discrimination: 5, 28, 95, 99,
121, 152, 171, 180, 192,
203, 262, 295
Duty of state: 173

E

Economic development: 4, 53,
72, 83, 137, 193, 293, 307
Economic growth: 5, 89, 178,
193, 275, 285, 293
Economic services: 83, 84, 178
Emotional values: 99
Employment opportunities:
19, 100, 306, 307
Empowerment: 194, 214
Equity: 55, 99, 138, 284
Eric Wolfe: 47
Ernesto Guevara: 62
Ethnic group: 32, 118, 146,
162
Exploitation: 4, 25, 31, 83, 95,
99, 122, 146, 152, 207, 229,
242, 253, 259
Exploitative practices: 170
External assistance: 73

F

Fallow land: 62, 64, 82, 237,
287, 303
Farmers' movement: 12, 52
Far-western region: 221, 227,
259, 262
Federal structures: 303
Feminism: 130
Feudalism: 3, 119, 192
Food aid: 175

- Food production: 4, 178
 Food scarcity: 306
 Food security: 173, 176, 194
 Foreign aid: 19, 63, 71, 73
 Foreign employment: 280, 309
 Fundamental rights: 190
- G**
 Gaiwar: 224, 229, 269
 Gender equality: 175
 Girahat: 259, 267, 268
 Globalisation: 8, 137, 161, 181, 183, 195
 GNI: 79, 307
 Government: 6, 9, 23, 71, 75, 85, 173, 249
 Government budget: 75
 Gracia Linera: 63
 Guatemala: 9, 127, 181
 Guthi: 34, 35, 81, 133, 163, 291
- H**
 Hali: 19, 81, 112, 113, 223, 225, 259, 261, 265, 305
 Haliya: 27, 36, 39, 100, 112, 204, 221, 223, 224, 228, 259, 269
 Haruwa: 36, 39, 100, 112, 117, 146, 226, 231, 232, 235, 237, 243, 259, 260, 266
 Harwahi: 231
 Huk movement: 58
 Human rights: 85, 92, 118, 173, 194, 228
 Hunda: 23, 275
- Hunger strike: 35
 Hydropower: 307
- I**
 Income and expenditure: 74, 237
 India: 28, 29, 71, 114, 180
 Inequalities: 24, 100, 103, 161, 275, 301
 Infrastructure: 72, 178, 286
 Injustice: 100, 161, 214, 303
 Integrated approach: 153, 292, 309
 Interim Constitution: 176, 180, 190, 228, 238, 273, 281
 Irrigation: 4, 72, 111, 178
 Ivory cost: 127
- J**
Jagga Kasko Jotneko: 31
 Jagir: 81, 100, 133, 134
 Jamindari system: 26, 109, 110
 Japan: 51, 58, 76, 287
Jasko Jot Usko Pot: 33
 Jhoda: 32
 Jimmuwals: 276
 Judiciaries: 86
- K**
 Kamaiya: 27, 34, 100, 115, 222, 223, 224, 229, 256
 Kamlari: 39, 138, 224
 Kanara movement: 34
 Kathmandu: 13, 30, 72, 287
 Keliang and Prosterman: 54
 Khalo Pratha: 204

- Khamar Ro: 31
Khan Pratha: 100
Korea: 185
Koshi dam: 72
- L**
Land: 3, 17, 30, 31, 59, 81, 108, 111, 186, 189, 204, 226, 270, 273
Land act: 63, 149, 180, 244, 278
Land administration: 85, 95, 136, 190, 254, 291
Land and Cultivation Record Compilation Act: 81
Land Bank: 38, 82, 88, 132, 181, 186
Land Distribution: 6, 8, 44, 59, 65, 88, 92, 302
Land Measurement Office: 291
Land Reform: 5, 13, 16, 43, 62, 81, 82, 139, 176, 196, 215, 242, 252, 273, 303
Land Reform Act: 37, 82, 139, 242, 284
Land Resources: 6, 119, 127, 146, 176, 180, 196, 301
Land Rights: 12, 18, 23, 31, 33, 34, 36, 135, 205, 248, 274, 284
Land Tax: 26, 63, 132, 189, 249, 291
Landless: 4, 19, 30, 83, 151, 188, 243, 256
- Landlords: 11, 25, 27, 54, 106, 196, 221, 259
Landownership: 234
Lichchhavi: 81, 171
Livelihood: 10, 18, 34, 59, 95, 113, 151, 160, 209, 227, 237, 243, 256
Livelihood options: 113, 243, 306
- M**
'Maddat Bhakari Khada Karo': 30
Madhesi Dalits: 203, 206
Magsaysay: 59
Majhiyas: 32
Makaiko Kheti: 25
Manifestos: 182, 282
Mao Ze Dong: 54
Maoists: 91, 266, 280, 281
Marginalised: 4, 11, 19, 83, 118, 131, 139, 141, 166, 188, 236, 282
Market mechanism: 90
Market-based Approach: 132
Mexico: 44, 46, 49
Michel Foucault: 129, 130
Michoacan: 48
Ministry of Finance: 83
Mock Sit-in: 57
Morelos state: 44
Mukhiya: 276
Multilateral Assistance: 71, 73
Muluki Ain: 140, 189, 211, 261
Musahar

- N**
 National Land Rights Forum:
 34, 274
 National Planning
 Commission: 169, 274
 Neo-liberal policies: 88
 Nepal: 3, 4, 5, 71, 136, 180,
 243, 293, 296, 308
 Nepal Workers-Peasants
 Party: 282
 Nepali Congress: 28, 31, 186,
 264, 282
 New Nepal: 96, 261, 262, 293
 New Zealand: 72
- O**
 Overseas Development
 Assistance: 74
 Otilio: 45
 Ownership rights: 45, 81, 137,
 214
- P**
 Pakistan: 119, 126, 132, 180
 Paris Declaration: 6
 Peace: 28, 39, 128, 147, 280,
 296, 299
 Peasant: 23, 25, 26, 36, 39, 64,
 65, 180, 305
 Peoples' Participation: 120
 Philippines: 9, 56, 58, 92, 180
 Piskor movement: 33
 Pitmari: 34
 Plan de Ayala: 45
 'Point Four' Agreement: 71
 Political economy: 3, 24, 101,
 105
 Political interests: 8, 101, 186,
 304
 Porphyrio Diaz: 44
 Poverty alleviation: 5, 40, 87,
 275, 294
 Power: 3, 19, 23, 33, 59, 99,
 137, 142, 145, 226, 244,
 253, 273, 276, 302
 Private ownership: 56, 62,
 100, 211
 Production relation: 10, 99,
 105, 106, 122, 204, 215, 282
 Property rights: 90, 93, 141,
 142, 181, 193, 211
 Pro-poor policies: 119
- R**
 Raikar: 37, 81, 133, 163
 Rajya: 133, 134
 Rakam: 100, 110, 133
 Rana regime: 25, 28, 110, 111,
 163, 276
 Regional imbalances: 308
 Remittance: 211, 309
 Resource allocation: 5
 Right to food: 173
 Rwanda: 132, 146
- S**
 SAARC: 79
 Salami: 25
 Semi-slavery: 221
 Sera: 25, 81, 133, 134
 Seven-Party Alliance: 281
 Sierra Leone: 10, 132,
 Sindhupalchok: 33, 34, 36
 Social exclusion: 19, 133, 161,
 201

- Social justice: 89, 118, 154, 172, 188, 195, 2724
Social power: 130, 145, 196
Social status: 99, 127, 131, 162, 182, 191, 195, 279, 309
Social structure: 23, 39, 103, 127, 128, 144, 152
Socialism: 211, 214, 262
South Asia: 87, 101, 107, 137
Spain: 63
Squatters: 49, 57, 147, 228, 243, 247, 253, 269, 275
Structural Adjustment Programme: 89, 132, 182
Sustainable development: 19, 301
Sustainable peace: 41, 309
Syndicate: 60
- T**
Tagadhari and Matwali: 208
Taiwan: 287, 293
Tamasuk: 28
Taruq: 59
Tenancy rights: 3, 13, 25, 34, 36, 93, 151, 241, 252, 255
Tenant: 4, 11, 13, 55, 57, 118, 119, 133, 180, 186, 206, 252, 274
Tenure: 10, 13, 28, 82, 95, 109, 118, 181
Tenurial land: 277
The Soviet Union: 72
The United States: 212, 261
Tourism: 193, 307, 308
Trans-disciplinary: 301, 304
Transformation: 128, 149, 162, 286, 293
- Transformative land reform: 19, 242, 273, 274, 283, 286, 289
Trap of poverty: 306
- U**
Ucurena: 60, 61
UNDP: 76, 138, 185, 207, 208, 295
Unilateral: 129
Urban areas: 212, 247, 262, 287, 305
- V**
Varna system: 202, 205, 215
Vera Cruz: 48
Victorio Huerta: 46, 66
Violent: 10, 24, 46, 52, 57, 125
- W**
West Seti Hydroelectric Project: 307
William Gates: 47
Women's representation: 164
World Bank: 38, 44, 82, 83, 88, 132, 185
World Summit: 43
World Trade Organisation: 175, 182, 308
- Y**
Yucatan: 48
- Z**
Zapata: 44, 45, 46, 48, 65
Zero Sum Game: 102
Zimbabwe: 9, 118, 132, 14



NCERT
north
south

