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Negotiating Access to Land in Nepal

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ABSTRACT *In a rural agrarian economy like that of Nepal, land has traditionally been a primary source of livelihood and security, as well as a symbol of status. Thousands of poor farmers are completely dependent on land for their livelihoods, yet not all of them have access to or control over this fundamental resource. Negotiation for access to land has been a lengthy and complicated process. It remains so in the changed political context of Nepal, where increasing numbers of emerging actors need to be considered, often with conflicting claims and counterclaims. In this context the traditional ways of thinking need to be revised, both with regard to the negotiating process and the mechanisms of land reform, to accommodate the country's recent and ongoing massive socio-economic transformation.*

KEY WORDS: Negotiation, land reform, access to land, emerging actors, development

For many Nepalese, land is a primary source of livelihood and security, as well as a symbol of status and social capital. However, with the country's growing population, land is a diminishing per-head asset. The average holding size is now less than 1 hectare, and there are thousands of peasants who cannot make a living just from their land (UNDP 2004). The land distribution is skewed, ranging from a small group of landowners with large landholdings to a considerable number of agriculturally landless households, as 5% of landowners hold 37% of total arable land (UNDP 2004; Wily, Chapagain, and Sharma 2009). Various studies have shown that this skewed land distribution has had a significant impact on people below the poverty line, and a large chunk of the population remains functionally landless (UNDP 2004; Upreti, Sharma, and Basnet 2008; Wily, Chapagain, and Sharma 2009). Studies have shown that such skewed land distribution and gross disparities in land ownership are some of the major sources of conflict and perceptions of injustice (Upreti, Sharma, and Basnet 2008). The UNDP 2004 Human Development Report further estimates that around 450,000 tenants are not registered, and consequently are not able to claim tenancy rights. Similarly, around 300,000 *halis* (literally, those who plough), whose livelihoods depend entirely upon ploughing the lands of other people, do not have any land ownership. Landlessness in Nepal also relates traditionally to low status in the caste system; a reality reflected in the fact that 15% of Hill and 44% of Tarai *Dalits* are totally landless, and depend on landlords for their daily subsistence (UNDP 2004). The significance of this issue is underscored by the fact that land is and has always been

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one of the most contested natural assets in Nepal. The majority of disputes (more than 60%) in Nepalese courts today are directly or indirectly related to land (Bhattarai and Pokharel 2004), and the land issue plays a central role within the current political debate. It remains a highly politicised issue, and as such any long-term solution regarding land reform in Nepal would not be possible without understanding the nature of and addressing effectively the political aspects of land.

The main objective of this paper is to give a brief historical overview of land reform in Nepal, and to examine the process of how and by whom access to land is currently being negotiated. After giving a brief sketch of the history of land tenure in Nepal, the paper outlines the major attempts at land reform so far. It discusses the importance of land for securing rural livelihoods and for the prospering of the country's socio-economic situation. It illustrates how the issue of land reform has become part of the agenda of government and major political parties, and in particular, how the various activities (such as massive street protests, rallies and sit-in programmes) of peasants' land right organisations and non-governmental organisations (NGOs) have empowered the peasants to a certain extent, to negotiate access to land with the state's representatives. In the process of this discussion, this paper emphasises the importance of engaging newly emerged actors in the socio-political arena of today's Nepal in the negotiating process, to facilitate movement towards meaningful land reform in the changed context. Finally, the paper attempts to highlight the major benefits of a well thought-out land reform, and argues that land reform is a crucial element of development programmes in the country.

The analysis of this paper builds on evidence gathered through earlier studies, first-hand field visits, a series of interactive programmes and exchanges with consortiums and civil society organisations, such as the Consortium for Land Research and Policy Dialogue; the Community Self Reliance Centre (CSRC); and the National Land Reform Forum; and is embedded in a broader framework of land-related studies in Nepal (for example, Müller-Böker 1986, 1999; Upreti, Sharma, and Basnet 2008; Wily, Chapagain, and Sharma 2009).

Historical Perspective

The people of today's territory of Nepal have witnessed a variety of land tenure systems and policies throughout its history, characterised by feudal relations. At certain times the royal families of the *Baisi* and *ChaubisiRaj* (small kingdoms within Nepal before its unification in 1769) and the religious institutions distributed shares of the produce from land, but cultivators were not entitled to own land; while at other times the king "granted" land title to the people who were dear and near to him. In the *Khas* (a mountain tribe said to have come from the west in large numbers in prehistoric times) kingdom, *birta*, *guthi*, *jagir*, *raikar* and *sera* systems of land ownership came into practice. *Birta* was the land granted to those loyal to the rulers, 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 paid taxes regularly. The land owned by the palace was called *sera*. Cultivators without access to *raikar* land worked as *halis* or *gothals* (herdsmen), in many cases as bonded labourers (Regmi 1976). During the period of the establishment of the modern state of Nepal in the late eighteenth century, efforts were made to increase the landholding of the kingdom. Prithivi Narayan Shah, who unified this until-then fragmented country, was keen to control the

productive lands of Kathmandu Valley and the Tarai. He distributed *birta* and *jagir* land to his followers, especially his soldiers, who helped him in the expansion of territory (Regmi 1963). The policies of the newly unified state, in order to expand its power and appropriate surplus from its newly annexed territories, were instrumental in subordinating the older social formation and making the state the ultimate landowner, which was termed by some as “state landlordism” (Regmi 1976; Sugden 2013).

Some ethnic groups, such as the *Rais*, *Limbus* and *Sherpas*, practiced their own land tenure system. Land was used under the *kipat* system as common property of patrilineal groups, and only became de jure under the national system after the 1964 Land Reform Act (Regmi 1976); although in some remote regions, some forms of legal pluralism can be observed even today.

From the early days, various rulers in Nepal have tried to interpret the existing land system to optimise land tax income and consolidate their own dominance. This was particularly noticeable in the Rana Regime (1846–1951). For example, in 1861, the Rana government attempted to reorganise the administration in Nepal and introduced in the Tarai the *jimidari* system, as a result of which a system of rural elite became established, which was enforced to claim land and exploit unpaid labour (*begari*) (Müller-Böker 1999). The distribution of *birta* grants also intensified significantly under the Rana regime (Regmi 1976).

The struggle for land rights intensified after the downfall of the Ranas in 1951, as the oligarchy prevailing until then was weakened and the people gained more freedom to organise themselves and express their opinions. With this crucial political change in the country, land reform became an important component of the development rhetoric, and the main slogan of the major political parties became “*jasko jot usko pot*,” which basically translates as “land to the tillers.” This slogan was, however, hollow; as evidenced by its only half-hearted translation into action by successive governments (much has been written about this in Regmi 1976; Upreti, Sharma, and Basnet 2008; Wily, Chapagain, and Sharma 2009).

Other examples of land reform efforts in Nepal are the enactment of the Land and Cultivation Record Compilation Act in 1956 and the Land Act in 1957, when the government began to compile land records; although the process is continuing to date. The *Birta* Abolition Act of 1959 finally made possible the transformation of *birta* land into *raikar*. These acts facilitated some land reforms, but failed to improve the livelihoods of small farmers and tenants, which led to further efforts. The Agricultural Reorganization Act, passed in 1963, and the Land Reform Act, passed in 1964, emphasised security for tenant farmers and put a ceiling on landholdings. Müller-Böker (1986) claims that this had a positive impact, in that the farmers of *raikar* land became de facto land owners, and were even de jure registered as tenants of state land in the early land registers. However, due to weak implementation, large landowners could continue to control most of their lands, and as a result little was achieved in land redistribution. With the exception of Kathmandu Valley, the legal status of tenants (those farming the land of registered *raikar* landowners) was not enforced anywhere in the country (Müller-Böker 1986).

Müller-Böker’s research in Gorkha (1986), after the completion of land registration, showed that according to the land register, all owners of *raikar* land farmed their fields themselves (Müller-Böker 1986, 145–147). No tenants were mentioned. However, in reality between 20% and 30% of fields were not cultivated by the owners. The concerned authorities deliberately evaded existing tenancy laws. Thus, it was the practise of the landowners to claim half or even more of the total harvest, while registered tenants needed

to forfeit half of the main harvest. The unprotected tenants were frequently replaced, to avoid the possibility of their claiming the land (*mohiyanihak*). The majority of tenants, most of whom were illiterate, were not able to claim any part of the land they cultivated. As a result, tenants have had to cope with a range of livelihood insecurities (Müller-Böker 1986).

After major political upheavals in 1990, which forced the king to relinquish his absolute power and establish a multi-party political system, the general population had high expectations from the new democratic system. They wanted reforms in many sectors, and aspired for a major socio-economic transformation. Land reform again became an item on the agenda to be addressed. Sensing this, the government, headed by the Communist Party of Nepal Unified Marxist Leninist (CPN-UML), constituted a high-level commission – the Badal Commission – in 1994. The commission proposed various measures, including land ceilings based on different physiographic zones across the country, to address the issue of equitable accessibility to land resources (Table 1). These recommendations, however, were never implemented; largely due to the lack of strong political will.

The pressure for land reform continued amidst the political instability and insurgency led by the Communist Party of Nepal (Maoist) – now the United Communist Party of Nepal (UCPN) (Maoist) – that gripped the country from 1996. The Maoists, amongst other demands, had prioritised land reform. In 2001, the government under the premiership of Sher Bahadur Deuba of the Nepali Congress Party had no choice but to respond to that pressure. The government proposed to reduce the land ceiling defined by the Land Act 1964 (Table 2). This was an ambitious proposal, although perhaps not as radical as the Badal Commission's proposal, and was an attempt to diffuse the popularity and

Table 1. Land ceilings proposed by the Badal Commission

Area	Ceiling (ha)
Tarai and Inner Tarai	3
Middle Hill Area	2
Himalayan Area	4
Kathmandu Valley	1
Urban Area	
– Municipal Area of Kathmandu, Lalitpur and Bhaktapur	0.5
– Other Municipalities, District Headquarters and Developing Urban Areas	1

Source: Badal High Level Land Reform Commission, 1995.

Table 2. Comparison of land ceilings made by the Land Act 1964 and Deuba Government 2001

Provision of land ceiling made by the Land Act 1964			
Category of areas	Ceiling provision	Additional areas provided for housing	Revised ceiling by Deuba Government in 2001
All hills/mountain areas	4.07 ha	0.8 ha	3.75 ha
Kathmandu Valley	2.54 ha	0.4 ha	1.5 ha
Tarai and inner Tarai	16.93 ha	2.30 ha	7.43 ha

Source: Badal High Level Land Reform Commission 1995 and Government Budget Speech 2001 (MOF).

momentum being gained by the Maoist rebels. However, not unexpectedly this proposal was again met by severe resistance from powerful landlords. The Maoists continued to champion this cause, and many, including civil society organisations, supported them in this particular issue.

Thus, even after the much hailed Comprehensive Peace Accord signed between the Maoists and the Government in 2006, which effectively ended the decade-long armed conflict in Nepal, attempts at land reform in Nepal have remained highly politicised, and have not produced the desired results. Various commissions formed to study the issues of land reform and provide appropriate recommendations to the government had neither any judicial power nor any authority to implement the recommendations they made. Realising that the people were still waiting for a powerful commission to look into the overall land issues of the state, in December 2008 the Maoist-led government formed another High Commission to investigate the issue again, with one of its own Constituent Assembly members as chairperson. The commission was not, however, able to perform effectively; due primarily to the lack of political support from other major parties, and because the government prioritised other issues including the drafting of a new constitution. Eventually, after the abrupt resignation of the Maoist Prime Minister Prachanda in May 2009, the commission became inactive; and its members were replaced by another set of members of the next coalition government, which did not include the Maoists. This new commission, known as the Basnet Commission, was given limited tenure, and within a few months had submitted a report containing its assessment and recommendations for a land reform programme. The report claimed that 1.4 million landless people across the country needed 421,770 hectares of land to be rehabilitated. The report further asserted that 492,851 hectares of government-owned land were currently not being used productively. The report proposed that this land could be used more efficiently, to enable the 1.4 million squatters to have access to land. It also suggested that available unused lands be divided for two basic purposes – agriculture and human settlement. It recommended the constitution of local-level commissions for the implementation of these programmes, which would cost around Rs. 32.5 billion (*The Kathmandu Post*, 15 May 2010).

Of interest is a comparison of the land ceilings recommended by this commission, and those recommended by the previous Badal Commission. Table 3 gives a comparative chart of the ceilings proposed by the two commissions. What is striking here is that the recommendations made by the two commissions appear very similar. The political dimensions of this similarity are somewhat understandable, as both commissions were formed by the CPN-UML. But the very close similarity between the figures presented by the new commission and those of the previous one, given such a large time gap (15 years) and the massive social, political and demographic changes experienced by Nepal in the intervening years, inevitably raises questions about the credibility of the latest recommendations.

The government, on its part, expressed its determination to support the implementation of the report's proposals, and emphasised the need for collaborative efforts by all parties in order to facilitate the implementation. There remains, however, a conspicuous lack of the requisite political will or boldness to ensure effective implementation of the recommendations, as the priorities of both the government and other major parties appear to lie somewhere else – mainly in maintaining their power balance in the current political structure. The recommendations themselves were challenged immediately by the

Table 3. Comparison of land ceilings proposed by the Badal Commission in 1995 and the Basnet Commission in 2010

Area	Ceiling proposed by Badal Commission (1995)	Ceiling proposed by Basnet Commission (2010)
Tarai and Inner Tarai	3 ha	2.71 ha
Middle Hill Area	2 ha	2.80 ha
Himalayan Area	4 ha	3.56 ha
Kathmandu Valley	1 ha	0.5 ha
Urban Areas		
– Municipal Area of Kathmandu, Lalitpur and Bhaktapur	0.5 ha	0.5 ha
– Other Municipalities, District Headquarters and Developing Urban Areas	1 ha	1.02 ha

Source: Badal High Level Land Reform Commission 1995 and Basnet High Level Land Reform Commission 2010.

Maoists, who claimed that most recommendations in the report had already been proposed by the earlier commission formed under their leadership, and that this commission merely appropriated them. In sum, there appears plenty of evidence to question both the government's ability to implement the recommendations, and the methodologies used to collect and analyse the report's data, which were based largely on secondary literature and the findings of earlier commissions.

Nevertheless, the report did produce data and recommendations that it claimed to be authentic and achievable, and which therefore may be worth further scrutiny. The challenge now is for the government to study the recommendations and implement them where required and practicable; a task that looks rather ambitious given the many differences of opinion between the major parties regarding the nature, understanding and modality of land reform in the country.

Land in the Present Political Context

On paper, all major political parties currently agree that land reform is essential for Nepal. This general agreement regarding the need for land reform was mentioned in the Comprehensive Peace Accord (2006); the Interim Constitution (2007); and the two Three-Year Interim Plans (2007–2010 and 2010–2013) of Nepal. All these documents envision the ending of feudal forms of land tenures and tenancy practices, and the liberation of farmers from exploitation. Because of continued pressure from all sides to address the issue of land reform, the political parties, some of them reluctantly, were even forced to include land and agrarian reform as a major issue in their respective election manifestos for the Constituent Assembly elections in April 2008; the first election of its kind in Nepal. Most major political parties in Nepal listed the implementation of a "scientific" or "revolutionary" land reform as one of their major

objectives for the country. The manifestos for the 2013 Constituent Elections had similar listings.

The CPN-UML claimed in its 2008 election manifesto that it vowed to build a strong and prosperous Nepal, by adopting revolutionary land reform and commercialisation of agriculture. It stated:

...a programme will be undertaken for land use management, distribution and growth of productivity. A special programme will be launched to elevate the living standards of peasants below the poverty line, including slum dwellers, landless and Kamaiyas (CPN UML 2008).

While in its 2013 election manifesto, the UML vows to ensure the access of the landless people to land through a scientific land reform (CPN UML 2013).

Similarly, the Nepali Congress, the largest political party in Nepal, also mentioned land reform as one of its major goals, and said that it aims to “build a national consensus to draft a scientific land policy that will help increase the productivity and ensure the effective use of land” (Nepali Congress 2008). In its 2013 manifesto, the party, on a similar tone, expresses its commitment to effectively implement a land-use policy that that does not allow commercial uses of agricultural lands (Nepali Congress 2013).

It is of no surprise that the UCPN Maoist party was the most vocal and elaborate about its land policies in its manifesto. To summarise, it stated, under the heading of Agriculture and Land Reforms, that the party would have an agrarian revolution as its main goal. It would end feudal, semi-feudal and bureaucratic means of production, and develop a national capitalistic means of production under which land would be distributed to the landless and poor farmers. It further emphasised that land expropriated from feudal and capitalist bureaucrats would be distributed to local farmers without discrimination, and cooperatives would be promoted to increase production, in order to optimise the use of labour and contribute to economic growth (UCPN Maoist 2008). The party’s 2013 manifesto continues to emphasise the end of the feudal system in land ownership and the implementation of a revolutionary land reform based on the principle of ownership of land by the tillers (UCPN Maoist 2013).

The parties representing the Tarai (southern belt of Nepal) have been the most critical of the land reform measures proposed by the other parties, and are regarded as one of the greatest opponents of a complete land reform package. However, the Madhesi Janadhikar Forum, a major political party of Tarai origin, claimed in its manifesto that “...consensus is needed on land reform among several political parties. On the basis of consensus, full support of parties functioning in Madhes-Tarai shall be sought...Land reform shall be undertaken in conjunction with other political reform programmes such as state restructuring, proportional state and federalism based on autonomy,” and that “...land above the ceiling should be distributed to the local indigenous, landless and poor farmers” (cited in Pyakuryal and Upreti 2011). The Madhesi parties have also always emphasised the guarantee of property rights as a fundamental right in the constitution; thereby voicing their opposition to a distributive land reform package.

Of the many new political parties that have emerged in Nepal in the aftermath of the collapse of the Constituent Assembly in 2012, to cite one example, the Federal Socialist Party (FSP), Nepal vowed that the party would end the feudal ownership of land and redistribute the land while preserving the indigenous peoples’ rights through a scientific land reform (FSP, 2013). Similarly all other parties have their own manifestos with their own agendas.

So far, the promises of land reform cited by the political parties' manifestos have remained just that, *viz.* only in their manifestos. It is clear that, in Nepal, no meaningful reform can take place without a strong collective political will, and consensus amongst the major political parties. This is due largely to the fact that since the Constituent Assembly election of 2008, every major decision in the country – including the declaration of the abolition of the monarchy and formation of a secular republic country, and other administrative and bureaucratic decisions including formation of the ministerial cabinet, appointments of army and police chiefs, top bureaucrats, chief executive officers (CEOs) of public companies, ambassadors and vice chancellors of universities; and formation of local (village and municipality) level bodies – is achieved through political consensus and bargaining amongst the major political parties.

This “politics of consensus” – in itself a paradoxical approach in a democratic system, in which the majority usually prevails while the rights of the minority are protected – ultimately played a role in creating a political vacuum in the country when, on 27 May 2012, the third (extended) deadline was reached for the Constituent Assembly to draft a new constitution. Until the last minute, political bargaining took place between the major political parties, ethnic groups and marginalised communities in an effort to reach a consensus for the new constitution, but not even a first draft was agreed upon, and the Constituent Assembly was dissolved. The major disagreement amongst the parties and different groups was related to the proposed federal characteristics and structures of the country: specifically, whether to give “ethnic” names and characteristics to proposed federal structures.

At the time of writing this paper in 2013, there is no body of elected representatives in Nepal. There exists a caretaker government comprising of ex-bureaucrats headed by the Chief Justice, who was appointed as a compromise candidate to oversee the second round of elections for a new Constituent Assembly. The major political parties, after failing to agree on who was to become the prime minister after the dissolution of the first Constituent Assembly, reached this compromise as a face-saving deal. This controversial move is being challenged by many other smaller parties, including the disgruntled break-away faction of the UCPN Maoist party. This has contributed to polarising the socio-political environment further, and has created major mistrust amongst the political parties. With the ethnic debates taking centre stage amidst constitutional complications and a political vacuum, in addition to the emergence of new ethnic, political and non-state actors, the issue of land reform may take a different turn and may even be sidelined in the months and years to come.

These events demonstrate the fickle nature of the political climate in Nepal, and indicate that major differences remain to be resolved amongst the country's political parties. Further, a constitution based on consensus, if and when it actually appears, will only be one of compromise, with no guarantee that land reform will be more likely because of it. There is in fact the risk of the opposite; or, even if land issues are addressed, this may be in a much watered-down manner, with long-term peace remaining elusive. The continued absence of peace will, in turn, make the implementation of any agreement on land reform extremely difficult, with direct, negative impacts on the lives of the Nepalese people, especially the poor and the marginalised.

Current Land Tenure

Table 4 presents the distribution of land ownership in Nepal. According to UNDP data (2004), more than 24% of people are landless; 32.1% of households are

Table 4. Land distribution situation

Category of people	% of total population
Landless	24.44
Semi-landless (owing less than 0.20 acre or 0.08 ha)	6.98
Marginal cultivators (owing 0.21 to 1 acre or 0.084 to 0.4046 ha)	27.59
Small cultivators (1.01 to 2 acres or 0.4087 to 0.809 ha)	20.15
Semi-medium (2.01 to 4 acres or 0.809 to 1.618 ha)	13.42
Medium cultivators (4 to 10 acres or 1.659 to 4.05 ha)	6.25
Large cultivators (more than 10.01 acre or 4.06 ha)	1.17

Source: UNDP (2004, 176, Table 11).

agriculturally landless; and another 6.98% are semi-landless – the majority of whom live in rural areas and depend on subsistence agriculture and payment in kind. These people face severe livelihood insecurities, with a lack of secure alternative off-farm options – and, as demonstrated during past years, some are prepared to take up arms to fight for a better life.

One side-effect of the existing legal insecurity of tenants and the scarcity of land and financial capital is the low productivity of agricultural land in many regions. Nepal is currently contending with substantial areas of seasonally-unviable land, due to the poor availability of year-round irrigation. Proper and full use of land has been restricted, with only 20% of total cultivated land receiving year-round irrigation (Yadav 2005). At the same time, in many regions the necessary means to improve or stabilise production (such as fertiliser and improved seeds) are not accessible. There is also likely to be widespread uncertainty and fear among landlords that renting out land for sharecropping could lead to another problem: that sharecroppers may attempt to claim property as legal tenants. This state of confusion is seen as one of the major hindrances to investment in land, to improve the land and increase agricultural productivity.

Another serious issue regarding the condition of land in Nepal is the fragmentation and subdivision of holdings. This is argued to have adversely affected agricultural production; for example, Yadav (2005) claims that between 1961 and 2001 the number of land owners 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, with a negative impact on agricultural growth. However this may not need to be the case; there are many examples of small farms being highly productive in developing countries (Lipton 1977; Griffin, Khan, and Ickowitz 2002; Prosterman and Hanstad 2003).

It is our argument that any goal of increasing agricultural productivity and workers' incomes cannot be achieved without considering the diverse contexts associated with land issues in Nepal, including differences in geography, access to markets and the influence and roles of social and economic institutions. The issue of land rights and land reform in Nepal is not just an economic issue. It is also about securing livelihoods and improving the situations of the poor and marginalised. Land reform therefore should not be considered from a single dimension, but needs to be nested within a multifaceted context which includes land, labour, markets and institutions.

Land Reform and its Potential Benefits

In an agrarian society like Nepal, land 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 the result 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. Traditionally in Nepal, as in other Hindu societies, significant differences in land holdings between higher and lower castes have been quite common, with the upper caste almost always being in a better position (Regmi 1976; Sharma, Dahal, and Gurung 1991; Adhikari 2008). It is difficult to categorically state that such a situation led to Nepal's armed conflict, but there are some studies which show that loss of livelihood can be a potential precursor to insurgency. For example, Deraniyagala (2005) has demonstrated quite vividly that relative deprivation and related economic grievances were key causal factors of Nepal's conflict. Deraniyagala goes on to argue that the economic liberalisation that began after 1990 was likely to have had some negative distributional effects that may have intensified the conditions for violent insurrection against the state. The study by Mathew and Upreti (2005) also argues that denying access to and ownership of land and land-based natural resources leads to uncertainties, confusion and conflict, and creates livelihood insecurity. In other words, a land reform programme that would contribute to poverty eradication and empowerment of the socially marginalised groups is crucial for securing their livelihoods, thereby contributing to equitable economic growth and a durable peace in Nepal. We list here some of the other crucial benefits that land reform can facilitate.

Increasing Crop Production

There is growing, cogent international evidence to show that smaller holdings generally produce more than larger ones, whether measured hectare for hectare or according to total factor productivity, and that family-operated farms generally produce more than collective farms. For example, Prosterman and Hanstad's data (2003) show that agricultural labourers in the Indian states of Kerala, Karnataka and West Bengal who received small house-and-garden plots were considerably better off, in terms of income, family nutrition and status, than families associated with large farms. Similar findings are reported from other countries including China, Russia, Indonesia and the Caribbean (Prosterman and Hanstad 2003, 15–16). What these data suggest is that in many developing countries that have large, under-employed rural labour forces that lack substantial amounts of land and capital, the application of intensive family labour to a small plot of land which is owned or held securely by that family makes economic sense, and may be a successful strategy. This argument has been put forward since the 1970s by proponents of this school of thought including Lipton (1977), Griffin, Khan, and Ickowitz (2002) and Prosterman and Hanstad (2003).

Arguments supporting the benefits of smallholdings have, however, been persuasively critiqued by others who argue that the higher land productivity of smaller farms arises from greater self-exploitation of family labour rather than from greater efficiency (Dyer 2004). Even in Nepal, as discussed earlier in this paper, one prevailing school of thought argues strongly that Nepal is already fragmented, and that additional distribution and division of land would reduce even further the productivity of the land (Yadav 2005). Its exponents argue that there is no more land to distribute, and endorse programmes such as the Land

Bank Policy of the World Bank, as a potential solution to land distribution. The main argument is that there are inherent “economies of scale” in large farms, and big, mechanised farms are presented as the “ideal” to be achieved. More recently, Woodhouse (2010) has argued that while there may be evidence that smaller-scale production is more efficient in terms of energy use, it generally involves lower labour productivity, and hence lower earnings, than either large-scale agriculture or non-farm work.

The debates regarding farm-size and productivity will likely continue for some time, as this is a very context-based issue. Large-scale mechanised farming that demands scarce capital, and which displaces abundant labour with no alternative employment, does not appear to make much sense in areas such as the hilly regions of Nepal. Also, given the large number of absentee landlords, many of Nepal’s large holdings are not productive. However, in some other regions (Tarai) and contexts – for example in areas where people have other income opportunities – large-scale farming does indeed look viable and perhaps even preferable. With appropriate assessments, including accurate land-use mapping and land categorisation, this should be possible.

Linking Land with Democratic Reforms

Effective land reform will also help in reforming the heavily biased power relations that are so deep-rooted in Nepal. The power held by landlords, and which is further complicated and strengthened by the complex caste hierarchy, is more likely to be diffused when peasants become stronger economically. In addition, once peasants become more economically secure and confident their ability and willingness to participate in the political process are also more likely to be strengthened. They will likely be more willing to challenge any inertia and elitism that exist in society. Evidence that land reform contributes to the democratisation of previously authoritarian societies includes the cases of Taiwan and South Korea (Powelson and Stock 1987).

Managing Conflict

Another benefit of land reform is that it can address basic rural grievances, and increase citizen commitment to a system in which economic and social demands are negotiated peacefully. Evidence from around the globe indicates that many of the past century’s most violent civil conflicts arose when land issues were ignored. The world has witnessed civil wars that were catalysed and fed largely by land-based grievances such as those that occurred in Mexico, China and Bolivia (Basnet 2008). In Nepal too, land-based grievances have been manipulated for centuries by ideologues or demagogues who seek domestic power, and thus have been a source of conflict. Various studies have extensively analysed the multidimensional aspects of land issues and their relationship with social conflict and tensions in Nepal (see for example, Chapagain 2001; CSRC 2007; Regmi 1978; Seddon and Adhikari 2005; Upreti, Sharma, and Basnet 2008). More frequently, unsolved land grievances have also been seen to lead to various forms of “low intensity violence,” such as through spontaneous land invasions in Brazil, peasant alliances with drug lords in Colombia, or desperate migrants seizing indigenous lands in the Philippines or Indonesia. A well thought-out land reform package can potentially mitigate the occurrence of such social, especially land-related, conflicts.

Protecting Basic Human Dignity

One other major benefit of land reform for poor farmers, especially the landless, is that through land reform they will have the opportunity for greater dignity within society. In Nepal, lack of property means low social status. Without property, farmers are unable to get any registration certificates of any kind, and many do not even have citizenship certificates to assist with claiming rights. It follows that they have no access to the political decision-making process, and are deprived of many other facilities, such as credit and investing facilities. It is also true, however, that accessing citizenship is a prerequisite to accessing property in Nepal (as in many other countries); and so this is a “Catch 22” situation. In sum, poor and landless farmers are virtually excluded from the benefits that other people receive from the state. A comprehensive, well thought-out land reform programme could potentially give these farmers a more fair and equitable place in society.

Rethinking Land Reform

In Nepal, with the potential benefits of land reform but with a changing socio-political and economic context, it is apparent that a context-specific, multi-faceted approach towards land reform is needed. Land is undoubtedly a significant asset, but it is worth examining closely the question of availability of assets or lack thereof, which contributes towards coping with successful living. The UNDP’s Human Development Report (2007) states that possession of assets reduces people’s vulnerability and builds their resilience to fighting poverty. The term “asset” here is taken to mean a broad range of tangible and non-tangible resources, including economic, social, environmental and human resources. Land is one of the economic assets that provides the basis for generating income, economic production and securing livelihoods, particularly in rural society. Land assets are often absent or scarce for poor people. Land not only constitutes an important productive asset, it is also an index of a person’s socio-economic status through: conferring potential gains in the local labour market (for example from the owner’s increased bargaining power); opening up entry into the international labour market (for example through collateral of land to obtain loans for migration and investment); and delivering other productive and entrepreneurial benefits of land ownership by proxy (World Bank 2006).

It remains, however, important to be cautious about explaining poverty through the lack (or possession) of assets alone. Important as assets are, the institutions that influence control of and access to assets are equally important in understanding the multidimensionality of poverty and exclusion. In one study, Shahbaz et al. (2010) analysed different case studies in South Asia, and argued that it is important to go beyond the conventional approach of assessing livelihood capital as advocated by Department for International Development (DFID) in the Sustainable Livelihoods Framework. Their study showed that an enabling institutional support system is crucial for improving access to assets and resources for some social groups, examining assets alone would not provide the proper picture for understanding the causes of unequal access. There is a need to further explore and understand the functioning of institutions and how the support systems work, especially in the changed rural and agrarian context.

In recent years, the whole agrarian system has undergone profound changes, a fact which may require a different perspective from the traditional thinking about land reform. One of the most visible and significant changes that has been taking place in Nepal,

particularly since the 1990s conflict, is a huge upsurge in rural to urban and international labour migration. Mobility of the population, particularly away from rural and traditionally agricultural areas, has increased sharply. There are various reasons for this mobility, many of which are beyond the scope of this paper, but some of which include forced migration from rural areas due to conflict; lack of non-farm economic opportunities; lack of alternative livelihood options; and the reduced attractiveness of agriculture due to decreasing productivity and low income. As a result, increasing numbers of people are becoming less dependent on farm production for their livelihoods (see Adhikari 2010 for more discussion on this).

The outward migration, along with its multifaceted dimensions, has had one huge and very visible impact on rural communities, in the form of remittance back to families in rural areas. This incoming remittance has started to result in various changes in the livelihood strategies of the traditionally agriculture-based families. The study by Adhikari (2010) has shown that rural households that have cash incomes through remittances have begun to rent out their land, and the terms and conditions of tenancy have started to become somewhat more lenient than in earlier days. People have also started to invest in land for price speculation, due to the increased availability of cash income.

Another effect of migration has been that since those who migrate are mostly male youths from rural communities, a shortage of labour has become more pronounced, with only senior citizens, women and children left behind. This has had major implications. One such implication has been the additional burden of manual field work for women. Rural women already undertook extensive manual agricultural labour in addition to household work, and with their sons and husbands away, they are now required to take on the share of the agricultural work previously undertaken by men. As a result of this increased responsibility, recent years have seen what has been termed as the “feminisation” of agriculture. Women have always played a major role in agricultural work in rural Nepal, but now, with the absence of males, they have had to take the lead in additional roles, from selection of crops to selling of products in the market. Although it is yet to be established what, if any, specific impacts these new roles may deliver for women, one thing is certain. This additional work has added a tremendous burden to women in rural areas, which in turn is making agriculture less and less attractive, with more women from those areas looking for other livelihood options.

Another increasingly visible trend in this era of the “remittance economy” has been that returnee migrants, after having spent several years abroad as foreign labourers, find it difficult to return to agriculture, their traditional source of livelihood. Many of these youths, having seen the outside world and experienced other livelihood options, see agriculture as a traditional, mundane and low-yield profession. If they have seen their parents and grandparents struggle to make a living through agriculture, there are many who may not want to go through a similar struggle again, particularly after having experienced the livelihood alternatives and consumer values found in urban cities and having learned, presumably, new skills and knowledge while working abroad. For these youths, the value of land is not as it was for their forefathers, and they would rather rent out or even sell their land than continue with agriculture as their main profession.

With Nepal’s societal structure changing due to new, evolving sets of social, economic and political trends, values and characteristics, caused by both internal and external phenomena such as conflict, rural to urban migration, international migration, rapid urbanisation and globalisation, retaining the traditional thinking about land reform appears

unrealistic and even problematic. Land may not hold the same traditional value in today's changed context. As such, all these new and emerging trends and factors need to be carefully considered, to produce a workable and acceptable land reform programme. For this to happen, however, a comprehensive land use map is needed that will differentiate the available land into different categories according to characteristics such as agricultural productivity and commercial usability. There is no doubt that a comprehensive land reform package is needed, but it would be futile if it failed to consider and take into account the emerging socio-economic trends.

Amidst this discussion, it is important to note that the poorest people would not be able to afford to migrate, and some families may not have spare members to undertake rural to urban migration. These families therefore have no access to cash income through remittances, and finding other livelihood options for them is still extremely difficult. Buying land is beyond their means as land has become expensive in both urban and rural areas. As the agricultural sector becomes less attractive and land becomes more market-driven and speculative, the poorest of the poor are compelled to continue living in a state of chronic poverty, without feasible and affordable livelihood options. Many of these people are chronically poor, due to intergenerational transmission of poverty and indebtedness. Poverty has been transmitted to them from earlier generations, and they have experienced it for extended periods of time. Being landless adds further pressure, by making it extremely difficult to break the cycle. For these people, access to land is often the single most crucial factor for not only emerging from poverty, but also, as argued earlier, for gaining some level of social dignity and recognition.

In this situation, where land still retains its traditional socio-economic values for many, while at the same time the dynamics surrounding land and the whole agrarian structure are changing rapidly due to both internal and external factors, it is important that a new approach to land reform is seriously considered and debated. If there is genuine will for meaningful, comprehensive land reform, it would certainly be possible to develop a package that addresses the above discussed issues. But this requires a strong political will and firm commitment, which remain the biggest challenges in today's Nepal. If these were to emerge, land reform could deliver numerous benefits for Nepalese people and society.

Looking Forward

To strengthen the position of poor farmers in Nepal, and to assist them to negotiate effectively with the state and other stakeholders for their rights to equitable access to land and improved livelihood options, the following measures and actions are suggested here to begin the process of comprehensive land reform. It is important to note that peasants and rural populations have high expectations from Nepal's policy-makers, and are looking forward to a land reform package that will address their needs and aspirations. Given the changed political situation in Nepal, it is difficult to predict when such a package will be produced, but the population certainly aspires to a comprehensive land reform package. For that to happen, however, the following points will be crucially important to meet.

Empowering the Landless and the Rural Peasants

In both developed and developing countries, change at higher political levels rarely occurs without significant pressure from below. Nepal is no exception. To free the poor peasants

from exploitative systems and practices, the peasants themselves first need to be organised. A country-wide education campaign to inform people about their rights would be required to assist the rural poor to claim their rights to land resources and apply pressure both at local and central levels. To facilitate this, it would be strategically important to build farmers' organisations and supportive networks of local actors, political parties, government offices and non-government agencies. A few such movements have already been initiated by some NGOs, although they are yet to create a lasting impact at the policy drafting level. It is this kind of grass-roots pressure that is most likely to generate the requisite political will for change (see Malena 2009); the current lack of which, as argued throughout this paper, appears to be a crucial hindering factor in moving the land reform agenda forward.

Considering the Changing Negotiation Process and Actors

It is equally important, when considering land reform in Nepal, to take into account the fact that the whole process of negotiation, not only vis-à-vis land reform but also regarding other socio-economic issues, is changing rapidly as the country moves through a phase of transition. There is wide public perception that the failure of the state to adequately deliver both material and non-material development has created space for the emergence of various non-state actors in the country. The need for a more visible and proactive "civil society" was also, to a large extent, fuelled by the perceived inability of the state to address the developmental aspirations of the people (the civil society movement was also elevated to prominence through the support it received from international donors). Many other "social movements" have also sprouted in recent years, and have challenged the development agendas of the state and the market. Both the civil society movement and the newly emerged social movements aim to gain a better understanding of the needs and aspirations of the poor and marginalised populations, in order to place themselves in a better position to deliver development. More specific land-related movements also comprise numerous actors, including peasant organisations, community based organisations and NGOs. Despite these groups, no single united voice would be expected to emerge that could represent all the needs of the landless and rural poor.

It is noteworthy that many of these new actors not only oppose the state-led developmental agenda, but also often oppose each other with various degrees of intensity, each proposing their own alternative development paths. Nepal has witnessed many such movements and new non-state actors over the past six decades – including peasants' associations, women's associations, conflict victims groups and the federation of ethnic groups, to name a few – both at national and local levels. Given these emerging actors and Nepal's changing socio-economic and political context, it is to be expected that the negotiating process itself is constantly changing and being revised, and that new questions are being asked. In addition to the new actors, there are new rules emerging, and the whole notion of "development" itself is being contested at micro, meso and macro levels. But negotiation goes hand in hand with the existing power-relations in society, which in Nepal are also constantly changing. It is in this fluid, complex and dynamic situation that negotiation for access to land in Nepal is taking place. It is thus crucially important to engage new as well as so far neglected actors and stakeholders in dialogue and negotiation.

Initiating Dialogues with the Landowners

One such group of stakeholders is the landowners, who until now have mostly been considered the “villains” of land reform. In most countries, land reform movements have usually taken the form of a class struggle – especially between the poor and landless peasants and the rich landlords. The landlords are usually perceived as the prime “villains” of the movement, and in most cases they have indeed strongly opposed any effort towards land reform. However, in the changed socio-economic and political context of Nepal, there may be many landlords who would support a land reform initiative that would give them space for negotiations and claims to their properties. For example, many have shifted their professions away from agriculture to non land-based enterprises. These landowners are likely to be willing to support a land reform package if they are given reasonable compensation (in cash or kind) for the land expropriated. While some argue strongly against compensating large landowners (Adhikari 2011, 29–30), it is likely that continuing to treat them as “enemies” in the new political context may prove counter-productive, resulting in a continued stalemate and potentially even further conflict. While there is a genuine need to discourage absentee landlordism, this could be done through mechanisms such as imposing progressive taxes for unused and unproductive lands; and offering reasonable compensation to landlords would be crucially important in building a working relationship with them. The issue of guaranteeing property rights is, after all, important, and landowners have equal rights to voice their concerns. Any initiative towards land reform will be most likely to succeed if it is participatory from all sides, in form and practice. Engaging the landowners in the process would be an important step in that direction.

Re-examining the Role of the International Community

The role of international actors, specifically Nepal’s principal bilateral and multilateral donors, is also crucial in making a meaningful transition towards a strong and stable nation. Sharma (2008a, 95–96) has argued strongly that 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. But for that to happen, along with the national actors, the donors of Nepal also have to review their list of priorities (land reform has not been on the priority list so far) and come up with some genuine and meaningful pro-people initiatives. Otherwise they will also inevitably be blamed for not doing enough for the people of Nepal and accused of limiting themselves only to serving their own agendas. Sharma (2008a, 96) further opines that “New Nepal” cannot prosper without an effective land reform programme that would make the tens of thousands of poor peasants stronger and more secure; and the donor community will only damage its image if it chooses to remain a bystander to this problem.

Rethinking the Concept of “Land to the Tillers”

It is also equally important to ask here what the slogan “*jasko jot usko pot*” (land to the tillers) means in today’s context, and whether, if implemented, it would actually facilitate equality. Would this alone be enough to remove inequality in agrarian societies today? In Nepal’s case it would be hypothetical to say anything at this stage, but what can be argued

with more certainty is that this is very much a contextual issue. There are many factors that need to be considered in relation to equality, even within the domain of land-related discourse. For example, one study from Turkey shows that market malfunctioning and land ownership concentration are strongly and positively related (Unal 2007), suggesting that in the presence of land ownership inequality, malfunctioning rural markets result in increased land concentration, increased income inequality, and inefficient resource allocation. Similarly, social structures and institutions will have major roles to play in ensuring equality and inclusion. Considering the fact that the amount of arable land is decreasing due to rising populations, it is equally crucial to identify and develop other means (non-land-based rural and urban income opportunities) of growth and sustainability in the country. Any increase in the amount of arable land has been made possible only through clearing of forests and converting pasture lands into cultivation, but this has already reached its limit in most places, with growing concerns related to environmental degradation. As Sharma, Dahal, and Gurung (1991, 9–10) argued some two decades ago, in the face of rising populations the scarcity of land needs to be countered by increasing non-farm jobs and livelihood opportunities. Thus, focusing on “land to the tillers” may not deliver the desired results to poor farmers, and may lead instead to additional problems.

Sharma (2008b, 305–308) proposed a holistic approach to development, and argued extensively for the necessity to provide poor farmers and the rural landless with alternative livelihood options, so they could make their own informed choices. As we have argued in this paper, land reform is a complex and multifaceted issue, which makes it even more sensible for the state and donors to think seriously about developing alternative livelihood options for farmers and landless peasants. The generation of employment in formal and informal sectors, skill development programmes, labour-intensive production techniques, growth of agricultural productivity, and access to information and the state’s decision-making processes are all vital to achieving socio-economic development. Investing in hydropower, promoting sustainable tourism and increasing agricultural productivity are other viable and feasible options that the state also needs to consider urgently and seriously in order to give the people more livelihood options from which to choose.

Conclusion

Land reform in Nepal is long overdue, and as a result thousands of peasants continue to remain poor and indebted, and remain trapped in the vicious circle of poverty. For these chronically poor, access to land is often the only way to gain any social dignity and recognition. In order to empower these poor farmers and landless people so that they can negotiate with the authorities and concerned stakeholders regarding their rights to land, it is imperative that the state takes prompt action towards formulating a comprehensive land reform policy. There could be no better timing than now for initiating a viable land reform in Nepal, when there is a vigorous debate going on as to how to restructure this nation and build a “new” Nepal. In order for the voices of millions of farmers to be heard and translated into effective policy, constant pressure will be needed from many sources. Secure, long-term land rights may not, by themselves, be sufficient to achieve all the benefits discussed above, but in most settings these rights are necessary preconditions for the achievement of such benefits. Having said that, one should also realise that the agenda of land reform is not something that should be viewed from a single perspective, as it is a multifaceted and contextual issue. The changed socio-political and economic structures of

both rural and urban Nepal need to be considered carefully when developing a viable and sustainable land reform package. However, this paper contends that no single, identifiable measure has greater potential than land reform, if properly planned and executed, to bring about genuinely equitable and sustainable development in Nepal. All this makes the process of negotiation that much more crucial, and worth researching further, especially at a time when there are new actors emerging and the entire notion of development is being contested at all levels.

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