2018

INTERNATIONAL PROPERTY RIGHTS INDEX

CONTEMPORARY LAND ISSUES IN THE FEDERAL DEMOCRATIC REPUBLIC OF NEPAL

By: Sneha Pradham, Samriddhi Foundation, Nepal

PROPERTY RIGHTS ALLIANCE
CONTEMPORARY LAND ISSUES IN THE FEDERAL DEMOCRATIC REPUBLIC OF NEPAL

By Sneha Pradhan

Abstract: The signing of the historic Comprehensive Peace Accord with its commitment to scientific land reform marked the end of Nepal’s decade-long armed conflict that was fueled primarily by chronic land issues. Eleven years later, the struggle for equitable land rights and governance persists. Haphazard urban sprawl resulting in squatter settlements and food security threats plague the country. Moreover, problems of landlessness including fake landlessness are on-going. Unfortunately, natural disasters like earthquakes, landslides and floods have further exacerbated such challenges. On the women’s rights front, progressive policies have emerged; yet implementation has been deplorably weak. Only 19% of women own just 5% of Nepal’s total land. Although steps in the right direction have been taken by digitizing land administration, progress has been slow. The amalgam of traditional and modern registration processes, lack of a fully integrated land database, power tussle amongst land revenue and survey offices, and a missing research wing in the land information department have contributed to inefficiencies in land governance. As Nepal advances from its newly promulgated constitution and navigates its transition to a federal regime, it has the opportunity to accelerate its efforts in administering effective land reform and management by taking advantage of this momentum, so it can develop superior technology and provide a flourishing market place of legal alternatives.

Keywords: Land Reform in Nepal, Equitable Land Rights, Land Disputes, Informal Squatter Settlements, Women Land Rights

INTRODUCTION

Land ownership and reform in Nepal continue till date to play a crucial role in shaping the social dynamics of the country. Ownership of land has been associated with wealth and power over the centuries and rightly so. Currently, the skyrocketing real estate prices paired with the high demand for leasing out property given rapid urbanization has not only augmented the current net worth of landowners but also given them a drastic financial edge in future earning potentials over non-land/property owners. This stems from the fact that in Nepal’s vastly collateral based lending banks and financial institutions, an individual’s access to finance depends largely on their access to land or lack thereof. This, in turn, affects their ability to engage in income generating activities such as expanding their businesses or furthering quality education and subsequently buying land, thus continuing the cycle. 25% of Nepal’s population live under the poverty line, the poorest being land-poor families mainly comprising women, ethnic minorities and agricultural laborers (USAID, 2018).

---

1 Sneha Pradhan is a Researcher at Samriddhi Foundation, where she plays a lead role in projects related to land rights and resource governance, among others. In 2016, she served as a Daayitwa Nepal Public Service Fellow at Nepal Rastra Bank (The Central Bank of Nepal). She is currently pursuing a Master of Science degree in Public Policy and Management at Heinz College, Carnegie Mellon University, USA and has earned her Bachelor of Arts Degree in Economics and Statistics with a minor in Complex Organizations from Mount Holyoke College, USA. Additionally, she is the co-founder of Figaro Financials, a mobile application which aims to educate Nepali investors by providing access to tools for investment, risk and portfolio management. She can be reached at sneha@samriddhi.org
Historically, those who owned land emerged as the elite rulers of Nepali society. Prithvi Narayan Shah, the first king of unified Nepal, used land as a useful tool to reward his supporters by granting land ownership titles. The acute social stratification further flourished in the autocratic Rana regime where highly exploitative and corrupt land structures like Jimidari, Birta, Kipat and Rakam thrived at the expense of deprived laborers and peasants (Regmi, 1976). In 1964, then King Mahendra ended such land systems and introduced the The Land Reform Act which was designed to divert idle capital and labor from land to other economic sectors and to ensure equal distribution of cultivable land so as to maximize agricultural production and improve the living standards of the true tillers (Sharma & Khanal, 2010). However, the corrupt Panchayat system seized land holdings under the name of the landless even after the introduction of the Land Reform Act and continued to evade land ceiling barriers through various means. The feudalistic land tenure system was very much alive, just under a different ruling class (Rawal et al., 2016; USAID 2018).

Finally, when multiparty democracy came into effect in the 1990’s, people were optimistic about true land reform. However, lack of political will meant that little was done to improve the situation and people continued to suffer from issues related to landlessness, oppressive land practices and bonded labor. These discriminatory practices built a lot of resentment over the years, which acted as one of the driving factors fueling the ten-year-long armed civil war between the CPN-Maoists and the Government of Nepal (Rawal et al., 2016). One of the Maoists’ primary demand was to abolish the feudal land system. They took matters into their own hands during the conflict and confiscated land from large landowners, the government as well as their political opponents and distributed it to poor landless farmers, which helped them garner and maintain support for their party. Finally, in 2006 the Comprehensive Peace Accord was signed where scientific land reform lay at the heart of the agreements. Despite commitments from the government to ensure proper land reform and from the Maoists to return seized land and property, progress has been slow and limited (The Carter Center, 2012). Furthermore, the devastating earthquake that hit Nepal on April 25th, 2015 and the resulting aftershocks destroyed 850,000 houses and displaced over 117,000 people (Jackson et al. 2016). Recurring floods and landslides have also added to the casualties. Reconstruction and rehabilitation programs continue to carry on. Thus, land issues remain critical in the country and still a dominant theme in political manifestos.

So what are some of the significant issues spanning land-related problems in the country? What steps can the government and concerned stakeholders take to resolve some of these existing problems? What kind of plans and policies exist in the land front? Are they effective? This case study attempts to answer these questions by highlighting the issues and potential solutions to a few prominent concerns in the present land arena. Firstly, we will explore the administrative matters that affect the governance front when it comes to land management. Secondly, we will study the various causes of land-related disputes in the country including landlessness, squatter settlements and land grabbing. Lastly, we will focus on matters associated with equitable land rights, specifically land rights of women and indigenous people.

Land-related conflicts are dauntingly high and formally appealed cases take years to get resolved. 385,978 land cases were clogging formal courts as well as land registration and reform offices in the three years including 2014, 2015 and 2016 (Basnet, 2016). From gender-based inequalities in land rights to dwindling stressed resources, weak land administration systems, poor policy implementation and some, land problems in Nepal are pervasive, sensitive and complicated. Tackling these issues is even more difficult now given the transition to a federal system with many roles and powers of government bodies still undefined and unclear. Thus, this case study is not all-encompassing but rather an attempt to analyze and find solutions to some of the many land problems that currently plague the country.
LITERATURE REVIEW

Land being a crucial component in the nation’s policy dialogue has naturally given rise to many studies conducted around it. The research topics range from land tenure issues and land conflicts to monitoring land reform and post-earthquake problems that impact reconstruction and rehabilitation efforts. Some findings of the studies relevant to the case are discussed below.

It is imperative for an issue as complex and far-reaching as land to have not only a robust set of progressive policies but also a well-functioning network of agencies effectively working together in harmony to ensure the smooth operation of daily administrative functions. Unfortunately, this is not the case in Nepal, which suffers from numerous regulatory hurdles. Sharma & Khanal, 2010 find that implementation of land management related policies are weak and that there is a lack of common platforms to share information among scattered government agencies and stakeholders. The lack of proper technologies and capabilities for integrated land management are also highlighted. The study additionally calls for a holistic approach via a mix of integrated strategies and coordinated inter-institutional/ministerial collaborations to effectively translate existing management and administrative policies into actions (Sharma & Khanal, 2010). Nougaret & Danuwar, 2016, further finds the land registration system in Nepal to be weak with 90% of their female and 75% of their male participants unable to name the required documents or the concerned authority for land registration. They also found that existing records were unreliable as they were rarely updated and paper filings made them vulnerable to destruction and loss (Nougaret & Danuwar, 2016). Rawal et al., 2016 expressed similar sentiments and additionally stated that the mismatch of land size in government records between the survey and revenue offices lead to conflicts (Rawal et al., 2016).

A valuable and scarce commodity such as land unsurprisingly gives rise to a number of disputes and conflicts. Rawal et al., 2016 identify that there are five main categories of disputes that occur between various actors. They are categorized as the conflict between 1) citizens and the government agencies, 2) individuals or family members, 3) two or more groups in the community, 4) tenants and landowners and 5) people squatting on unregistered land and the government agencies or people who hold registered land. The study suggests that conflicts can be solved in three ways that include political commitments as well as formulating and effectively implementing new policies and programs, effectively implementing the government’s existing legal and policy framework and through informal mediation. However, given differing political agendas, a prevalence of contradictory provisions in the law, lack of knowledge even among government officials regarding lawful land administration and lack of understanding on methods of effective mediation, the suggested approaches are extremely difficult to implement (Rawal et al., 2016).

Women in Nepal continue to struggle for equitable land rights. Nougaret & Danuwar, 2016 finds that women have been excluded from reconstruction and rehabilitation efforts post-earthquake since a lot of women are unable to produce necessary documents or even citizenship certificates to be eligible. Furthermore, female-headed households are excluded since household chores as well as the need to engage in income-generating activities limits their ability to partake in relief programs (Nougaret & Danuwar, 2016). Rawal et al., 2016 interestingly found numerous cases where neighbors tried to increase their boundaries by capturing land when they saw only women and children inhabiting the premises (Rawal et al., 2016). Further, despite existing tax breaks for women, Basnet, 2016 revealed that more than 91% of urban women benefited from these provisions as compared to rural women (Basnet, 2016).
The existing literature including works like Sharma & Khanal, 2010; Nougaret & Danuwar 2016; Rawal et al., 2016 and Jackson et al., 2016 effectively present various aspects of problems related to land tenure and management in Nepal. These studies focus on varying topics such as gender issues in post-earthquake recovery, microdynamics of land conflict and conflict resolution, and land reform monitoring with some of them centering on only a few districts. The USAID, 2018 Country Profile is another source that presents an exhaustive list of issues spanning resource and property rights governance in the country.

This particular case aims to present an updated representation of contemporary issues related to land by bringing in elements from land governance, cases of land disputes and equitable land rights in a single document. The challenges explored in the study will attempt to depict the prominent problems faced by the entirety of the nation and provide actionable solutions that the Government of Nepal and relevant stakeholders including donors, I/NGOs and civil society leaders can adopt to address the same.

METHODOLOGY AND SCOPE

The study was conducted primarily through qualitative research. This included a mixture of both primary and secondary research. Secondary resources included a survey of existing literature, policy reviews, news sources and exploring Nepal government websites. Primary research included personal interviews with top-level bureaucrats holding influential positions in relevant government agencies such as Department of Land Reform and Management (DoLRM) and Department of Land Information and Archive (DoLIA), as well as political and civil society leaders. These discussions were crucial in shaping the content of this study.

Like mentioned in the introduction section, the range of land issues in the country is vast and complicated. Additionally, the time frame and word count of the case study were limited. Thus, the research only focuses on a few prominent land-related issues in Nepal and is not all-encompassing. Given additional resources, the study would greatly benefit from expanding the scope of research by including a robust land-related policy discussion and an analysis of land governance structure and administration post elections in federal Nepal. These can be topics that future researchers can explore. Nonetheless, the study attempts to present all critical aspects of the chosen issues in detail and serve as a succinct overview of contemporary land issues in the country.

DISCUSSION AND ANALYSIS OF KEY ISSUES

Nepal has to overcome a number of hurdles to bring about effective land reform in the country. On the one hand, problems such as the absence of interdepartmental coordination, unskilled and insufficient workforce, organizational power struggles, corruption and lacking technology affect land administration and management. On the other, convoluted political agendas, rudimentary social norms and weak policy implementation continue to fuel problems of landlessness, squatter settlements, food security and discriminatory land rights resulting in conflicts and unrest in the country. Some of such pressing land problems are further discussed below in detail.

HURDLES IN LAND ADMINISTRATION AND INFORMATION

Land Administration is one of the busiest administrative agencies in Nepal. This can be attributed to the over 450,000 yearly land registrations, not including other land-related transactions. There are 129 separate Land Revenue Offices and Survey offices. Despite this, people are forced to travel long distances to visit these offices.
In some cases, the Land Revenue and Survey offices are located at a substantial distance, and the overlapping roles require people to visit both offices multiple times. Moreover, there are technical errors in cadastral maps which means that there is a mismatch between the records of the survey and revenue offices. This has led to numerous boundary disputes with people claiming more land than they own on the basis of faulty maps (H.S. Thapa, K. Rajbhandari, R. Luitel, Personal Communication, September 11, 2017; USAID, 2018).

Traditionally, both offices used paper-based systems that subjected documents to loss, manipulations, theft and damage. The Department of Land Information and Archives (DoLIA) has completed the digitization process in all 129 land revenue and 129 survey offices, except Achhaam and Arghankhanchi where records were destroyed during the Maoist conflict era. However, during the time of research, only 19 offices had gone fully digital, and another 39 offices were in the pipeline for the same. Thus, the remaining offices conduct new registrations manually. Even offices that have gone digital lack enough, adequately trained staff and there are time lags in feeding new records into the system. Furthermore, DoLIA lacks a research department, so all work they have carried out till date has been done without appropriate background research on methods, proper maps or land information which leaves room for errors (H.S. Thapa, K. Rajbhandari, R. Luitel, Personal Communication, September 11, 2017). Overworked and unskilled staff have also led to low capacity resulting in conversion mistakes in digitized records (T.R. Ghimire, Personal Communication, September 13, 2017). Hence the current system is neither up-to-date nor completely reliable.

Additionally, the Revenue and Survey offices use different software, so mismatched cadastral and record problems will very likely continue. Although it is clear that a merger between the two departments would solve many administrative problems in land management by improving information flows, increasing transparency and saving commute time for the general public; the organizational power feud between the two prevents this. Similarly, the formation of an integrated system also remains a distant reality due to the same power tussle. The move to a federal structure means that the future direction of land administration and information systems will depend on the new roles of local and state governments. It is heartening to believe that the political divide among survey and revenue offices may subside given the change in power dynamics with state and local governments gaining more power regarding land management. However, this transition will only be plausible after full digital integration and expertly trained staff, which given the pace of current progress may take a very long time (USAID, 2018).

LANDLESSNESS AND INFORMAL SQUATTER SETTLEMENTS

Landlessness has always been a hot-button topic in the country. However, conversations with bureaucrats and civil society leaders reveal that it is an issue that is highly hyped due to motivations of political parties to use it as a means of not only winning votes but also strengthening their support base by distributing land to their supporters and members through fraudulent landless claims. Time and again Landless Squatter Problem Resolution Committees (LSPRCs) have been formed. These committees are responsible for processing applications and providing identity cards to the landless, but these politically charged bodies instead act as a means to provide jobs to party members. It comes as no surprise then that the staff hired lack both the relevant skills and the motivation solve the problems of landless people. Instead, they provide identity cards and land plots to fake landless people thus leaving the actual landless people vulnerable. The LSPRCs often change as soon as there is a change in government. There have been three High-Level Land Reform Commissions; however, their recommendations have yet to be adequately implemented. The last formed LSPRC has been dissolved for now, and it would be best if it remained that way (K.L. Devkota, Personal Communication. September 7, 2017; Rawal et al., 2016; USAID, 2018).
Although often hyped, the problem of landlessness does exist leaving victims at risk. The devastating earthquake of 2015 which displaced 117,000 people has further exacerbated the harsh living conditions of the already vulnerable landless community. Twenty-six thousand people remain displaced and are excluded from post-disaster rehabilitation efforts since they lack proper land documentation. Even financially stable people have been living in camps for Internally Displaced People as they are not sure whether it is safe to return and rebuild in their lands since verification of safety has not been conducted (Jackson et al., 2016; USAID, 2018).

Informal squatter settlements have been a byproduct of the rapid urban sprawl, especially in fast-growing urban centers. Cities like Kathmandu, Pokhara, Birgunj, Dharan and Mechinagar have faced the brunt of haphazard migration and have a collective 2.9 million people living in slums. These squatter settlements are mostly overcrowded and susceptible to outbreaks of water-borne and communicable diseases given lack of public services such as clean drinking water and sanitation. They are also usually located in sensitive and hazard-prone areas such as riverbeds and lowlands. Squatters are always in fear of forceful evictions as the government does not accept informal tenure, which prevents them from investing in their substandard housings. This puts them at an even higher risk of being victims of floods, landslides and earthquakes (Bakrania, 2015; Pradhan, 2017).

The government does realize that this is an acute problem and has taken steps through the introduction of laws and policies towards solving the issue but with little success in implementation. While the Constitution of Nepal (2015) has a provision of a one-time land grant to landless Dalits, the Land Use Policy (2015) and National Shelter Policy (2012) include provisions to provide low-cost housing options and small land plots to land-poor vulnerable families (Jackson et al., 2016). However, with the execution of plans not translating into reality, the government and landless people often engage in disputes that leave the latter forcefully evicted without compensation or alternative resettlement options. Multiple accounts of suppressed peaceful protests, as well as destroyed homes of squatters, have also surfaced. Community Forest User Groups (CFUGs) believe that the landless infringe on their forest rights when they occupy and build houses in the forest areas resulting in frequent disputes between the groups (Rawal et al., 2016). Consequently, it has been reported that 713 marginalized landless households living in community forests have been evicted and had their houses burned (Basnet, 2016).

Moreover, resettlement schemes have not seen much success either. This is mostly because resettlement plans are carried out through a top-down approach by the government with little to no regard of the inputs of squatter settlers. This has resulted in squatters refusing to move into the new settlements which do not fulfill their fundamental concerns of 1) proximity to their place of work/markets and schools for their children and 2) adequately sized housing units. The government does seem to be opening up about the idea of regularizing certain informal settlements provided that they are located in safe and appropriate spaces. Additionally, they also plan to build low-cost multi-storied housings through a public-private partnership in Kathmandu's outer ring road (J. Deuja, Personal Communication, November 1, 2017; Bakrania 2015). However, only time will tell if these plans will be executed properly.

LAND GRABBING

The threats of land grabbing in Nepal have been increasing at a rapid pace. This has resulted in substantial amounts of arable land in the country being taken for non-agricultural use and in other instances just left idle and unproductive. The grabbing has been carried out by a number of agents including federal agencies, political trusts, security forces, religious organizations and private industries and businesses. Cases of farming families and locals being sometimes manipulated to sell their cultivable land at cheap prices with promise providing jobs (that do not materialize) and other times forcefully removed with minimal to no compensation have also emerged. Such lands procured by land mafias in
dirt cheap prices are then often sold to real estate developers for housing projects at hefty prices. This trend has directly affected the once self-sustainable agrarian communities by leaving them landless, jobless and dependent on the market for food consumption. Additionally, it has left tribal groups like the Chepangs landless, denied of the rights to the lands their families have owned for generations. Land grabbing in the country puts the security of both - the tenure of vulnerable farmers and already dwindling food production – at risk (CSRC, 2014; USAID, 2018).

Case 1. Clearing forest land to build infrastructure for Capital?

A notable recent development in the topic of land grabbing has emerged in Kailali District, where high-level government bureaucrats and ministers have allegedly started exploring the idea of building the capital of Province 7 by clearing three to four community forests in the Godavari Municipality, which is an important forest region in the Mohana Corridor. It is heartening to hear that opposition has been raised to the idea which could potentially further encourage groups involved in illegal encroachment and trading of forest lands. However, the provincial government has not issued an official statement on the matter, only that they have requested to either acquire private property or use government land instead of clearing forests to build the infrastructures for a new capital. Destruction of forests in the proposed area could pose a significant risk to the adjacent Terai region; hence it would be in the best interest of all parties involved to stay clear of the forest area in question when moving forward with their development plans (Deuba, 2018).

WOMEN RIGHTS TO LAND

Gender-based discrimination has been a part of Nepal’s patriarchal society for centuries, and land rights for women have been no exception. Historically, Nepal’s Civil Code (1963) contained biases against property rights for women by limiting their inheritance rights to be dependent on the women’s marital status and age, and by promoting rights to land through kin groups of the husband’s lineage. Several amendments, 5 to be precise, and the passing of the Gender Equality Act finally overturned these regressive policies. Moreover, under the new Constitution (2015) – that forbids gender-based discrimination - sons and daughters have equal rights to inherit ancestral property. A recent turn of events threatened this win when the new proposed Civil Code had a provision to include an inheritance system, whereby property owners could will their land to whoever they wanted. After much resistance from women rights activists - who believed that this clause would set progress on women rights to property back several years – said provision had been removed from the bill (USAID, 2018; Phuyal, 2017).

Despite the introduction of progressive policies such as tax breaks on land registration for women and cheap Joint Land Ownership (JLO) provisions, female ownership in land has been dismal and concentrated mainly in urban areas. Women own only 5% of the total land in the country. Moreover, just 19.7% of women in Nepal own land and 11% have control over the land they formally owned. Even though 75% of women are involved in agriculture, very few have control over the area they till (Rawal et al., 2016; Pradhan, 2017). The Financial Bill (2015/16) provides many benefits to women including tax exemptions on land registrations of 25%-50% according to geographical location, provided they do not sell the land within three years. Additionally, 50% tax is exempted when land is transferred within three generations of women, and 35% tax is exempted for widows. Moreover, a JLO can be obtained for just NPR 100 (a little under 1 USD) as a means to encourage joint ownership between husbands and wives as well as brothers and sisters. Much more urban women have been reported to benefit from these policies in comparison to rural women, who are often unaware of benefits granted to them by the law (Basnet, 2016).
The earthquake has further aggravated the problems for women who are at high risk of being excluded from reconstruction efforts due to lack of proper documentation. Firstly, it becomes difficult for women heading households to leave their household responsibilities and income generating activities to travel to get their applications processed. Secondly, cultural stigmas especially for women in Muslim and Madhesi communities, prevent them from traveling alone. Thirdly, since 32% of the husbands of married women have moved abroad or to bigger cities for employment opportunities, getting documentation becomes difficult. Finally, in comparison to 87% men, only 74% of eligible women possess citizenship certificates. 90% of all people who blame their family members for not having their citizenship certificates are women. This problem stems from the fact that poor families are worried that their daughters/sisters will have claim over their meagre land assets or daughters-in-law/sisters-in-law will take family property away in case of divorce and remarriage, if they are encouraged to get their citizenship (Nougaret & Danuwar, 2016; Oxfam et al. 2016).

In spite of changing legislation in their favor, women remain victims of gender disparity, when it comes to land privileges. Even today, women fear divorce if they ask for their land rights. Some women are so deeply entrenched in the patriarchy that they do not feel the need to own land. Others think that cumbersome government processes and lack of support have kept them from benefiting from progressive policies. Weak implementation of these policies is unfortunate since it has been proven that more land ownership for women would be a massive step in the direction of women empowerment through increased economic independence and access to financial resources and higher agricultural productivity. When women are denied land ownership titles, they continue to suffer from domestic violence, forced marriages, poverty and even illiteracy (USAID, 2018).

LAND RIGHTS OF INDIGENOUS PEOPLE

Indigenous people (IP) in Nepal - the original settlers who occupied Nepali territory long before the country's formation - represent 32% of the total population. Land is a sacred part of their belief system and traditions as well as a crucial element for their survival. The IPs' dependency on the territories they occupy, for not only subsistence but also for guiding their culture, makes their relationship with land extremely unique and special. Unfortunately, a combination of Nationalization laws and prejudiced common/special national laws have forced them to lose their ancestral land. National parks and conservation areas currently occupy 65% of the IPs' ancestral property forcing the rightful owners of the Tharu, Sherpa, Chepang and Raute communities to be displaced (USAID, 2018; Maharjan, 2016).

The Constitution (2015) fails to explicitly address the collective rights of the IPs over land and resources that they have traditionally occupied, although it does state that IPs need to be involved in the decision-making process when it concerns their community. Additionally, the newly formulated Land Policy, that is yet to be passed does not explore contentious issues of ownership, self-determination, and free, prior and informed consent of IPs, but does include the protection of community lands utilized by the IPs. While the Eminent Domain principle gives the State the sovereignty over natural resources, the ILO Convention 169 requires that indigenous people not only be a part of benefit-sharing in relevant cases but also actively consulted before undertaking any programs that explore or exploit their land and resources (Roy & Henrikson, 2010; Maharjan, 2016). However, IPs in the country face difficulties in practicing their collective rights, especially since the government no longer recognizes the community land tenure system. Therefore, the Nepal Federation of Indigenous Nationalities (NEFIN) continues to advocate for equitable distribution of land resources for IPs; implementation of ILO Convention 169; IPs' rights to ownership, management, control and consumption of their ancestral land and resources; free, prior and informed consent by IPs' fair representation when enacting, amending or repealing any land-related laws that are relevant to them; as well as the protection of customary rights and tangible and intangible cultural heritage (Maharjan, 2016).
Case 2. National Pride Projects Threaten Ethnic Harmony in Kathmandu Valley

In recent times, road expansion and development projects have been notably found to disregard the rights and concerns of indigenous groups. The case of Khokana is one of particular significance. The predominantly Newari settlement has found itself entangled with five key projects that include the Kathmandu-Terai Expressway, the Outer Ring Road Development Project, the Bagmati Corridor, a Satellite City, and a high-tension powerline. These projects which stand to uproot the lives of the current residents by destroying their homes, fields - subsequently their primary source of livelihood, as well as their traditional grounds for carrying out festivities and cremations; have been met with much protests and resistance. The Nepali army which is responsible for the construction of the expressway has been highly criticized for reaching the sites by disregarding the concerns of the native locals and instead demanding more land from Khokana, which already stands to lose 60% of its land to the projects. Infuriated locals have rejected compensation distribution and instead appealed for alternate solutions that can save their ancestral homes. Activists have further voiced that the so-called national projects that destroy traditional Newari settlements and their heritages are seeming more like ethnic cleansing of Newars (Mandal, 2018).

Recently, premises of Batuk Bhairav Temple, a famous pilgrimage of the Newari community had also been bulldozed in the name of road expansion which has caused tensions. This had been done with blatant disregard to the Ancient Monument Preservation Act (2013) and without the knowledge the Department of Archeology and The Mayor of Lalitpur city where the temple resides (The Kathmandu Post, 2018). Locals speculate that this is a conspiracy to save the Army petrol pump located opposite the temple which had also been built years ago by acquiring the temple’s land (Onlinekhabar, 2018). Moreover, locals have gone so far as to register complaints against the ministries and government offices at the National Human Rights Commission for destroying historical monuments, cultural heritages and demolishing the homes of indigenous locals, rendering them homeless without any compensations (The Himalayan Times, 2018). Such incidents have created resentment within the local Newari communities and the Nepali Army as well as the government and threatens to disrupt the ethnic harmony within the Kathmandu Valley.

KEY RECOMMENDATIONS

1) Land administration in the country has been marred with discrepant record keeping, lack of cooperation and information flows between departments/offices, and political power tussles at the expense of the general public. The local and state governments in exercising their new responsibilities over land issues should learn from historical errors and plan to integrate the functions of the land revenue and survey offices into one body. This would eliminate the problems related to redundancies and inconsistent data and also ease the registration process for the public. However, any structural changes in the current administrative system will only be plausible after complete digital integration of all existing land records and cadastral maps. The two major barriers to this currently have been the lack of trained staff and the lack of a single integrated software system. Therefore, the first step would be working together with I/NGOs and donor organizations to build an integrated software as well as the technical and management capacities of local officers, to ensure a smooth transition to an improved land administration structure.

2) The Department of Land Information and Archives (DoLIA) has been operating without a research wing, which makes all of their programs extremely susceptible to errors and failures. It is essential that a research section is established in DoLIA itself or any agency that will continue its functions so that proper evidence-based actions can be carried out in the future.

3) An integrated digital database that can be accessed from anywhere in the nation should be built for genuinely landless people. LSPRCs should remain dissolved, and proper skilled officials should be commissioned to complete this task. Additionally, landless and marginalized families should be provided with land use rights instead of land ownership rights. Adopting these policies could curb the problem of fake landlessness.
4) The government should adequately study the situation of existing squatter settlements and conduct regular consultations and feedback with the residents to truly understand their needs. It should work on regularizing and ensuring the reach of public services on those settlements that are located in appropriate and safe areas. Furthermore, the government needs to work with their private counterparts, donor agencies and I/NGOs to quickly come up with low-cost housing alternatives for marginalized and vulnerable families currently living in risk-prone areas. It could also enlist the help of civil society organizations to encourage regular participation of slum dwellers when formulating plans for these alternate settlements.

5) The government has currently banned land plotting to stop fragmentation of agricultural land. Instead of restricting people’s rights to the utilization of land, policies should be adopted instead to encourage agrarian productivity. The introduction of the Agribusiness Promotion Act (2017) is a step in the right direction. The government now needs to focus on its proper implementation which will be the most challenging part. Contract farming and crop insurance have the potential to play a huge role in improving access to finance for individuals involved in agribusinesses and should be given particular attention.

6) A lot of progressive policies have been introduced regarding promotion of women land rights. Despite this, women, especially living in rural areas have not been able to reap the benefits offered to them. Therefore, the government along with the help from local NGOs and donors should collectively work towards educating women and men about the importance of female ownership of land and property, as well as inform them about the available legal land rights and benefits women possess. Additionally, these agencies should help with providing legal aid to women in procuring required documentation including their citizenship certificates, which are necessities for them to inherit land or be included in any rehabilitation effort.

7) Indigenous people are vastly different in the customs they follow and in their dependency on land and resources. Therefore, their issues should be addressed as such by adopting a differentiate policy instead of grouping them into one large homogenous unit. Community land tenure should be accepted, and community land rights should be provided to the endangered and highly marginalized groups of IPs who are entirely dependent on their lands for subsistence. Additionally, international laws such as the ILO Convention 169 and United Nations Declaration on the Rights of Indigenous People (UNDRIP) Article 28 should be honored thereby ensuring consultation and participation of IPs regarding their land and resources and providing them with proper compensation, benefit-sharing and resettlement alternatives in case of use, acquisition and damage of their territories without their free, prior and informed consent.

CONCLUSION

The journey for land reform in Nepal has been arduous with a long history of conflicts regarding land ownership and management. From organizational politics derailing effective land administration and cheap vote propagandas exacerbating the landlessness problem, to the challenges of land grabbing and equitable land rights for women and indigenous people, the struggle continues. The country has seen progress in a number of these areas concerning policy formulation; however, results have been lackluster at best. A valuable lesson can be drawn from these experiences in that: formulating progressive policies is extremely crucial, but structuring clear strategies and putting effective mechanisms in place to implement those policies are even more challenging and vital for effective land reform in the country. As the nation moves forward with a new federal governance system, the local and provincial governments now have more authority regarding the historically highly centralized land management. This is the perfect opportunity for recently elected leaders to step up to the plate and use the momentum of their victories and newly gained power to change the course of land reform in Nepal for the better.
REFERENCES


ACKNOWLEDGMENTS

I would like to express my deepest gratitude to everyone who helped me shape this study through their valuable contributions. Firstly, I would like to offer my heartfelt appreciation to the in-house team in Samriddhi Foundation, especially to Mr. Aakash Shrestha, Ms. Arpita Nepal, Mr. Deependra Chaulagain, Mr. Manogya Sharma, Mr. Robin Sitoula and Mr. Sujan Regmi who helped me through the various stages of this study be it by providing their valued counsel, connecting me to relevant experts or assisting me in the research process.

Next, I would like to thank the experts who gave me their time and guiding resources and helped me understand some of the pressing land issues in the country. A special thanks to Mr. Jagat Deuja, Executive Director of Community Self Reliance Center for his continued support and expert advice. Thank you also to Mr. Khimlal Devkota, Party Spokesperson of Naya Shakti Party, Mr. Khem Raj Nepal, Former Secretary of Ministry of Local Development and Ms. Situ Pradhan, Former Policy and Advocacy Officer at Oxfam GB for all their help.

I would additionally like to extend my gratitude to the government officials who agreed to discuss the challenges their agencies faced in regards to land administration and reform in the country. Acknowledgements are due to Mr. Tika Ram Ghimire, Former Executive Director of the Department of Land Reform and Management, and then officials at the Department of Land Information and Archive: Mr. Hari Sharan Thapa, Computer Help; Mr. Kumar Rajbhandari, Information Officer; Mr. Poshan Niroula, Survey Officer and Mr. Ramesh Luitel, Section Officer/Planning for sharing their concerns.

Lastly, I would like to thank Mr. Lorenzo Montanari and the Property Rights Alliance for giving me a platform to present this case study.