

Locally Present Land Tenure Typology in Nepal

A Study Report

Kathmandu

May 2018



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May 2018

Ministry of Agriculture, Land Management and Cooperatives, Kathmandu, Nepal
Community Self Reliance Centre, Kathmandu, Nepal
UN-Habitat, Nepal Country Office, Kathmandu, Nepal

GRAPHIC DESIGN: Bikram Chandra Majumdar

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Jagat Deuja

Executive Director

Community Self-reliance Center (CSRC)

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Abbreviation

CSRC	Community Self Reliance Centre
DoS	Department of Survey
FGD	Focus Group Discussion
GLTN	Global Land Tool Network
GoN	Government of Nepal
ILO	International Labour Organization
KII	Key Informants Interview
MoALDC	Ministry of Agriculture, Land Management and Cooperatives
MoLD	Ministry of Local Development
MoLRM	Ministry of Land Reform and Management
NGO	Non Government Organization
NLRF	National Land Rights Forum
PRA	Participatory Rural Appraisal
SDG	Sustainable Development Goals
STDm	Social Tenure Domain Model
TOR	Terms of Reference
UN-Habitat	United Nations Human Settlements Programme
VDC	Village Development Committee
VGGT	Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests

Glossary

Adhiya	Sharecropping regime in which landowner takes half the product as rent from the tenant farmer
Ailani Jagga	Cultivable but uncultivated land which is not titled
Amanat-Guthi	State religious' endowments administered by District Revenue Offices or the Guthi Corporation
Bandhak	Mortgage
Bataiya	Sharecropping as practiced in the western Terai
Birta	Land grant made by the State to individuals usually on an inheritable and tax-exempt basis, abolished in 1959
Bhumihin	Landless peasant without firm income to buy land for housing or farming
Dartawal Mohi	Registered tenant
Duniya-Guthi	Religious endowments founded and administered by private individuals
Ghaderi	Homestead land
Guthi	A land endowment made for a religious or philanthropic purpose
Hali	Ploughman hired on an annual basis on verbal contract
Haliya/Haruwa	System of hiring ploughmen (haliya in hills, haruwa in Terai); usually bonded arrangements with ploughman working for free to pay off debts to Jamindar (Landlord)

Jhora	Refers to forest cleared and newly cultivated in Morang, Sunsari and Jhapa districts
Kamaiya	Bonded agricultural labourer of Tharu origin practiced in five mid-western Terai districts
Khet	Irrigated hill land where rice may be grown;
Kipat	Customary or communal land tenure system and rights as practiced in the eastern hill districts
Kisan	Peasant
Kut	Rent in cash or kind paid by sharecropper/tenant to landlord or directly to State in past Raikar arrangements
Lal-Purja	Title or Land Ownership Certificate
Malpot	Land tax
Malpot Karyalaya	Land Revenue Office
Mohi	Tenant farmer cultivating land belonging to a landowner under some terms
Mohiyani Hak	Tenancy rights
Raikar	Lands on which taxes are collected from individual landowners, traditionally regarded as State owned land, by 1964 recognized as private freehold property
Raitani Guthi	Religious endowments owned by the cultivator-tenants
Raj Guthi	Religious endowments under the control of the Guthi Corporation
Rajinama	Title deed
Sukumbasi	Landless person without firm income to buy land for housing (generally squatters for housing)
Samudayik Jagga	Community land
Sarbajanik Jagga	Land allocated for common use by different households
Sarkari Jagga	Government land
Tainathi Guthi	Religious endowments owned by Government but given to individuals to use
Ukhada	A form of Jamindari landownership in three districts in western Terai- Rupandehi, Kapilbastu and Nawalparasi, abolished 1964.

Conversion Table

CONVERSION BY AREA

Kattha	3645 sq. ft
Bigha	1 bigha = 0.67 ha, or 1.6 acres, or 8,100 sq. yard Or 20 kattha (Around 13 ropani)
Hectare	1 hectare (ha) = Around 1.5 bigha (30 kattha), Around 20 ropani
Ropani	1 ropani = 5,476 sq. feet, or around 0.05 ha or 4 muris
Muri	1,369 sq feet; 4 muris = 1 ropani

CONVERSION IN LOCAL MEASUREMENTS

20 Dhur	1 Kattha
20 Kattha	1 Bigha
4 Paisa	1 Ana
16 Ana	1 Ropani
4 Nali	1 Ropani (in the western hills)
1 pair of oxen	3 Ropani (in the Eastern hills)

QUANTITY CONVERSION

8 Mana	1 Pathi
3 Mana	Around 1 Kg
20 Pathi	1 Muri
1 Muri	Around 80 Kg (paddy) or 60 Kg (maize, millet)

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Executive Summary

Land is not only the natural resource generating economically productive base for its inhabitants but also one of the fundamental sources of culture, social relations, political power, identity and belongingness for the human society. Therefore, land tenure is termed as 'a relation of human beings, individual and groups, to the soil they cultivate and use'

The evolution of land tenure system in Nepal was quite unique as its history was; and, formal cadastral survey was a recent accomplishment that not only outdated the previous informal and customary tenure systems but also overlooked various locally present tenure types resulting into denial of tenure right of marginalized people and indigenous people in particular. Therefore, while exploring the tenure typologies, we should look at how people themselves relate to the land they belong to.

This study, in addition to the review of the secondary sources, is primarily based on qualitative information collected through in-depth key informant interviews (KIIs) and focus group discussion (FGDs) with local farmers, landowners and other key stakeholders from different parts of the country.

In each stage of the gradual evolution of the land tenure system

in the country, we see a continuum with a bundle of rights and duties well defined by the communities; and the use of land was not arbitrary. A broader socially perceived land tenure was the primitive but most dominant form of land tenure in most parts of the country; which continued even after the land survey because some of the tenure-holders categorically escaped titling of those land that were relatively less productive or people were trying to avoid land tax to the government.

This study identifies the three major categories of land tenure: formal, informal and customary tenure. Formal type refers to those tenures that have legal recognition and have been addressed in the related title documents about their status, whereas, informal type includes that particular type of land tenure where there may be a social or legal basis but not yet formally registered and legally titled. Customary tenure is customarily recognized by the members of the concerned community and is regulated by the customary institution. Generally, in literature, yet another type of tenure is recognized, that is, non-formal. Non-formal, informal and encroachments are perceived differently by different people. In non-formal tenure type, land users have legal basis and are socially recognized. Informal tenure holders may not have legal basis but holds social recognition of some degree. Government may often term them as ‘encroachers’. However, given the empirical evidences from the field, despite some differences, this report urges such tenure type should be dealt under the informal category.

In addition to these broader categories, there are several ways the local people define tenure. Amongst them, the most common one is the typology based on ownership. There are major three categories of tenure types: Private ownership, Guthi, institutional ownership, and the government/public land; under each categories there are several types, some of which are more general and some of them are specific to particular places and communities. Within each category, there are several complexities due to the complicated tenure arrangements.

Similarly, tenure arrangements are also made according to the farming contracts. The most common type is *Mohiyani*, where land owners grant land to tenants following a certain contract. Other forms are, *Adhiya/Battaiya* (Sharecropping), *Thekka/Hunda* (cultivation on contract), *Bukraha/Bukrahi* and *Hali Fogato/Haliya Chal* (piece of land, often degraded one, given to the farm laborers for the service they provide to the landlords), *Samyukta Mohi* (joint tenancy), *Jot Jirayat*, *Maate* (land mortgaged, but not like common forms of mortgaging, where a peasant needs money and goes to the money lender, and mortgage land until the loan is paid back; but in this practice, common in Far West, land lords who cannot manage to cultivate the land, leased out to the cultivators, mostly Dalits) and mortgage *Bandagi/Bhogbandagi/Dhitobandagi*

Such farming contract are quite often verbal, therefore, often the cases gets complicated as they do not have any legal basis to claim and secure the tenancy rights.

In Nepal's case, informal tenure has appeared to be more complicated form of tenure in relation to securing rights of cultivators and inhabitants. Informal tenure is defined as the tenure type that may or may not have some legal basis and social recognition but has no formal registration therefore the tenure is not fully recognized.

Customary tenure in Nepal is fast dying. In such practice, customary social institutions regulate the land use practices, among others. Most of the shifting cultivators are enjoying their land rights generated through customary tenure. This continued and to some extent still exists in different ethnic groups, particularly in hilly regions. For example, *Kipat*, where one of the major criteria of land allocation used to be the lineage or clan, so that a clan domain maintains a steady pool of land and to control any influx of strangers, outsiders who are non-kinsmen.

Field study reveals there are many communities and families suffering from insecure tenure of the land they have been living

and cultivating for generations. The cases of tenure insecurity are of varied nature. The existing land policies and administration is not adequate enough to resolve all those various kinds of tenure related complications. In practice, the tenure and the ownership of the land is recognized and secured through certain processes. In such cases, tenure is recognized and maintained in several ways; for example, through, Primary Registration, or by judicial decisions or following the Decisions by the Commissions or Committees.

Nepal has experienced a unique evolution in land tenure system. The transformation in tenure system followed the State making process. State landlordism was the dominant; and State distributed the land to different communities and families to serve its economic and political needs. Unregistered, land left out by government survey, socially recognized and perceived tenure, and customary tenure turned to be informal. Thus, the main land issues now have been the issue of tenure security.

Unless and until plural forms of land tenure systems are not recognized by the State's land policy and its legal system, land tenure security issues of the country will ever remain unresolved.

This study documented some, specifically the informal and customary tenure types, which are often 'unrecognized'. This study also indicated that there is a need for more exploratory studies in order to inform policy-making process with ample evidences.

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01

CHAPTER

Introduction

1. Study Context

It is estimated that ‘most developing countries have less than 30 percent cadastral coverage. This means that over 70 percent of the land in many countries is generally outside the land register’ (Lemenn, 2010). The recent cadastral survey in Nepal was accomplished in late 1990s, which was a very slow process as it had begun in late 1960s, but still could not cover the entire land that people had been utilizing for various purposes following their own social, cultural model of tenure.

We lack adequate information for making reliable estimation on how much land was under cadastral coverage; however, different literature and general experiences hint that substantial portion of land is not yet registered in the formal system. Some crude estimates suggest 25% of the cultivable land and around 10 million parcels are beyond the cadastre. For not having a proper recognition by the state policies and legal provisions many tenants under different tenure types are unrecognized, unregistered and consequently their rights are denied and livelihood threatened.

Against such background, particularly at this juncture when land policy formulation is under process, the importance of exploring

and updating the land tenure typologies in general and accounting on the locally present typologies in particular, is more relevant than ever.

In the context of Nepal, land tenure in general is dealt in two broad categories: formal and informal; where third category, the customary tenure is missed out. Three formal categories are broadly recognized as private; government/public; and *Guthi* (trust) land; whereas, there are several categories and types within informal land tenure system.

This study provides an updated documentation of contemporary tenure types and the tenure types that had been delegalized and become obsolete in the recent decades, and nevertheless, the remnants of which still hold some relevance. The evolution of land tenure system in Nepal was quite unique as its history was; and, formal cadastral survey was a recent accomplishment that not only outdated the previous informal and customary tenure systems but also overlooked various locally present tenure types resulting into denial of tenure right of marginalized and indigenous people in particular.

This study was part of the “Supporting Land Reform in Nepal” initiative to conduct land tenure typology research and help in consolidating land policy change in Nepal. The project thus aims to implement progressive provisions on land tenure and management as outlined in the new Constitution of Nepal (2015), and in compliance with Global Land Tool Network (GLTN) tools and Voluntary Guidelines for Responsible Governance of Tenure (VGGT) components.

2. Land Policy and Land Tenure in Nepal

Land is not only the natural resource generating economically productive base for its inhabitants but also one of the fundamental sources of culture, social relations, political power, identity and

belongingness (Myers, 1986; Wilmsen, 1989; Wilmsen 1973) for the human societies. Hence, land is much more than the received understanding as an economic property, so much so that it is the cultural wealth, which is inalienable from the society and culture (Caplan, 1970; Weiner 2007). Humans not only fulfill their economic needs from the land but also make themselves and their societies possible in it. Therefore, land is the foundation for making and continuation of human society and culture. It is the sacred endowment and the foundation of religious, social, cultural and political relations among the indigenous peoples around the world.

Even the land as an economic property connotes various meanings and implications among various populations in relation to tenure, ownership and use. It is valued differently among different societies and cultures. Generally, perception of land, its use and cultivation practice widely varies between the indigenous societies and the dominant societies.

Malinowski (1936) long ago defined, land tenure as ‘a relation of human beings, individual and groups, to the soil they cultivate and use’ (Malinowski, 1936 as quoted in Hann, 1998). Therefore, we urge, while talking about land tenure, we should investigate and recognize how people themselves relate to the land, then we would be able to see some of the ‘invisible facts’ on which their society is founded. It is more prominent in the case of tribal societies and indigenous communities of Nepal. Intricate relationship of indigenous communities and the land they inhabited in various parts of the country has largely been ignored while formulating the state land policies. Despite all odds, they still follow the customary rules; and maintain historical evidences on how land is allocated and cultivated, taken care of and transacted.

At such backdrops, this study primarily aimed to answer the following two questions;

- I. What are the locally present tenure types across the country?

II. How are the rights of those unrecognized tenure holders/tenants secured or denied?

The broader aim of this study was to inform on the existing tenure typologies in the drafting of national land policy.

3. Organization of the Study

The study report has six chapters, with a few sub-chapters. The first chapter introduces the study, sets the context, and provides brief overview of the state land policy and land tenure in Nepal.

The Second chapter briefly presents the study methods. Third chapter provides a general schema on the evolution of land tenure and explores social and cultural context that influence the land tenure practices of the local communities.

The fourth chapter presents the land tenure typologies at present or in the recent past. The chapter five discusses the tenure types locally present and further explains the tenure institutions and the complexities presenting the evidences from the field. This chapter illustrates some of the unique cases of communal land ownership and customary practices in the study sites.

Finally, the last chapter, i.e., chapter six offers the summary and conclusions, followed by some recommendations.

Additional information, including the checklist for the FGD and KII for the research is presented as annexes.

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CHAPTER 02

Research Methodology

1. Study Process

This study is a qualitative study that utilized in-depth key informant interviews (KIIs) with knowledgeable persons, and tenant farmers; focus group discussion (FGDs) with local farmers, landowners, tenants and other key stakeholders from selected parts of the country. Methodologically, the study focused on the lived experiences of people, explored how they define their relationship with the land they inhabit and what kind of legal basis or customary rights they claim to uphold tenure rights over the land they have been utilizing. Literature review and use of secondary sources also have supplemented the required information.

At the beginning, a one-day inception workshop on land tenure typologies was organized to refine the study framework prepared by the lead consultant to explore the local tenure typologies based on review and experiences of the participants. Then, a methodology and work plan was developed. A three-membered study team was formed, which further refined the research methodology, carried out desk review, prepared and finalized the checklists for KII, FGDs, Casestudies and observations.

Primary information was gathered from the selected study districts; including *Panchthar, Jhapa, Morang, Sindhupalchowk, Sarlahi, Rupendehi* and *Manang*. The research team conducted a total of 7 FGDs and 14 key informant interviews (KII); and presented the findings in 3 workshops in order to get the feedback and identify the gaps. Knowing that the participants in the KII were limited, large number of participants in the FGDs and Workshops have supported in consolidating the findings of the study.

2. Tools and Techniques

KIIs, FGDs and the Case Studies were the major tools used to gather the information; however, observations and informal conversations have also complemented useful information. Such observations and informal conversations were also used to triangulate and validate the information collected through other sources.

2.1 Literature Review

A range of published and unpublished gray literature produced by various government and non-government organizations and agencies were reviewed to extract relevant information. In addition some academic works were also reviewed in order to conceptualize the tenure issues in a more concrete way. Some of the reviewed works included;

- a. Government plan and policies
- b. Commission reports
- c. Manifesto and documents of various political parties, and their sister- organizations
- d. NGO reports and other documentations (grey literature)
- e. Academic works on land related issues

2.2 Key Informants Interviews (KII)

Some selected individuals in each study district were consulted and interviewed to learn from their in-depth knowledge and information in the locally existing land tenure practices and related issues. These key informants in different sites included knowledgeable persons, for example, selected tenants cultivator, representatives of the political parties working in the local level, member of the civil society, representatives of *Dalits*, ethnic groups, occupational groups, elderly and women, etc.

Such key informants were identified during initial communication with the contact persons. It was like a snowball sampling.

A general checklist was prepared (see Annex) to collect relevant information from the key informants.

2.3 Focus Group Discussions (FGDs)

FGDs were of semi-structured in nature. A separate checklist (see Annex) in order to gather the required information was prepared. Land redistribution, community ownership of the land, etc. was also discussed in such FGDs. One FGD in each study site was conducted among tenants, women, people living in public land, and land rights activists.

2.4 Observations and Informal Conversation

Meanwhile, the research team had a transect walk around and across some land and settlements under dispute as reported during the field visits and also observed the current land use pattern, settlement patterns and public land utilization patterns. While having a transect walk, the researchers interacted with the concerned stakeholder on the ground. Some of the observations of the research team provoked new queries and enriched the information collected through other methods.

Such observations and informal conversations at the field have helped verifying and validating some of the already gathered information from different sources.

Those involved in the observations and informal discussions included the community people, Village and District Land Rights Forum's activists, tenants and the government officials.

2.5 Case Studies

A few relevant yet unique cases are presented as mini-case studies based on the information collected through different methods and sources; and are presented as and when they fit in the discussions.

Case studies based on the primary information reveals many unique and seemingly deviant practices in land tenure practices in Nepal.

In addition to these, major tools used for the data collection, consultation meeting with the experts, and concerned stakeholders in different occasions were also organized. Feedback collected during the process have been incorporated and addressed in the report.

3. Selection of the study sites

Study site were purposively sampled and selected; following some criteria to make the study sites more representative. At least one site from each province was the target; and also ensuring the representing all three ecological zones: mountains, hills and *Terai* (Southern plains). The study team itself could not carry out the field research in all provinces; however, we have utilized the information that we gathered through research assistants. In addition, we also followed the background information, for example, on tenure complexity. We also consider the tenure

complexities while selecting a particular site. All together we collected primary data from 16 different sites across the country.

Map of Nepal showing study sites

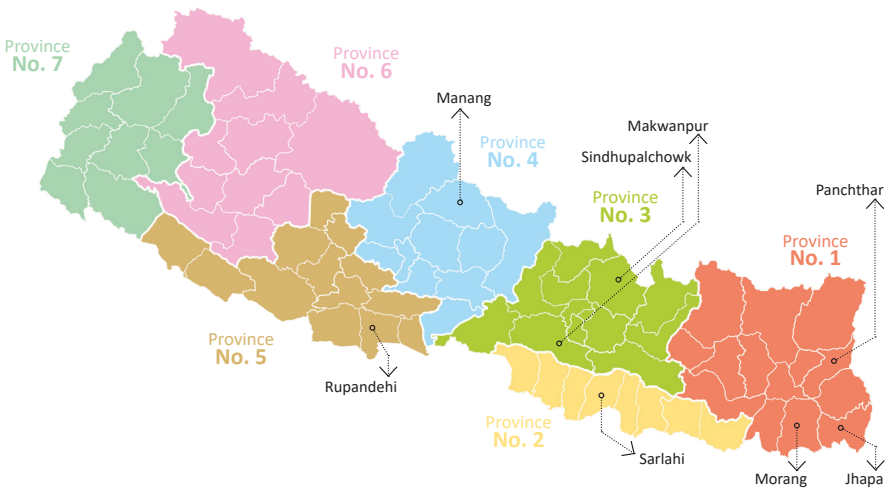


Figure 1: Map of Nepal showing study sites

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CHAPTER 03

Evolution of Tenure, a Conceptual Discussion

1. Conceptualizing Land Tenure

In case of Nepal, where scientific survey of land was carried out only in the recent decades and title registration was a new phenomenon (following the Land Reform Programme of 1964, a countrywide systematic survey and tenure registration was conducted in 1960's throughout 1980s and still incomplete), a range of tenure types can be found, in a customary and an informal form, not recognized by the state land legislation yet.

A broader socially perceived land tenure was the primitive but most dominant form of land tenure in most parts of the country; which continued even after the land survey as they did not categorically register their tenure of those lands which were relatively less productive and people were not willing to bear the burden of annual land tax to the government. Hence, we have socially perceived tenure in some parts of the country, particularly in the mountain regions, whereas in productive plains of *Terai* and in the urban areas land is treated as a private property that can be sold and bought in the market like any other commodity.

If we review the gradual evolution of the land tenure system in the

country, we see a continuum there; and in each stage, a bundle of rights and duties well defined by the communities; and the use of land was not arbitrary.

As elsewhere, “informal and customary tenure systems may retain a sense of legitimacy after being replaced officially by statutory systems, particularly where new systems and laws prove slow to respond to increased or changing needs. Under these circumstances, and where official mechanisms deny the poor legal access to land, people tend to opt for informal and/or customary arrangements to access land in areas that would otherwise be unaffordable or not available” (UN-HABITAT, 2008).

The Evolution of tenure typologies in Nepal

↓	Perceived Tenure	Socially recognized, but no formal registration
↓	Land Survey and registration	Revenue generation was the main purpose
↓	Freehold	As if private ownership, that can be bought or sold freely in the market.

Figure 2: The Evolution of tenure typologies in Nepal

Hence, as illustrated, our land tenure system evolved from a mere perceived land tenure where there were no formal registration of the land in any one’s name, rather the local communities used to manage the land following their traditional practices.

Land survey and registration documented the land types and the ownership. The main reasons of such registration were to implement the land ceiling and to regulate and systematize the revenue. To avoid the imposition of land ceiling, several parcels of land were left undeclared for survey, which, however, were claimed later on by the same landlords. Land revenue used to be one of the major sources of the revenue to the state. Such survey, as mentioned earlier, excluded the land that were difficult to survey due to the hilly steeps and geographical difficulties; thus were remained unregistered.

Those registered under private ownership is treated as private property, can be bought and sold in the market freely; however, according to the theory, all land belongs to the state, and the individuals have the use rights only.

2. Tenure Typology and Existing Tenure Types

Before, dealing with the finding from the field, a general typology and tenure types, primarily based on the review of secondary sources, are described.

The land tenure in Nepal has generally been categorized into three major types: formal, informal and customary.

Formal type includes those tenures that have legal recognition and have been addressed in the related legislation and policy documents about their status. Along with *Raikar* land, *Guthi*, the institutional land ownership of land comes under the formal category.

Informal type is a particular type of land tenure where there is a social basis but not the formal legal basis, yet to be registered formally. Whereas, non-formal type is defined as the land used with legal basis and social recognition but not yet registered in the Cadastre. Government usually term informal tenure holders as ‘encroachments’. However, given the empirical evidences from the field, we have put both informal and non-formal as sub-types under one informal category.

Then, customary tenure, which is as well often put under informal category, appears to be the third tenure type. Customary tenure is customarily recognized by the members of the concerned community, and regulated by the customary rules. *Kipat* is one of the examples of customary land tenure in eastern Nepal, which is the communal land tenure of most Mongoloid indigenous groups

such as *Limbus* and *Tamangs*, refashioned during 18th and 19th centuries and abolished in 1960s.

Thus, we have following broader land tenure typology in Nepal as illustrated below.

Locally Existing Land Tenure Typologies in Nepal

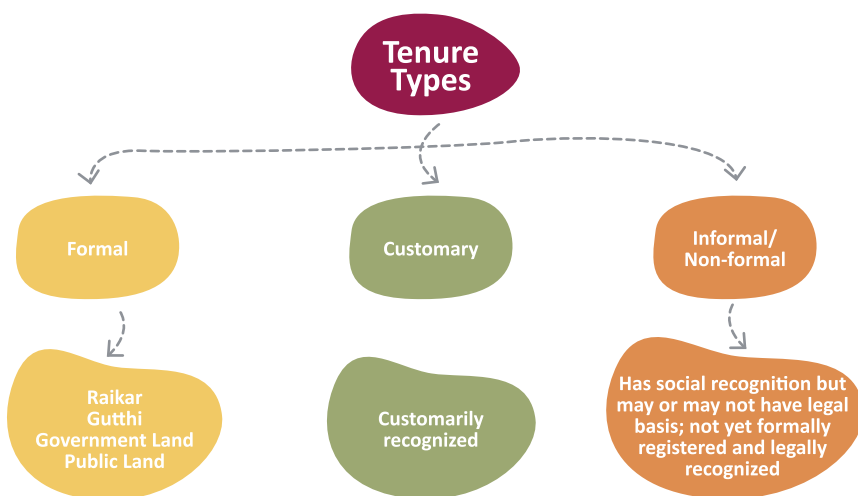


Figure 3: Locally Existing Land Tenure Typologies in Nepal

* Informal and non-formal types are often dealt separately; Non-formal tenures are socially and legally recognized but not registered in the Cadastre. Informal tenure is defined as ‘having social acceptance but not legally recognized’; however, our observations suggested that ‘social recognition’ is a contested and highly contextual term, as a result, often such settlers are labeled as ‘encroachers’, therefore, subject to forced eviction. Hence, in this report, we have clumped two into one and argue that the category ‘encroachers’ need to be considered cautiously.

The figure illustrates the major tenure typology; which is common in practice. Under each type, there are several categories of tenure.

Generally formal tenure is identified with certain defining criteria; for example, tenure based on ownership and tenure on the basis of farming contract.

3. Process of Establishing Ownership of Land

In the preceding paragraphs of this chapter, we discussed how the perceived and socially recognized land tenure gradually converted into to a freehold, private ownership. We also underlined the need of securing tenure of farmers, tenants in one or another form, by recognizing many of informal tenure, and customary tenure which may have weaker or no legal basis but still has the social recognition. We presented non-formal and informal so that both can also be recognized following the same continuum principle, and converted into the formal or legally recognized tenure to secure the tenure rights of the cultivators.

We present the empirical cases and further discussion on tenure types and their features in the following chapter; now we briefly present how the ownership of land is established as a formal, legally recognized tenure. The ownership of land has been established by the following means:

- a. **Primary Registration:** Land recorded in the official register by land related laws from the customary tenure such as *Raikar*, *Guthi* and other categories. *Birta* used to be registered as private land, taxable or non-taxable, which however was delegalized with the promulgation of Birta Abolition Act, 1960. But, the Sixth amendment of the same Act allowed Birta land of 'Kha' category (taxable Birta) to be registered in the tenants' name. Following this decision, 152 tenant's families from Kalika of Rasuwa district were able to register 75 ha of the Birta land.
- b. **Judicial decisions:** Sometime conflicts or differences

arise on the ownership of different kinds of land. The cases may be filed to the court and the court order establishes the status of ownership of the particular land by its judicial decisions.

- c. **Decisions by the Commissions or Committees:** The Government of Nepal intermittently form the Commissions or Committees through cabinet decisions, based on Land Revenue Act or other acts to provide land rights to the landless, squatters, bonded labor, displaced from natural disaster, political victims and like others. The government sometime decides to transfer its land to others.

After the enactment of the Land Related Act, 1964, land tenure rights existed on both the owner and the tenant. The fourth amendment of this Act in 1996 has abolished dual ownership on land as:

1. No tenancy shall exist after 1997. Registered tenants get their share of ownership according to the existing rules. Absolute ownership will exist. This provision, however, with its 6th amendment in 2016, was revised to allow tenants to claim their share of land as a part of tenancy rights, which was not done before.
2. The registered tenants will have ownership share on the land he/ she is tilling according to Land Related Act 1964 (fourth amendment).
3. The tenant of *Guthi* land converted to *Guthi Raitan Nambari* land as *Raikar* will be a sole owner. This provision in the Act was nulled by Supreme Court decision on 24 January 2008

The transfer of ownership and legal tenure like *rajinama* and *bakaspatra* are also in practice. *Rajinama* is a permanent transfer of ownership while *bakaspatra* is a deed of legacy or gift to someone (e.g. a relative) in lieu of pleasure, consciously or intentionally.

A graphic for Chapter 04. It features a teal background with a white circle. Inside the circle, the word "CHAPTER" is written in a small, white, sans-serif font, arched over the top of the number "04". The number "04" is large, white, and in a sans-serif font, centered within the circle.

CHAPTER 04

Land Tenure Types in Nepal

1. Bases of Land Tenure Typology

Following the land tenure typology presented in the preceding chapter, this chapter presents the detail descriptions of each type, based on the literature review and primary information collected from the field. *Raikar*, *Birta*, *Jagir* and *Guthi* were the major tenure types existed even before the ‘Unification’ of Nepal in 1768 AD. Those tenures primarily concerned the cultivable and productive land.

In the later years, different tenure types emerged. Such tenure types were recognized and categorized based on ownership pattern, cultivation contract and institutional arrangements. While dealing with the question of tenure rights the contexts based on which the tenure is defined appears to be important. This also indicates that, over generalization of tenure types is no more valid, as we need to see the different types of tenure arrangements in relative terms. Hence, it also urges us to see the tenure security issues accordingly, not in a very generalized term, but in their continuum.

2. Tenure Typology Based on the Ownership Patterns

Generally, in Nepalese context tenure types are identified with the ownership patterns. For example, privately owned *Raikar* (taxable) land is formal and legally recognized tenure. There are other forms of private ownership, as well, such as *Swabashi* (house and land occupied by oneself).

Likewise, *Guthi*, the institutional ownership or trust land, usually owned by temples or monasteries, are also formal types of tenure, which, however, has several variants.

As in the case of private ownership, within *Guthi* also there are several tenancy related complexities due to the complicated tenure arrangements. Finally, there is another type of land tenure- government owned or public land. The issue of tenure security is more complicated in such land.

Table 1: Different types of land category under each ownership

Private Ownership	Guthi (Institutional Ownership)	Government Land (Sarkari)	Public land (Sarvajanik)
<ul style="list-style-type: none">- Raikar- Birta- Jagir- Rakam- Gaaun Block- Ukhada- Akada- Jhora- Swobasi- Jiuni- Pewa- Khangi- Satta Bharana- Bhudan- Kipat- Khoriya/ Bhasme	<ul style="list-style-type: none">- Rajguthi- Amanati Guthi- Chhut Guthi (Tenancy can or cannot be claimed)- Niji Guthi (Established by individual family, clan. In some cases in order to escape from state-imposed land sealing)- Pashupati, Changu Naryan and Boudha Nath, in terms of the land they had in their name, were the biggest land lords of the valley,	<ul style="list-style-type: none">- Ailani- Bal Bitauri- Parti- Road, Railway- Riverbanks, Reclaimed land- Forest- Water bodies, (River, ponds, lakes) <p>[Note: land owned and controlled by the government]</p>	<ul style="list-style-type: none">- Ghat/Chihan (cremation sites, graveyards)- Pati, pauwa, dewal- Space allocated/ used for Haat/ mela (weekly village market/ festivals)- Religious forest- Trails, Goreto- Chaur (open space for public purpose)- Water sources (well, ponds, water holes, sprouts)- Pasture, grazing land

	[Note: There are several varieties of Guthi, the institutional ownership, and many have already been converted to raikar, in private ownership]		[Note: Utilized, managed by the community]
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As can be seen, under each category, there are several tenure types; some are locally present and some are wide spread across the country. The tenure typology based on ownership pattern is the most common way of defining tenure. The detail description of the dominant tenure types is presented in the following paragraphs.

Raikar

As we discussed earlier, land has traditionally been considered to be the property of the state; which economic historian Mahesh Chandra Regmi (1977) termed as “state landlordism”. According to him, “*Raikar* was the crown-land or state’s land but after 1950 *Raikar* denoted individual’s private property in which he/she pays the tax to the government and has a full right in terms of selling, using, inheriting, transferring, dividing, and leasing”.

This particularly implied to *Raikar* system, which granted tenure rights of agricultural land to the individual cultivators. In fact, *Raikar*, theoretically the state holds the *Raikar* land and allows the use rights; not the ownership rights, to the individual cultivators and thus appropriates the revenues. Ultimate owner of the land is the state, but having all freehold rights in practice *Raikar* is considered as a ‘private property’.

Initially, the state gave out land to tillers called *Mohis* or tenants for cultivation. Such land is, however, subject to payment of certain fixed revenue to the Government. Its ownership, as mentioned earlier, is invariably retained by the state itself. Such land tenure is called *Raikar* tenure.

Under *Raikar* tenure, where individuals use land by paying tax to the state, the ultimate ownership is retained by the state; however, the individuals who use it have a full right in terms of selling, using, inheriting, transferring, dividing, and leasing. Since *Raikar* land is in fact owned by the state, the state can take it away from them by giving them compensation as need be.

According to Regmi (1978) the economic historian of Nepal, there were only two types of land tenure system in Nepal before 1950s. They were *Kipat* system and *Raikar* system. And, all other tenured forms of land were derived from *Raikar*.

Birta

Thus, *Birta* land is the land given out by the state to individuals; *Birta* land is rarely taxable, or even if they had to, it was insignificant compared to *Raikar* land. The term “*Birta*” probably derived from the Sanskrit word “*Britti*” meaning livelihood. In other words, *Birta* means granted land to individuals to enable them to make living.

Birta land is the state owned land, originally given out to priests for their religious and educational functions; later to the loyal officials, and close kin of the kings or individuals who could impress or win favors of the rulers through their relations or services.

Birta land may, therefore be defined as one whose ownership is alienated by the state to individuals. *Birta* land, though entailed in the past some obligations to the state, was virtually free from any taxes until abolished in 1959. But the complexities it created regarding the tenure security still persists.

The policy was given legislative effect in the form of *Birta* Abolition Act 1959 and Clause 3 of the Act provisioned as:

- (i) With effect from the date of the commencement of this Act,

the *Birta* system existing in the kingdom of Nepal has been terminated and all *Birta* holdings existing up to the day prior to the commencement of this Act have been abolished.

- (ii) All *Birta* lands existing in the kingdom of Nepal, which have been abolished under sub-section (i) above, shall be converted into *Raikar*, and land ownership rights therein shall vest in Government of Nepal. Land ownership rights and powers possessed by *Birta* holders on such *birta* lands prior to the commencement of this Act shall be regarded to have *ipso-facto* lapsed.
- (iii) Any law, regulation, order or the document providing for the emergence or continuation of ownership rights and powers on *Birta* lands in favor of any individual have been replaced or nullified with effect from the date of commencement of this Act.

Land achieved by certain individuals (e.g. religious teachers, priests, loyal soldiers etc.) from the state (rulers) as a reward is called *Birta*, which is tax exempted. Certain individuals in the society who would ingratiate themselves with the rulers and dedicate themselves to the advancement of the interests of the ruling class could be granted certain amounts of land called *Birta* as reward for their allegiance to the ruling class. The state had the right to forfeit the grant.

There are several categories of *Birta* in practice; for example, *Bakas*, *Bakas-Mafi*, *Bakas-pot*, *Bekh*, *Bitalab*, *Chhap*, *Daijo*, *Dukha*, *Farmaisi*, *Gharbari*, *Guthi-Birta*, *Guthi-Bakas-Birta*, *Halbandi-Manachamal*, *Jiuni*, *Kharidi*, *Kush*, *Mafi Birta*, etc. (See Regmi 1978).

This system was abolished in 1959 AD. But, holding of large areas of land converting them to *Raikar* made *Birta* owners more secure than before resulting into strengthening the status quo due to the lapse from the part of Government to physically control such land.

Jagir

Jagir land refers to those lands assigned to government employees as emolument for the services they rendered. The cash economy was so rare then, and on the other hand, government also wanted more land to be cultivated so that more revenues can be generated. Particularly government personnel who ran the administration were given land as their salaries. This system was abolished in 1951; that means system no longer continued but the granted Jagir land was later converted it into the *Raikar* land.

As the system of granting land to the government personnel as their salary partly emerged from the lack of sufficient cash circulated in the then underdeveloped economy, it may be argued that the emergence of Jagir land system was a product of a dearth of enough cash to cover all the government expenses. For example, during the reign of Prithivi Narayan Shah, a soldier would earn around Rs. 76 a year. The size of the army in 1792 was estimated by Kirkpatrick to be between 7,500 and 9,000. The size of the army in 1802 was estimated by Hamilton to be between 9,000 and 10,000. The strength of approximately nine thousand men in 1792 at the prevailing salary would cost about 45 lakhs rupees a year. The total annual revenue at that time was between 25 to 30 lakhs rupees (See Regmi 1978).

Ukhada

This is considered to be a residual of the traditional feudal *Jimindari* land ownership. *Jimindari* landownership was said to have abolished in 1964; however, still found in three districts of western Terai, namely, Rupandehi, Kapilvastu and Nawalparasi. It is estimated that there are a few hundred families who inhabit such land (Wily et. al., 2008). In this system a tenant farmer who cultivates the land has to pay some cash annually to the local *Jamindars*.

The tenants in those three districts are forced to work on the land without any guarantee of tenancy rights. One recent study estimates that there are about 8515 Ukhada tenants who have been tilling the land without having any ownership rights (c.f. Dhakal; 2008).

Bahal Bitauri

The residents pay the tax as rent in cash or kind for renting in government owned land in commercial sites in the urban, semi-urban areas of *Terai* region. Hence, *Bahal Bitharui*, in general, becomes a land tenure type. There can be personally built structure or there can be small infrastructures built and maintained by the local bodies including former village development committee (VDC) or Municipalities and rented out to small business holders, based on rent tenancy.

The status of land under different tenure types before the land reform initiatives of 1950s and 60s, and the Land Reform Act of 1964, in particular, are illustrated in the following table (Table X) and figure (Figure).

Table 2: Distribution of land under different tenure types before 1960s.

Land Tenure Type	In Hectare	In %
Raikar	963,500	50%
Birta	700,080	36%
Guthi	40,000	2%
Kipat	77,090	4%
Rajya, Jagir, Rakam & Others	146,336	8%

Source: *Evaluation of land reform in Nepal - 1973, M.A.Zaman*).

Table 2: Distribution of land under different tenure types before 1960s

Now, the government own 73 % of total land of the country. Among the cultivable land, Raikar Land is estimated to be 4100000 ha, which may or may not be cultivated at the moment; that is fallow land also includes in it. Similarly, Guthi land constitutes 73512 ha of arable land (Source: The Annual Report of Guthi Corporation, 2066).

3. Tenure Based on Cultivation Contract

Another common practice of defining tenure is based on the farming contract, which is complicated given its local variants. Farming contracts are often verbal. Several issues regarding the tenure security are related to the farming contract. Tenure arrangements based on faming/cultivation contracts are presented in the following figure.

Land Tenure Arrangements

Tenure Arrangements Based on Farming/ Cultivation Contract	Adhiya/Bataiya (Share Cropping)
	Mohiyani
	Thekka/Hunda
	Bukraha/Bukrahi
	Hali Fogato/Hliya Chal
	Samyukt Mohi
	Jot Jirayat
	Maate
	Bandagi/BhogBandagi/Dhito Banda

Figure 4: Land Tenure Arrangements

Hence, there are various forms of tenure arrangement based on farming contract; and, some of them are very much localized. Each type mentioned is briefly discussed below.

Adhiya/Battaiya (Sharecropping)

Sharecropping is the most common type of form of farming contract in which a contract is made, generally in terms of a verbal understanding, between landowner and the cultivator; which allows a tenant to use the land, the produce is shared between the landowner and the cultivator on a 50:50 basis.

Sharecropping has a long history and has a wide range of different local variants.

Mohiyani

Mohi is a statutory tenant; *Mohiyani* is tenancy, which often appears as *Mohiyani hak*, or the tenancy rights. This was probably the oldest form of farming contract, where landlords assign some families to cultivate the land under the given legal provision. In such contract, a tenant harvest the larger share of the produce and the landowners get the smaller portion. Who gets what is determined by the legal rules and the common practice. In such case, if the harvest is better, the tenants can make more, and he is not obliged to share more to the owner even if the harvest is better.

Such tenants could be registered, and unregistered. Registered tenants holds all legal rights to claim his share of the ownership later on; that is his rights is protected by the law. It is said that the 4th amendment in 1997 and the 5th amendment in 2002 of the Land Act of 1964 abolished the dual ownership over the land, and, *Mohi* issues were finally resolved. However, in reality, such dual ownership still exists in practice. MoLRM annual report (2016) mention that there are still more than 100,000 registered tenants in the country; number of unregistered tenants goes much higher.

Where as unregistered tenants, *bedartwala mohi*, are those tenants who have been tilling the land for years, even generation, but not recognized by the law or government documents; the one who cannot produce any legal proofs to claim his share of

ownership rights over the land he has been tilling. Ensuring tenure security of such unregistered tenants is a critical issue while we talk about the tenure security.

Consequently, many of such tenants are devoid of their tenancy rights only because they could not produce the legal documents to prove their tenancy, despite the fact that one has been cultivating the land for years and sometimes for generations.

Under such tenure system, there can be an additional form, a joint tenancy, colloquially called *Samyukt Mohi*, where tenancy is registered jointly, among the individuals or tillers; who jointly pay a certain amount as per the agreement for the use of the land from the landowner. Such cases are rare but are complicated while dividing the land between the landlords and the tenants.

Thekka/Hunda

Under a contract bond, the lessee pays the amount of grain or cash to the landowner each year, generally under verbal understanding. Such division of produce usually lasts for a few years and the contract is renewed. The cultivator can give up such contract if he finds it less beneficial to him or the landowner may dispel the farmer at his/ her own will any time.

Bukraha/Bukrahi

Usually a separate hut given to the bonded labor often at the margin of landlords land or farmyard. Usually, such *bukraha or bukrahi* are located closer to landlords' house, as the women and children of such bonded laborers are forced to work in landlord's house as domestic or farming help.

Hali Fogato/Haliya Chal

A piece of land, usually a degraded one, provided to the ploughman for his service to the landlords as ploughman. In practice, a ploughman may not cultivate his own plot until the landlord's land is cultivated.

Jot Jirayat

A plot of taxable land attached to a Jimidari holding, as part of the Jimidar's salary cultivated with unpaid and forced labor. Such Jimidars are also responsible for collecting the land tax from others in his vicinity and send thus collected tax to the central government.

Matte

Particular to Far Western hills, landlords, often Thakuris and Chhetris, the 'upper caste' landed families, who cannot cultivate their own land allows families, usually Dalits, to cultivate their land. Those who could lend certain money without interest to the landlords get such offer. The moneylender does not get the interest for his money, and the landlord as well does not claim any share of produce under such contract.

Bandaki/Bhogbandaki/Dhitobandaki:

Unlike *Maate*, in such *Bandki* contact, a piece of land is given to someone as mortgage or bond for getting the loan. Until he pays the loan, the moneylender cultivates the land and does not share the produce to the landowner or the one in debt. If the borrower fails to pay the money back within stated time, the moneylender transfers the ownership of the land to his name. Such contract is manipulative and exploitative in nature.

Cultivation contract is the most common practice in Nepali agriculture. Such cultivation contract is varied across the country and has many local types. In the following paragraphs, we describe some of the dominant forms of cultivation contract.

4. *Guthi* System, the Institutional Ownership

Guthi is the types of tenure where, unlike in *Raikar* tenure, the state or an individual landowner alienates its ownership of land to some charitable, religious or philanthropic institutions. This is the type of land given by the state to certain community for public or mostly for religious and social use. Such *Guthi* land is administered by the state or by the institutions themselves. The income from such land is assigned for religious and charitable purposes. In a general term, *Guthi* is actually a form of land endowment made for religious or philanthropic purposes.

Prior to 1950, there were three major categories of *Guthi*- viz. *Amanat Guthi*, *Chhut Guthi* and *Niji Guthi*. These were state religious endowments administered by District Revenue Offices. Following the 1950's change, *Guthi* used to be administered by the Ministry of Finance. Along with other land reform initiative of the Government of Nepal in 1960s; government promulgated a '*Guthi Sansthan Ain 2021*' (*Guthi* Corporation Act 1964); and *Guthi* Corporation was made responsible to take care of all other *Guthis* except *niji guthi*, the private *guthi*, which used to be taken care of by the *Guthiyar*, or the one who run the *Guthi*.

According a government's estimation there are altogether 2335 *Guthi* in Nepal, out of which 1107 (47.4%) are within the Kathmandu valley. At the same time, even if the government does not have proper record of *Niji Guthi*, the private *Guthi*, it is estimated that they outnumber the *Rajguthi*; the *Guthi* under state's control.

Guthi, owing to its variant, is considered to be one of the most

complicated forms of land tenure arrangement in Nepal.

In addition to Institutional Guthi (*Raj Guthi*), the major categories of which include *Guthi Raitan Nambari*, *Guthi Adhinasta*, *Guthi Tainathi* and *Guthi Nambari*, there are several other forms of Guthi, to name a few are, *Chhut Guthi*, *Duniya Guthi*, *Fakirabad Guthi*, *Ghar Guthi*, *Mamuli Guthi*, *Loha Guthi*, *Gulphul Guthi*, *Khangi Guthi*, *Panch Sarkar Guthi*, *Tin Sarkar Guthi*, *Sana Guth*, *Suna Guthi*, etc. (For Details, See, Regmi, 1978).

Table 3: Distribution of Guthi land under Different Guthi Types

Different categories of Guthi Land	Hectare
Guthi Raitani (Religious endowments owned by the cultivator-tenants)	58,212
Guthi Aninastha (Religious endowments owned by registered tenant and paying the rent in kinds form to trust corporation)	13,880
Tainathi Guthi (Religious endowments owned by Government but given to individuals to use)	1,420
Total	73, 512

Source: Compiled from the Annual Report of Guthi Corporation, 2066 BS

Hence, total of 73.512 ha arable land is still under different Guthi categories. This estimation was of 2009. Tenancy rights of Guthi land is one of the pressing tenure security issues of the country at present, which we have discussed to some extent in the following chapter.

5. *Kipat*, the Customary Tenure and Institution

Peasant communities, indigenous communities, in particular, have established special relationship to the land and territories they inhabit. For them they have a deep spiritual relationship to their land. The land, for them is not merely a possession and means of

production. It is noteworthy that, for many of such indigenous communities, land is not merely a commodity that one can acquire but a 'material element' to be enjoyed freely (ILO, 2009).

ILO convention 169, the Article 13 maintains that the term land shall include 'the concept of territories, which covers the total environment or the areas which the peoples concerned occupy or otherwise use' (ILO, 2009). Similarly, Article 25 of the UN Declaration on the Right of Indigenous Peoples states that 'indigenous peoples have right to maintain and strengthen their distinctive spiritual relationship with their territorially-owned or otherwise occupied and used lands, territories, water and coastal areas and other resources and to uphold their responsibilities to future generations in this regard'. Therefore, as has been argued elsewhere (Wilmsen, 1989), the relations of indigenous people to land cannot be understood only in a normative, rule-centered, functionally specific terms. These issues have not been discussed adequately yet, even at present where discourses on land reform are gaining momentum.

The customary institutions and rules regulate the customary tenure. Customary institutions may be defined as the sub-systems, which determine and shape the forms of social relationships and interactions among the members of a society. Customary social institutions are those practiced and innovated by the societies and cultural groups themselves, without any outside intervention. Customary institutions may also be known as traditional social institutions. 'Most of the shifting cultivators are enjoying their land rights generated through customary tenure. This continued and to some extent still exists even where demographic pressure has reached critical proportions, exceeding carrying capacity of the land. One of the major criteria of land allocation used to be the lineage or clan, so that a clan domain maintains a steady pool of land and to control any influx of strangers, outsiders, i.e. non-kinsmen. Such a corporate land rights that lineage members have in common guard against alienation of land to outsiders. This is almost universal for the indigenous communities where membership in given lineages or clans is still the major criterion

for allocation of land (cf. Archie Mafeje, 1971).

As Regmi (1978) explained that the Hindu state incorporated other comparatively autonomous ‘peasantry’ systems under the domain of the state taxation (Regmi, 1978). Land which were not arable and not good for grain production and that could not be taxed were not recognized as ‘land’, therefore, shifting cultivation plots remained unrecognized as land, after the Land Reform of 1964. In the course, customary tenure is also remained unrecognized and are gradually collapsing.

The table below presents the differences between two major types of tenure types.

Table 4 : Differences between Customary and State’s Legal Tenure Types

Customary Institutional Tenure	State’s Legal Tenure
<ul style="list-style-type: none"> • Manage by society • Allocate to different people by the community (both individual and cultural ownership) • Ownership is created /made possible through cultural, ritual and social process • Ownership from both economic and cultural, social aspects • Transmitted from one generation to the next 	<ul style="list-style-type: none"> • Land ultimately owned by the state • Individual ownership on economic basis only • Lacking cultural and social ownership • Influenced by development and modernization under the leadership of the state. • Hereditary transfer granted

Kipat is a form of communal land tenure, prevalent among some ethnic groups, for example *Limbus* of *Pallo Kirat*, *Rais* of *Majh Kirat* and *Danuwar*, *Sunuwar*, and *Tamang* mostly living in the eastern and western hills of Nepal. This was legally abolished in 1966 AD.

The right to use the *Kipat* land was vested in the members of the *Kipat*-owning ethnic group. It was the land over which the state had no authority; and only members of the particular community could use it through their traditional rules. Hence, *Kipat* was a type of community ownership on the land under which certain groups used to control it jointly and state had no authority. The

land initially could not be sold or purchased, but its use right was given to a member of that group, and in some cases a member of other groups, as well. This is also known as a case of customary land tenure system.

Even though *Kipat* was formally abolished in 1960s, the remnant of *Kipat* can still be found. The local claims of tenure rights, not necessarily of the old form but in the form of collective/communal tenure rights, are being demanded in the recent years. This is discussed in the following chapter in detail.

6. Government Land, *Sarkari Jamin*

Government land is a broader category of those lands, which are owned by the state or are under the state control; not owned by an individual or private institutions.

The Land Act of Nepal defines Government land as the land under the control of Nepal government, namely, forest, river, streams, roads, lakes, ponds, Ailani land, Parti land, etc. Often government land and public land is treated under the similar category.

However there is a clear distinction between two. A government land is maintained and protected by the government where as public land is maintained and utilized by the communities.

Such government land may or may not be registered. For example, land registered in the name of government offices and institutions is one category of government land while large trenches of government land like rivers, lakes, forests etc are unregistered.

7. Public Land

According to Nepal government's definition public land is the land that is maintained and utilized traditionally by the community for the public purpose. At times, public lands are used

interchangeably with the government land or the community land. For example, land occupied by *Ghat/Chihan*, the cremation sites, burials sites or graveyards; *Pati, pauwa, dewal*, that is traditional resting places, shrines, temples, etc., and space allocated/used for *haat/mela*, i.e. weekly village market/festivals, are examples of public land. Similarly, *Chaur*, the open space for public purpose, as a playing ground, or for grazing; water sources used by community like well, ponds, water holes, sprouts, village trails, etc. are considered as public land.

Similarly, while forest is generally considered as government land, *deutako ban* or the religions forest not specifically under a Guthi is supposed to be public land.

The tenure types discussed so far reflected the land tenure system practiced in Nepal, some of which are already abolished but their residual effects are still influencing the land to person/community relations. The tenure arrangements we discussed were based on the land ownership. In the following paragraphs, we discuss the tenure typology based on the cultivation contract.

8. Community Forestry

Community forestry is considered as one of the most successful and emergent participatory approaches for forest management since late 1970s. According to estimation about 850,000 hectares forests of Nepal have already been handed over to eleven thousand forest user groups, mostly in mid-hills. (<http://www.fao.org/docrep/Article/WFC/XII0036-A1.HTM>).

The Community Forestry Act 1993 granted bundles of rights to the local community not only to protect and manage the forest but also to collectively harvest the forest resources. Local community also utilizes the land under the crown coverage of the forest by cultivating herbs, cardamom, legumes, and selected crops. This has not only established a system to protection and management of the forest but has also indicated that local communities are

able enough to manage and utilize the resources collectively if the authority is delegated. This could be one of the learning grounds even for the collective ownership of the land with certain degree of use rights.

9. Leasehold Forestry Program

Leasehold Forestry Program (LFP) in Nepal was introduced in 1993 with twin objectives of poverty alleviation and improving ecological condition of the hills. Under this approach, degradable forest is leased out for 40 years to the household identified as poor. Provided the outcome is satisfactory, such lease contract can be extended to another 40 years.

Despite the fact that LFP handed over the degraded forest land to the poor households, that was one of the available options to secure tenure through 40 years lease.

These two forms of emergent tenure types, community forestry and leasehold forestry program can be an experience based learning with regard to designing and implementing collective leasing out of the available land with secured use rights

10. Informal Tenure

Informal tenure is defined as a tenure type that is socially recognized but may or may not have legal basis, therefore, has remained unregistered.

As we argued earlier, yet another tenure category referred as ‘non-formal’ tenure is also in practice, which is a tenure category with social recognition and some legal basis or recognition. Having ‘social recognition’ as a common denominator, we treated both the categories under the single informal category; and, both the categories have non-statutory status.

In some cases, ‘encroachment’ is also considered as one of the non-statutory but a distinct tenure category (for example, see Joshi, Chhatkuli, Pandey & Dev 2017); however, our field observations showed that this is a highly contested categorization and the politics of dominant group matters most in such cases. Often, the dominant groups define the ‘encroachers’ and their refusal to recognize the settlers lead to the displacement of the families from a particular place, thus threatening their tenure rights even if they had been living there for generations. In case of any encroachment in real sense, then it cannot be treated as a tenure category. The informal settlers we discussed with during the fieldwork shared their concerns that if they are not entitled to the land they are occupying, they are willing to be relocated in a new place but with a formal tenure security.

We have categorized the informal tenure as illustrated in the following table (Table 5), which contests with the ideas of non-formal as a distinct category.

Table 5: The Variants of Informal Tenure in Nepal

Informal Tenure	
Socially recognized and has some legal basis (also termed as non-formal in some cases) Jhora, Bahal Bithauri, Gaaun Block, Swabasi, Benissawal, Ukhada, Ankada, Chhut Dartar, etc.	Socially recognized but not have legal basis Bagar, Parti, Ailani, Abyabasthi Basobas, Bedartawal mohi, Napi Chhut

The above table (Table 5) illustrated that informal tenure category can broadly be grouped into two according to the legal and social basis they hold.

This is one of the complicated forms of land tenure typology in our context. Land that is not surveyed, and titled is informal tenure. However, the terms like ‘informal’ and ‘socially recognized’ are contested and bear contextual meanings. That is why, at sometimes, this become a complicated issue.

As we can see, the several tenure types under this category have already been discussed under other tenure category in the preceding paragraphs. This means, the ‘informality’ of any particular type also depends on local context. For example, in some cases, people occupying ‘public land’ are well received by the neighboring communities, local government and other stakeholders; whereas, in some other cases, people in a similar situation, are seen as ‘encroachers’, therefore, subjected to removal from that particular land.

Be they, *Bedartawal Mohi*, the unregistered tenants or *Naapi Chhut*, left out in during the survey, all have the similar context, for one there is a social recognition and where as for others, there is no such social recognition. Legal basis, however, can also be created if it has social recognition. Therefore, tenure security has not been determined by the kind of land they are inhabiting, but those who are living there. Therefore, it easily enters into the debate of political and power issues. Leaving exceptional cases, marginal and resource-poor families come under such category. For their own safety, they tend to ensure their ‘rights’ by expanding their network with the political parties and the leaders, and those who fail to do so may become easy ‘prey’ of the State.

We presented the land registration process in the proceeding chapter. Following the process as well as creating some new provisions, such informal tenure can be converted into the formal category. At the most, some settlements have to be relocated in safer places.

In this chapter, we portrayed a general picture of different types land tenures practiced in the country. As explained, some of these practices have already been abolished in recent decades. The remnants of those practices, particularly of the customary tenure, can still be seen though they do not have formal legal basis.

A graphic for Chapter 05. It features a large white number '05' inside a thin white circle. Above the circle is a white curved banner with the word 'CHAPTER' in red capital letters.

CHAPTER 05

Locally Present Tenure Types and Tenure Institutions

Evidence-based Claims and
Complexities from the Field

In the preceding chapter we described key tenure types existing in the country Nepal. Some of them were prominent and common across the country, where as some of them remain only as remnants of the past. In this chapter we present some general and a few unique cases of locally present tenure types based on the primary information collected from the field.

1. Customary Tenure and Emerging Issue

We present two cases of customary tenure and institutions. One is from Chepangs of central Nepal and another one from Limbus of the eastern hills of Nepal. We observe that people belonging to the concerned community are trying to reestablish their ‘customarily’ granted right over the land and other natural resources; and, are trying to link their ‘claim’ to the larger political discourses of ‘identity’ and ‘indigenous peoples’ rights’. These are seemingly emerging as complex cases.

1.1. Chepangs and Customary Tenure

The Chepang is an ethnic minority and an indigenous Tibeto-

Burman speaking people mainly inhabiting the rugged ridges of the Mahabharat mountain range of central Nepal. Due to weaknesses in land governance, several cases are reported where people do not have legal or formal recognition of the land tenure but has social recognition and possess some sort of legal basis. One case comes from Chepangs of Gorkha district where they are granted tenure rights of a Chiuri tree; but not of the land they are tilling since generations. Similar practice exists among Chepangs in neighboring Makwanpur, Dhading and Chitwan districts as well.

The following picture shows the formal granting by the government of the tenure rights to use the Chiuri tree as evidence of their relation to land they are living since long.

Tenure of A Tree in Chepang Communities

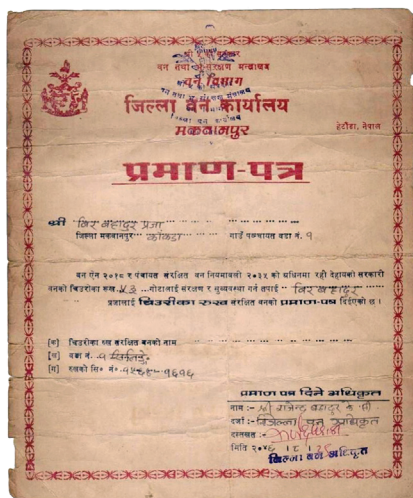


Figure 5: Tenure of a Tree in Chepang Communities

This certificate clearly mentions that the right is granted to use and conserve the *Chiuri* tree, in *Khoirya* land, excluded in the cadastral survey and therefore not registered. Recently, the

Chepangs are demanding the similar rights over the land, they claim as their ancestral land.

Most of the Chepangs of that region practice shifting cultivation called “khoriya”, and heavily depend upon hunting and gathering for their livelihood. Land they cultivate may or may not have private ownership but the customary law regulates land use: a shared rule, norms, values, practices that regulates the land use and cultivation. They never cultivate or use the land arbitrarily; rather they are regulated by the socially accepted ‘rules’. Hunting-gathering, a unique livelihood mode also give basis for the tenure. Hence, in a broader category, these can also be recognized as informal tenure

For example, the following figure illustrates how the customary institutions traditionally regulated the tenure among Chepang people. This system is no more functional as this has lost all legal recognition; however, community recognition of the system is still evident. Past practices of such customary land tenure is invoked though collective memories.

Table 6: Sherma and Institution governing Land Taxation among Chepang

Position	Functions
Jimmuwal	Village headman, responsible to collect the land tax Sherma. Give permission to do Khoriya to particular families on particular land plots.
Mukhiya	Go to the district headquarters to submit the Sherma the Jimmuwal has collected from his village. For this, Mukhiya gets one day free labor service and some farm products from the Khoirya, the shifting cultivators.
Gaurung	Supports to Jimmawal and Mukhiya in various activities
Karbare	Deliver message, command, orders as received from Jimmuwal and Mukhiya.
Dware/Majar	Helps in collecting Sherma from individual households of cultivators, provide security to Jimmuwal and Mukhiya.

1.2. Limbus and Kipat

Similar institutional mechanism was found among the Limbus of the eastern hills. Shubhangi system among the Limbus of eastern hills of Nepal, which is collectively known as Limbuwan, regulates the customary tenure called *Kipat*. *Kipat* is a communal land tenure system. Those who wanted to lease in the land for the shifting cultivation had to pay the tax to the Subba, who later used to transfer that tax to the government.

Kipat system was formally abolished in 1966, following the provision of Land Reform Act of 1964. During our fieldwork in Panchthar, we interviewed several Limbus who still think that Kipat system exists in one or another form. According to them, when Kipat was abolished in 1960s, by turning Kipat land to the Raikar land, with the approval of Subbas land which was cultivable and productive was transferred to Raikar i.e. from communal to private ownership; but land which was not cultivable and was not transferred to the Raikar land is still considered as Kipat land and practically under the same old jurisdiction of Subbas. They claim that while it is not practical for the land converted into Raikar land to be transferred back to Kipat, the remaining land that was not converted into Raikar should be recognized as Kipat and the communal land rights granted accordingly.

Several documents archived in the land revenue offices in Panchthar clearly illustrates that all those Kipat land (communal ownership) converted into Raikar (private ownership) has the seal of Subbas, the headmen of Limbus, primarily responsible for communal land management.



Photo: Land registration records achieved in the Land Revenue Office, Panchthar

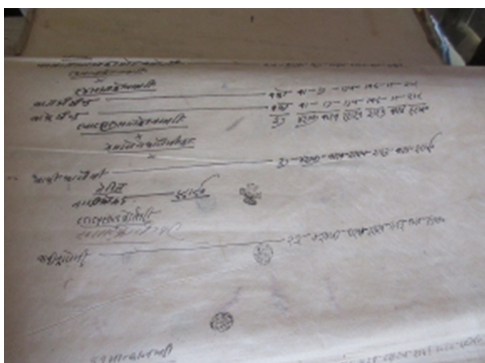


Photo: Land certificate with the seal of Subbas to approve conversion of Kipat into Raikar

Hence, Kipat tenure issue differently resolved in the past has once again emerged in a new form and potentially complicated the tenure issues in some form in the eastern hills. Claiming the same rights, some community even claimed the compensation of those lands from the micro-hydro developer. We were told that development agencies for conservation of the 'protected' Kanchenjunga landscape were not allowed to have their offices in some villages saying that the land actually is traditionally owned by the Kipatias (the Kipat holders) and the government does not have rights to 'grab' their land.

In addition, District Land Revenue Office, Panchthar mentioned that there are about 25 % of total land in Panchthar district

recorded in 7 *number faram* (ie Form Number 7), with no proper survey or measurement of land; but individual owners hold some evidences of the ownership or cultivation. This is yet to be recognized formally and ensure the legal tenure rights of the cultivators. It was understood that as Kipat holders they are claiming their rights on the land to get formal registration as individual property.

2. A Case of Collective Ownership in the Upper Manang

In addition to the cases of Chepangs and Limbus, Gurungs (Manange in colloquial term to distinguish them from Gurungs of other parts; some even write Ghale) of Manang also present peculiar cases of customary tenure as discussed in the following paragraphs.

Manang, a mountain district, presents specific cases of customary tenure, tradition-bound-land use practice and formal ownership of land registered in the name of Sat-gaun or Seven villages consisting of former 7 VDCs of upper Manang.

Upper Manang consisting of 7 villages, formerly 7 VDCs now combined to form Pisang Rural Municipality, still exercises traditional land use practices governed by customary institution.

Land in those 7 villages of upper Manang may not be bought by or sold out to outsiders. All seven villages have same land and resource management practices. For example, if horse, yak or mountain goat enters the villages before a certain date before harvesting their crops, the owner of the animal should pay fine to the villagers' committee. Each village employs 8 cattle-herders when the cattle are sent to grazing areas for certain months of the year. Each village has their own grazing land, not formally registered but socially perceived and recognized.

All villagers should harvest the buckwheat, the major staple of the region, in the same day. Their customs regulate all the agricultural related activities in the region.

Even the privately owned land cannot be used as per personal decisions. For example, the land owners in the prime location in the main tourist trail cannot build any construction which could fetch them good earning because this area lies in the course of the annual horse-race event which is one of the major cultural performances of the village.

Different to the legally established practice of electing the VDC or now the Rural Municipality, as a customary practice, an annual village assembly is called, locally known as *Chong-pa*, where a local council of village representatives is elected. Each village has one representative in the council who is called a *Panch-Chongba* and from among them a main village head *Dakp-Serba* is elected. This village assembly fixes the rules regarding grazing, harvesting, and other resource and land related matters for the year to follow. The day is also marked with horse race and archery, a traditional sport of highlanders.

If someone from the village wants to buy or use the land, he has to attend in the court of *Dakp-Serba*, the traditional village headman with political authority and request to him with an offer of *Chhyang-pung*, a locally prepared beer, supposed to be ritually pure. *Dakp-Serba* decides whether to allow or not to allow that person to settle in or use the requested land area. There was a survey in 1990s, which approved the land ownership granted by the traditional system, although they did not have any legal evidence to prove as all agreements used to be verbal.

The elected representatives of local government (then VDC or now Rural Municipality) do coordinate with the traditional leaders and accept the customary rules. *Dakp-Serba* is elected for one year, usually following the age of the person in such a way that the eldest among them is elected as *Dakp-Serba*, who cannot repeat for the next year, and the next eldest is elected in the following year.

Those 7 villages of upper Manang lie in an arid place and as such non or very little crops can be grown and they face food deficit every year. To get rid of such crisis, the village head, *Dakp-Serba* of the 7 villages, following the same principle of customary practices, approached *Dakp-Serba* of Pisang village to grant land in the lower Manang for crop production under his jurisdiction. Accepting *Chyang-pung* of these *Dakp-Serbas* of seven villages, he allowed to have relatively better land of his village which was later approved by the government's survey team and issued land title, the *lal-purja* or land registration certificate of around 800 *ropanis* of land in the name of the Satgaou (seven villages). Now a family from upper Mustang rents the land for apple farming which the farm owner claims to be one of large intensive apple farming in Asia. The land is leased out for 27 years with an annual rent of 5.7 million Nepalese rupees, and it was told that earning goes to Manag-Marsyangdi Club, a leading football club in Kathmandu owned by the people of upper Manang. Hence, this is considered to be a positive-deviant case in the history of formal land tenure; legal yet unique.

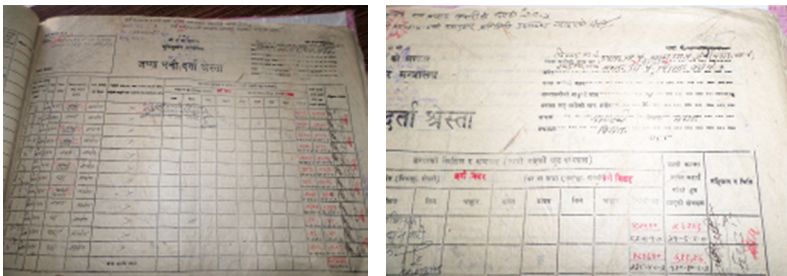


Photo: Lal-purja, the land registration certificate issued in the name of 7 villages.

Manang has the unique communal land tenure typology that still exists in the high mountains of Nepal. There also exist the *kharka* (traditional animal grazing and seasonal pasture in certain villages in *Upallo* (Northern) Manang and Mustang but also few other Mountain districts of Nepal.

3. Informal Tenure and the issues of landless and squatters

Morang and Jhapa of eastern Terai district are known for *Jhoda fadani*, or forest clearance, allowed by government formally to clear the forest and settle in the areas. This was for two purposes, firstly the state could earn from selling the timber and also levy the cultivators in the new land and secondly it was intended to encourage migration from hill-to- more fertile terai for agriculture.

Two sites, Laxmi-dhhap in Sanischare of Jhapa and Pathari of Morang have similar issues of tenure rights. Some of them came there as early as 1950s, cleared the forest, inhabited the place, turned a forestland into a cultivable land, expecting that government would recognize their tenure and formalize by giving the land registration certificate. Decades passed by, but only those who had political connection to the people in the government could formalize their tenure; rest are still deprived of their formal tenure rights.

In each election, leaders of every political party promise them that they would give legal recognition to their ownership of the land they have been living for years. But each time they are forgotten. Government officials we talked to said that they do not have authority and right policy instructions to formalize their tenure rights. Hence, they are living with tenure insecurity for years.

Interestingly, such lands are being bought and sold with the mutually agreed locally signed deeds out of formal registry.



Photo: mutually agreed deed of land transaction

On the other hand, further south in Morang, Kadmaha-1, Luhatole, several families of Mushahar Terai *Dalits* are living by the side of village trails without secured tenure. They used to work for the landlords as bonded agriculture laborers and the landlords allowed them to live at the margin of their farm along the village corridor. They thought that the landlords gave their own land for them to settle and were thankful to their generosity. But, later they realized that half of the land they were occupying was public land. However, there was no one to tell them not to settle there. Lived there for years, when they applied for the formal land registration to secure their tenure rights they came to realize that it was not possible. Government officials mention, no matter how long they have been living there, the land cannot be registered in their names.

Informants and also government officials confirmed that such issues were the major land issues in the districts relating to the tenure security.

4. *Guthi* Land: A Complex Case to be Resolved

Guthi, a specific form of land tenure had several merits. This is one of the unique traditions of the country, where a trust (usually of temples for religious purpose, etc.) owns land and different tenants cultivate the land. However, the meaning and essence of *Guthi* have been deteriorated and hold a little meaning nowadays.

While there are many tenants of *Guthi* land registered as such there are several case of non-registration. Those tenants who have been tilling the land since generation are still devoid from their rights neither they are registered and recognized as tenants, nor they are assured of any additional benefits for their service. Often indebted families turned out to be tenants to the landlords.

Discussions in the field (e.g. Dailekh, Rasuwa and Mahottari) with the *Guthi* tenants demanded that the government should take an immediate action considering their problems. However, problems are of varied nature and virtually not possible to resolve with a single solution.

For example, in Dailekh, tenants claimed that they want their share to be allocated and provide the ownership certificate. Some of them have not paid the rent to the temple following a conflict with the priest during the Maoist insurgency period (1996-2006). They claimed that if their full ownership of the land were granted, they'd be willing to support a mechanism to run the temples and regular rituals.

In Rasuwa, the current tenants are claiming that the entire land they are tilling should be transferred to them, as the present *Guthi* land was their private land, which was later registered as *Guthiland* in the government record. For them, *Guthi* as such should be abolished and all the ownership rights should be granted to them.

Tenants of the then Haku VDC claimed that the land is owned by Soyambhu Ghyang Guthi; however, they are ‘Guthi Raitan Nambari’, according to provision, they submit the land revenue in cash to the VDC and they have proofs of this. Their current demand is they should be recognized as full owner of the land, but not as tenants of a particular Guthi.

In Mahottari the tenants are unrecognized. Some middlemen claim to be tenants as per the official record who sub-contract the land to the tillers who are cultivating the land for years. The tillers demand that they should be recognized as the formal tenants of the Guthi.

There is apparently a lack of updated information on the status of the Guthi land, revenues generated from them, and information of their tenants. The local people who participated in the discussion during the fieldwork argued that the Guthi should be owned and operated by the community but not by particular families.

General agreement of local people upon discussions was that the tenants’ ownership rights of the Guthi land have to be ensured; and that should not hinder the cultural practices and processes of the community. Even if the tenants are granted the formal tenure rights there should be a ceiling imposed such that no single tenant can hold unlimited amount of land. Currently, there is no legal provision to transfer Guthi land to individual tenants.

5. Birta Still Haunts

Birta system was said to have abolished in 1959 AD. But, holding of large areas of land converting them to *Raikar* made *Birta* owners more secure than before resulting into strengthening the status quo due to the lapse from the part of Government to physically control such land. More over, in some cases, for example in Nuwakot and Rasuwa, several individuals having access to political power in Kathmandu transferred Birta land

to private ownership. The tenants still continue tilling the land, but some body else claimed their ownership over the land. Local people shared the experience that someone from Kathmandu went to claim their land, but could not locate the land, as they never had been there before. According to some estimates there are 1500 families in Nuwakot and 718 families in Rasuwa who are cultivating such land. Since there is no genuine landowner who could claim the rent, the tenants are not paying any levy or tax to anyone so far. Their only demand is the land was originally their own, which was later granted to someone as Birta. Following the abolition of Birta, the land instead of naturally being transferred to the cultivators' ownership, got transferred into some of their own names through deceitful acts. Such "landowners" were neither native to the place nor dared to visit once. Therefore, the tenants claim that the land should be transferred to their full ownership. Till now, neither they can formally transfer the land under any transaction including selling of land, nor they can mortgage the land for loan purpose or can receive any agricultural grants as they do not have full ownership of the land which they have been cultivating from time immemorial.

A graphic for Chapter 06. It features a large white number '06' inside a thin white circle. Above the circle is a white curved banner with the word 'CHAPTER' in purple capital letters.

CHAPTER 06

Conclusions and Recommendations

This chapter concludes by offering some policy as well as program related recommendations. Following a brief summary it highlights major issues and concerns of the study based on the primary information and observations from the field.

1. Conclusion

Land tenure system in Nepal has its own historical context and complexities. There are three broad categories based on ownership, while multiple types exist based on farming contracts.

Various traditional system including Raikar, Birta, Jagir, Guthi were the types that existed even before the ‘unification’ of Nepal (1876). Once the state began to control the land and other natural resources, the tenure issues became more complicated. Now, the question of tenure security has appeared as one of the major land issues in Nepal. Existing tenure categories include, formal, informal (including non-formal) and customary tenures in Nepal. There are some emergent tenure arrangements in the recent years in the form of community forestry and leasehold forestry. Land-leasing was a common practice for long, which recently has been regulated by policies.

Field study revealed that many communities and families are suffering from tenure insecurity of the land they have been living and cultivating for generations. Cases of tenants of Guthi, informal settlers, and other forms of unregistered tenants are even complicated. Hence the issues relating to tenure insecurity are of varied nature. The existing land policies and administration system are not adequate enough to resolve all those various kinds of tenure related complications.

While talking about the tenure security in Nepal, it has to be examined from a historical perspective. Nepal has experienced a unique evolution of land tenure system. The transformation of tenure system followed the state making process. State landlordism was dominant and state distributed the land to different communities and families to serve its economic and political needs. Unregistered, land not covered by government survey, socially recognized and perceived tenure, and customary tenure turned to be informal. Thus, the major land issues now have been the issue of tenure security, especially of those, which are now considered as informal, non-statutory and unregistered.

Communal land tenure system – extralegal ownership rights and cultural social institutions are the bases of land tenure amongst many indigenous groups. They are not prominent in practice now, and in most of the cases, survive in the memory of people; but some activists of the concerned communities are trying to revoke and revive the traditional practices. Such cases are not to be overlooked by the national land policy.

Institutions related to customary tenure seem to be in threat due to a) lack of proper documentation, b) state's legal intervention, and c) change in livelihood options

If the issues are not properly taken care, the tenure rights of many of the indigenous groups will never be realized.

Unless plural forms of land tenure systems are not recognized by the State's legal system, land tenure related issues of the country

remain unresolved. Following the continuum principle, tenure security of such diverse tenure arrangement can be possible.

The Social Tenure Domain Model (STDM) could close this gap and can be instrumental in securing the tenure following the continuum principle. STDM allows for the recordation of all possible types of tenures; STDM enables to show what can be observed on the ground in terms of tenure as agreed within local communities.

In addition, if the policy is well informed by and drafted in accordance to the global development agenda, land tenure arrangements and practices and adopting multiple appropriate tools (for example, SDG, VGGT, GLTN, etc.), many issues of land tenure security can be resolved.

2. Recommendations

In this chapter, based on our review and observations, we make some policy and programmatic recommendations. These recommendations relate to secure tenure rights specifically of the unregistered tenants preferably following the continuum principle. These recommendations are considered to be practical, doable and achievable.

Recommendations are grouped into two broader categories: policy recommendations and in program recommendations.

Policy Recommendations

1. Nepal needs a comprehensive new “Land Policy” that not only focuses on the issues as economic aspects of land but also promotes the socio-cultural and protects tenure and the customary practices that still exist in the country.
2. Based on the new Constitution of Nepal promulgated in 2015, Nepal Government needs to provide more rights,

supporting rules and regulations; and opportunities to local and provincial bodies to formulate and implement locally fit policies and program related to land, its use and tenure systems. This has to be realized that one size does not fit for all. Local government should be enabled and capacitated to exercise their rights fully.

3. There is an urgent need of recognition of not only the formal tenants and land holdings types and ownerships; but also the customary tenure practices and other forms of unregistered tenants.
4. There is a need of more ethnographic and qualitative research to explore and reveal the locally existing practices tenure system hitherto unrecognized and unregistered in order to inform policy-making process. Such studies need to be carried out in collaboration with the federal and the local governments.
5. As elsewhere, issues associated with “land tenure” have their roots in the political economy in Nepal as well. Hence, they can properly be addressed within the macro political economic framework as the process has started with the 2015 Constitution. However, its realistic implementation is contingent upon the mobilization of the “primary stakeholders” (i.e. land-poor and small farmers) by the CSOs and the effectiveness of the role of organizations of the “primary stakeholders” themselves for influencing the policy-makers and law makers for crafting appropriate policies and enacting laws to address the multi-faceted aspects of the “land tenure” in the context of the new federal structure, which is in the process of maturation.
6. Recognizing global practices and adopting appropriate tools in order to secure land tenure in the context of diverse land tenure arrangements existing in the country is must; and tenure security following the continuum principle should be considered.

Programmatic Recommendations

1. For those INGOs and donor agencies who are willing to support tenure security, technical backstopping to Nepal government, NGOs and local communities need to work together for planning and developing locally-fit projects based on need and interest of local people.
2. Right activists and NGOs need to conduct more evidence based research and policy advocacy works to pressurize the Government on land right and tenure security issues.
3. Organizing and working with local communities, and linking local to national stakeholders are crucial in policy advocacy and decision-making process.
4. Land use and livelihood security need to be linked with land rights and the question of production and consumption.
5. Required human resources should be trained and capacitated to carry out the STDM related activities.

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Annexes

Annex 1: Focus Group Discussion and Key Informant Interview Checklist

The following open questions and probes will be asked to key informant OR most/all of the FGD participants:

1. Land Ownership

1.1. What is the ownership status of your land?

Possible responses:

- *owned*
- *rented*
- *Tenanted*
- *Guthi (Nepal)*
- *used for free*
- *public land/informal settler*

1.2 What is the estimated size of your land?

Possible responses:

(Bgaha, katha, dhur (in Terai) or Ropani (in the hills))

2. Sources of income and livelihood

2.1 What is the primary source of income in your household? (On-farm, Off-farm, Non-farm)

If your primary source of income is on-farm or off-farm, what is the status of employment of your primary source of income?

Possible responses:

- *permanent*
- *temporary*
- *casual*
- *contractual*
- *seasonal/occasional*
- *self-employed*

2.2. How frequent do you receive your income? (possible responses: daily, monthly, every harvest, etc.)

2.3 What is the secondary source of income in your household (if any)? (On-farm, Off-farm, Non-farm)

3. Tenure status of lands

In this community, what is the average size of land/area being owned?

3.1 What is your tenure status? (Note: Provide choices that follows the same pattern used for the categories identified in the country's land tenure continuum.)

Possible responses:

- *Public land tiller*
- *Sharecropper*
- *Guthi land tiller*
- *Tenancy*
- *Smallholder*

3.2 What tenurial instrument do you have? formal or informal

Possible responses:

- *Land title*
- *Deed of mortgage/sale*
- *Certificate of Land Ownership Award*
- *Leasehold contract*
- *Tenancy certificates*
- *Local government recommendation letter*
- *Share tenancy contract*
- *Stewardship award/contract*
- *Legal proof of local government*
- *None*

- 3.2.1. Do you presently feel that you have security of tenure over your land? Why or why not?**
- 3.2.2. Are there any other new/unique types of land ownership and tenureship?**

4. Community issues related to land and tenure

- 4.1 What do you consider as the major problems related to land and tenure affecting your community at present? Explain.**
- 4.2 Do you have any suggestions to solve these problems? Please state clearly.**

