

## **CONTENTIONS AND PROSPECTS OF LAND REFORM IN NEPAL: A HISTORICAL REVIEW**

Jagannath Adhikari\*

### **ABSTRACT**

This paper traces how the government policies on land rights have evolved over recent decades in Nepal and analyses the roles of existing power relations and vested interests in shaping their development and implementation. It is shown that historically entrenched power relations existing in the patrimonial political system have led to a highly unequal distribution of land. Ways to reduce inequality in land ownership to provide access to land for real farmers are essential, but due to these same entrenched power relations, they have not been implemented in earnest and land reforms over the last few decades have been unsuccessful. As a result, the same types of pre-capitalist social relations have persisted in rural areas. These relations have not been able to generate an agrarian surplus that can be invested in agriculture or other sectors of the economy. Furthermore, the concept of 'property rights' in relation to land has created a new problem in agrarian development in recent years, by fostering an environment in which people invest in land not to increase production but for speculation. As a result, it has become extremely difficult for poor people to purchase land to have a housing lot or for farming.

The present democratic politics and institutions in the post 2006 context have still not shown any capacity or the interest to address the issue of land. Accordingly, the prospects for change at the moment seem bleak even though the rhetoric has increased. Moreover, the changed context calls for a new concept of land reform. This would take into account changes in the agrarian structure and an agrarian economy where mobility is high and injection of cash from outside the country has increased. It is finally argued that successful land reform should be led by grassroots political movements, with limited external intervention.

**Key words:** land reform; poverty; social inclusion; agricultural development; social justice

### **INTRODUCTION**

Land reform, particularly redistributive land reform, has been a politically charged issue in Nepal. One of the reasons is that land has become private property and it was made so to enhance the capitalist

development in agriculture. Here capitalist development means the generation of surplus while keeping the natural assets like land, forest, and water in conserved form. This surplus is necessary to invest in this sector or other sectors to absorb the growing labour force so that the agricultural

\* The Australian National University, Canberra, Australia. Email: [jagannath.adhikari@gmail.com](mailto:jagannath.adhikari@gmail.com).

©Jagannath Adhikari, 2011

sector remains free from the pressure of an increased population. This is required to increase, or at least not reduce, the returns to labour in the agricultural sector. But the pre-capitalist nature of social relations in rural areas has continued together with a skewed distribution of power, which has been concentrated in a few hands. As a result, land distribution has remained skewed. While a large majority of peasants depend on land, they derive only a small portion of land's produce as they have to pay a large rent – in kind, cash or both. Moreover, returns to labour have been decreasing in the agricultural sector in general because of disguised unemployment in this sector. However, in recent times, there has been an outflow of labour from farming to the non-farming sector, especially foreign labour employment. This is also one of the results of low returns to labour in farming in Nepal. Lack of appropriate technological innovation and adoption is another reason for the sorry state of the farm sector.

The importance of land reform was realized after the downfall of the Rana regime in 1950 in order to improve lives of the majority of people, who were dependent on land. These people did not have access to land as it was based primarily on inheritance system. This is so even today. For example, 87 percent of farm households in Nepal obtain ownership of land through inheritance of their parental property (CBS et al., 2006). Because of access to land through inheritance, the skewed nature of

land distribution has remained until now<sup>1</sup>. Government activities such as the land reform, or even the market mechanism, have not been able to distribute land to poor households and to those who need land for farming. This clearly indicates the failure of planned redistribution programmes of the past (Ghimire, 1992). The question might arise as to whether land reform means distributing land to all households that are poor. The type of distribution depends on the definition of 'land reform' espoused by the policy makers. It also depends upon the specific context of the society. Generally, however, land reform means providing access to farmland for people who depend on farming, and shelter to people who depend on non-agricultural work for their livelihood. On the question of access there are controversies as to whether it means 'ownership' or use rights. Radical land reform would generally argue for access to land with ownership. But again, this depends on consensus among different stakeholders including landless people.

The Nepali state was responsible for transforming the previous community-owned land ownership to *raikar* land. This process was started in the eighteenth century. Under this system of land ownership, state land is owned under private and individual ownership. *Raikar* land could be transferred to the next generation or sold by its owner. In the traditional form of community-based land ownership (e.g. *kipat*), only those wanting to farm were

<sup>1</sup> For example, as of 2001 census, the poorest 20 percent of households control about 2.5 % of the land and the 3 percent of large landowning households control 17.3 percent of the land (CBS, 2006). About 10.1 percent of the households are considered landless (0-0.1 ha), 23.6 percent marginal farmers (0.1-0.3 ha), 22.9 percent small farmer (0.3-0.5 ha), 39.9 percent medium farmer (0.5 – 3 ha), 3.3 percent large farmers (3.0 –10.0 ha) and 0.1 percent extra large farmers (> 10 ha) (Land Reform Commission Report, 2009).

allocated land based on their need. Land was not meant for sale or purchase, but for the production of food. The other land was under different grant systems, but mainly *birta*<sup>2</sup> (Regmi, 1976). In 1959, the Birta Abolition Act was introduced by the government after a long delay because of resistance from the king and landlords. In 1964, the *kipat* system, which was more common in the east, was abolished. *Kipat* land was brought under state ownership and renamed as *raikar*. All other tenurial forms of land were derived from *raikar* (Regmi, 1976). In the past (pre-1950) the tenancy of *raikar* land had two categories, i.e., the actual tenant-cultivators and the tenant-owner. The latter category of tenants were those who paid rent to the state, but who could sell or bequeath their *raikar* land whereas the former category (the tenant-cultivators) had no right to sell, sublet or otherwise alienate the land. The tenant-owners were like manors in medieval Britain. The government gave grants of its land (i.e. *raikar* land) to people in different forms. These grants were: *birta*, *jagir* and *guthi*, *rajya*, and *sera*. These grants were given mainly to people linked to the ruling class. Land was distributed to them in order to secure their loyalty to the regime of the Ranas, and until the late 1980s, to safeguard the *panchayat* system. By 1952, about 36 percent of the state farm land was in the form of *birta*. The Ranas and their kin obtained the larger part of it. Considering

other types of grants like *rajya* and *sera*, granted lands could constitute up to 48 percent. The other half, which was under *raikar*, was also mainly owned by Ranas and village revenue functionaries (Gill 2009, p.218). There was also a system under which people were allowed to cultivate land in return for services rendered to the state officials or for providing various goods and commodities to be consumed by state officials. The land so provided was called *rakam*. For example, in mountain region of central Nepal, Tamangs were provided with *rakam* land on the condition that they provide to the ruling people milk and ghee.

Attempts to change the land ownership structure were made after the political changes in 1950, when the autocratic Rana government fell. These attempts were marred by vested interest of the political leaders, who came mainly from landed backgrounds. These leaders had to protect their land and also needed to attract people by adopting the slogan of land distribution. For example, average land holding of Members of Parliament in mid 1990s was about 9 hectare as against 0.8 hectare of national average (per household) (Adhikari, 2008). These landlord politicians had to protect their land. Therefore, the rhetoric of redistributive land reform has not been translated into practice. Moreover, as discussed below, the present democratic political system and the institutions it has

<sup>2</sup> A *birta* grant was given to a person helping the royal family. Usually the elites and those related to ruling class were the *birta* owners. The land was tax free and could be rented out or, inherited until confiscated or recalled by the state. *Jagir* land holding was given to people for their service to the state or ruling class. *Sera* was a form of land tenure explicitly used by the royal palace to meet the food-grain and other land-related requirements. *Rajya* was another form of land tenure in which former chieftains of various small states had the right to derive revenue from the land. The *guthi* land-tenure system included the endowment of private lands (obtained from the state) by individual landlords for religious purposes or the state land for this purpose.

developed have been incapable of implementing redistributive land reform. The new agrarian changes also suggest this.

Despite changes in agrarian structure brought about by demographic pressure and injection of outside cash income, land reform is still essential. Even though the contribution of the agricultural sector to the GDP has decreased to 32 percent in 2009/2010, for about 60 percent of households across the country, farming is a major source of livelihood. For them land underpins all social, economic and political development of a person and a household. Therefore, access to land also defines one's inclusion (or exclusion) in social, economic and political processes. There has been a plethora of literature on the nexus between land ownership and access to opportunities in the social, political and economic spheres. Lack of access to land is linked to social exclusion. It forces landless poor people (or those cultivating others' land) to accept the unequal relationship with the landlords or the owners of the land. In the past, citizenship (i.e., having citizenship papers) was determined by having a land ownership certificate, and this certificate was required to avail themselves of government services like health and education. Regarding landlessness and social exclusion Sen (2000, pp.13-14) writes:

Landlessness is similarly an instrumental deprivation. A family without land in a peasant society may be deeply handicapped. Of course, given the age-old value system in peasant societies, landlessness can also have constitutive importance in a world that values a family's special relationship with its land; to be without land may seem like being without a

limb of one's own. But whether or not a family attach direct value to its relation with its own land, landlessness can also help to generate economic and social deprivations. Indeed the alienation of land has been – appropriately enough – a much discussed problem in the development literature.

Access to land is also essential to enable the rural poor to have equal access to the opportunities created by the market, like education and skilled non-farm employment. At present, these opportunities are not shared equally by the rural poor as they do not have access to land. Generally, only the landed families get these opportunities. Lack of access to land also means lack of access to credit, which could also have exclusionary effects on poor people.

Land reform, particularly territorial rights, has also featured in popular discourse in Nepal in recent times, especially in the conflict and post-conflict situation. Access to ancestral land for indigenous people is now considered as a cultural right, and people are deriving their identity from the land and the environment. In the search for elements to construct identities, land, or the territory of origin, has represented one important component. The proposed state restructuring process to make Nepal a federal state is also based on the assumption of 'identity' based on land. While land reform takes into consideration the issue of cultural rights of indigenous people on their land, the central aim has been to provide land and other means of production like technology and inputs to the landless farmers. Land reform has generally been a class-based

project rather than a culture-based project. However, land reform policy generally looks into the culture and identities if this does not divert much from class-based approach.

### **POLITICAL ECONOMY OF LAND REFORM POLICIES**

The ideas on land reform, policies of the government and the political economy of these policies and implementation of programmes since the 1950s are discussed here. This will shed light on political changes, power relations and prospects of land reform in the future.

#### **The period of rapid enthusiasm (1950-1960)**

After the downfall of the Rana regime, the concern was mainly with correcting the historical injustice in the distribution of land. The first government formed in 1951 did not have any agenda on land reform because this government still contained five ministers from the Rana family. The Indian government which mediated the transition to the new political system did not enforce any socio-economic agendas including land reform, despite the fact that in India, a programme of land-to-the-tillers was introduced immediately after its independence in 1947. Gill (2009) argues that there were no land reform agendas in the political process, but these were introduced later on in the process of political developments. In this way, the Nepali Congress party, which was in those days influenced by socialism, placed land reform on the political agenda and advocated a principle of 'land-to-the-tillers'. The government aimed to ameliorate the unjust land acquisition by the past rulers by taking

measures to nationalize the forests and forest lands taken by them from the state. In the case of the private ownership of land, it announced measures to secure tenancy rights.

The agenda of land reform was made all the more urgent by incidences of communist influenced peasant revolt, especially in the eastern Tarai (Regmi, 1976, pp.197-8). The Communist Party of Nepal in its early years had organized peasant revolts. Landless and small farmers were motivated to take part in such revolts. The land reform movement introduced by Bhim Datta Pant in far west Nepal, immediately after the fall of the Rana regime, is a case in point. The peasant revolts were widespread in western Nepal and there were incidences of leaders being killed. For example, in 1954 a Tharu peasant was killed in a tenant-farmers' uprising in Dang. Such movements had been continuing and at some point some took a violent turn (Adhikari, 2008). As a result, there was support from western countries, especially from the US government to support land development and land reform to contain communism. In fact, land development programmes like Rapti Dun Rehabilitation implemented in the 1950s and even the malaria eradication programme of that time were supported by USA in order to reduce possibilities of Nepali peasants turning into communist rebels. During this period, land reform programmes included the following: promulgation of a law in 1951 for preparing a list of tenants in Kathmandu Valley; enactment of Land Act, 1957 granting security of tenure to the tenants and fixing the rents at 50 percent of the produce; Birta Abolition Act 1959; and Rapti Valley Development Programme for resettlement. These programmes were largely

unsuccessful. One of the reasons given for the failure was the lack of records and enforcement mechanisms (Reidinger, 1993, p.26), but certainly lack of political commitment was the major reason. Landlords started to evict tenants demanding more rent, and they did not give receipt for the crop share. *Birta* owners used this opportunity to register their land under *raikar* in their name or the name of relatives. Only a few tenants obtained land ownership from this programme. Overall, the programmes designed at this stage were mainly linked to tenurial security rather than land distribution. This was a lost opportunity as some meaningful change could have been brought at this stage as there was plenty of land for redistribution.

#### **Reforms in the period from 1960 to 1990 (panchayat period)**

The Nepali Congress Government that was formed after an election in 1959 was hard pressed to implement a 'radical' (i.e., redistributive) land reform. It had received popular votes mainly because of its 'socialist' inclination as seen by its slogans of land-to-the-tillers and its leader B.P. Koirala's proclamation that he wanted to see each and every family having enough land to produce food and a cow for milk. The government began preparing a redistributive land reform program, which displeased most army officers, who were related to the royal family and also were part of the landed gentry. Accordingly, they conspired with the King to topple the popularly elected government.

The *panchayat* system imposed by King Mahendra in 1961 had to demonstrate some efforts for land reform to attract the popular sentiment for this political system. A major

development in this period was the Land Act 1964. But there were interesting incidences during its formulation from 1961 to 1964. These events show that this programme was also meant to benefit the landlords. This is revealed from a letter written to King Mahendra by Wolf Le dejinsky, a Ford Foundation Advisor who first came to Nepal in January 1962. After conducting field studies about tenancy, particularly in the eastern Tarai, he was given an audience by the King in September 1962, in which he advised fixing the upper ceiling of land ownership and giving tenants security by ensuring that they receive a higher share of the produce. This was also mentioned in the draft of the land reform programme. But when Le dejinsky returned in February 1963, he found the programme not only lagging behind but also redrafted in favour of the landlords. He writes:

What is especially discerning to me is the apparent movement to amend and water down the principal provision of the agreed-upon legislation. I have reference, Your Majesty, to the clause specifying that the landlord is to be entitled to one-third of the crop and the tenant to two-thirds. From my information recently gathered, it appears that an attempt is being made to reverse that decision, to propose now that the crop be shared equally between landlord and tenant. For all practical purpose, this would mean giving legal sanction to the existing situation, without disturbing the customary landlord-tenant relationship. It would also mean that the original purpose of the reform to improve the tenant's condition by first reducing his rent and thereby stimulating a much-needed rise

in agriculture by providing the tenant with an incentive to produce more would not be attained (1977, pp.332-3).

The reasons that were put forward by policy makers regarding the reduction in tenant's share were that the landlords were to pay the increase in land revenue under the new provisions. Therefore, to relieve the burden on landlords, their share from tenancy was increased. Similarly, the ceiling on land ownership meant a double burden on landlords. To this Ledjinsky (1977, p.333) wrote that land tax was reduced to 1 to 6 percent as compared to the 20 to 25 percent of the crop in the past. Therefore, landlords would not have faced any problems.

A lot of discussion about land reform had taken place since 1961, and the period between 1961 to 1964 saw many landlords dividing their excess (to the ceiling) land to members of their families – close and distant. Moreover, the proposed reform was not a retrospective ceiling stipulation, i.e. land ownership at the time of announcement of the programme was not taken into account, but the land ownership at the time of implementation was considered. Under such a system, very little excess land is available as there is time for landlords to adjust their land ownership. This was already known at that time, and Ledjinsky argued that land ceilings would not harm landlords, and that real protection for the tenants should come from land rent, i.e. the share they paid to the landlord. Despite knowing this fact, the government implemented the land reform program under the Land Act 1964 in a phased manner – firstly in 16 districts. This provided a lot of time for the landlords to adjust their land ownership.

Despite these short-comings, the program was implemented. The stated objectives of these reforms were to (a) make the distribution of cultivable land more equitable (b) make improvements in the living conditions of tillers by providing them with the technology and resources necessary to increase production and (c) divert unproductive capital and human resources from land to other sectors of the economy.

The following were the main features of the reforms (Shrestha, 1997):

- Land ceilings were fixed on ownership of land at 17 ha in the Tarai, 4.11 ha in the hills and 2.67 ha in the Kathmandu Valley. All lands in excess of the ceiling were to be acquired by the government for redistribution to the tillers and the landless.
- Tenancy rights were to be granted to all those who had tilled the land as tenants for one main crop season. Ceilings on tenancy holdings were also fixed at 2.67 ha in the Tarai, 1.02 in the hills and 0.51 ha in the Kathmandu Valley.
- The maximum rent payable to land owners was fixed at 50 percent of the annual produce which was later changed to 50 percent of the main crop.
- Planned resettlement programmes were intensified.

Despite the policies and programs adopted and occasional revisions made, the government failed to fully implement the Land Act because of the resistance of the landowners, lack of cooperation between government departments together with a lack of clarity in the administrative and bureaucratic procedures related to its implementation.

The enforcement of land ceilings can hardly be called a success. Ghimire (1992) argues that the good intention of land reforms initiated by the democratically elected government of 1960 was thwarted as the government was overthrown by an alliance of landlords, the army and the monarch. Land reform carried out after the enactment of the Land Reform Act 1964 could only appropriate about 1.5 percent of the surplus land that could otherwise have been appropriated if the implementation was done properly. In the first attempt during the 1970s till mid-1980s, the provision of land ceiling was again enforced as the Land Reform Act 1964 had been active. One could inform the Land Reform Office about the land holdings that the landlords have tried to conceal. At this time, 66,000 ha of land above the ceiling was obtained, of which 34000 ha were distributed (Adhikari, 2008). This land was distributed to poor families, mainly the tenants of this land, but in the name of a male member of the household. The high ceilings of land ownership kept at this time, in fact, favoured landed people.

This act had many negative impacts and adversely affected the landless and tenant farmers. It increased the absenteeism of landowners and the practice of leaving the land fallow. Landlords also stopped investing in land. With no prospects in the non-agricultural sector, whatever surplus was generated was used in the conspicuous consumption of imported commodities and in land speculation in urban areas. The problem of 'dual ownership between landowners and tenants' also arose in land where tenants had obtained rights. In these lands also, the tenants had little interest to invest in land because they were tied with the landlords to the same piece of land. This

'dual ownership' was considered a major factor in the stagnation of the agricultural sector (Adhikari, 2010).

For a long period, the land reform programme remained dormant. In the late 1980s, the government produced a White Paper entitled 'proposal for land reform', which was meant to address the issue of dual ownership. This paper was premised on the notion of 'class co-ordination' and avoidance of class-conflict - a basic principle of the then *panchayat* system. This proposal was intended to abolish the tenancy system by transferring the land from landlords to tenants through tenancy rights. It was proposed that landlords would receive two-thirds of the value of land according to prevailing land prices if their land were to be transferred to tenants. The tenants were to pay 20 percent as an upfront payment and pay the rest within the next five years. In fact, this payment would have been too high for the tenants as the land price had already been increased. This proposal also fixed the ceilings - 6.8 ha in Tarai, 1 ha in Kathmandu Valley and 2 ha in the hills - and a minimum holding of 0.7 ha in Tarai and 0.4 ha in the hills. But the provisions in this White Paper seemed flawed, favouring the landlords (Thiesenhusen, 1988 as quoted in Reidinger, 1993, p.28). This plan was not implemented. It was also not made public.

### **Reforms during 1990 to 2006**

After the 1990 political change which abolished the party-less *panchayat* system and reinstated multiparty democracy, economic policies were changed. Economic liberalization and privatization were emphasized to give the market an upper hand in regulating economic activities, including the distribution of land. In this

context, no land reform policies were formulated. The ruling political party Nepali Congress was generally against radical reforms. One of the ministers in the Cabinet in the early 1990s (Jagannath Acharya) reportedly announced that the government would soon introduce a land tenure system under which tenants would be entitled to 50 percent of the land they have been cultivating. No wonder, the minister was forced to resign from the cabinet before he could bring appropriate policies and legislations. On the other hand, the government made a fourth amendment (1997) on the Land Act to eliminate the dual ownership by distributing the land share to the registered tenants and then abolishing the tenants' rights. It also made the provision of termination of rights of unregistered tenants (who were not able to register within given time). This provision negatively affected more than 0.45 million unregistered tenants who were not able to produce legal documents (Pokharel, 2005). This programme was, in a way, similar to the White Paper released in 1988.

In 1994, the Nepal Communist Party (UML) government formed a high commission for land reform, which produced a report. It also set a ceiling, which was very low compared to ceilings proposed in the past. But the recommendation of this commission did not come into practice, as the government was short lived, and there was/is less enthusiasm in this party or in the governments formed by this party to implement these recommendations. As armed conflict intensified, the government announced a land reform program in 2001,

and decreased the land ceiling fixed in 1964<sup>3</sup>. This was intended to reduce the support to Maoists from marginal farmers. This program was not implemented as the court declared that people have rights to their property. The Supreme Court asked the government to implement this ceiling in 2007. But the Ministry of Land Reform and Management was not prepared to implement this. The Ministry has recently (in 2010) published a notice to inform landholders that they should report if they have a larger land holding than the ceiling. It also informed that it would not be able to implement this programme as there has been no budget allocation. In the name of land reform, the government initiated a 'land bank' policy, which is considered as a 'market-led' land reform program. It aimed to match 'willing sellers and willing buyers', and provide credit payable in 15 years, to poor landless and marginal farmers to buy land. The activists working on land rights issues raised the question if the landlords displaced from villages by the conflict would benefit from this program instead of the poor and landless. After the 2006 political change, this program was formally stopped.

#### **Reforms and proposed reforms after 2006**

The political changes that have occurred in Nepal since 2006 have brought the land issue to the forefront again. The political protests in April 2006 were based on the promise that there would be better land tenure conditions so that majority of poor farmers and landless farm workers would benefit. The Comprehensive Peace

<sup>3</sup> In 1964, the land ceiling (for field and housing) was – 4.87 ha in the hills and mountains, 2.94 ha in Kathmandu Valley, and 19.23 ha in Tarai. In 2001, this was reduced to 3.75 ha, 1.5 ha and 7.43 ha, respectively.

Agreement or CPA (November 2006) made between CPN (Maoist) and the seven political parties also emphasized land reform. Item 3.6 of the agreement says 'to follow the policy of implementing scientific land reform by ending the feudal relations in land ownership'. Item 3.10 states - 'to arrange land and socio-economic securities for socio-economically disadvantaged groups like squatters (*sukumbasis*), Kamaiyas, Haliyas, Harawu-Churawas and the like'. Similarly, Item 7.5.5 states that 'except according to the law, no individual property will be seized or confiscated, and both parties agree on this'. The Interim Constitution (2007) has its base in the CPA. It also has provisions for land reform. Item 19(3) clearly states this. Items 3.3 (f) and 3.3 (i) are the same as Items 3.6 and 3.10 of the CPA. But the interim constitution also has a detailed item on rights to property. It says:

- Every citizen has a right to acquire, own, sell and use the property according to existing laws.
- Except for public interest, state has no right to confiscate or acquire the land of the citizens. But this does not apply to the property that has not been acquired rightfully.
- The state will pay the compensation if it acquires the land of a citizen for public interest or for scientific land reform. Compensation amount, its basis and the procedure of acquiring the land will be determined according to the law.

The Constituent Assembly (CA) election was held on 10<sup>th</sup> April 2008, and the UCPN (Maoists) emerged as the largest party with about 37 percent of the seats in the 601

member assembly. It is interesting to examine their election agenda on land reform. Their agenda was to have a radical or revolutionary land reform to abolish feudal land relations and absentee landlordism, free distribution of land to the real cultivator tenants, freed Kamaiyas, landless farmers and poor farmers. They also proposed that separate ceilings be fixed on land in the mountains, hills and Tarai, and emphasized the formation of co-operatives, and the use of modern technology. The other parties like CPN (UML) and Nepali Congress also put forward agendas for land reform, but their agendas were more conciliatory. The Tarai based regional parties, which came to power because of ethnic or identity politics, were averse to land reform. Their agendas were mainly concerned with increasing production. Generally there is a feeling among Madhesi people in Tarai that land reform means distribution of Tarai land to hill migrants<sup>4</sup>. Land distribution is more skewed in Tarai than in the hills. There was scepticism towards UCPN (Maoists)'s policy on land reform. Landowners were mainly concerned with the level of the ceiling, and whether the government would pay compensation for the land above the ceiling. Even though UCPN (Maoist) was saying that they would determine the ceiling based on a scientific study of land availability and use, it never fixed the ceiling rate. In recent times (2010 and early 2011), this party has almost forgotten this issue.

After UCPN (Maoist) came into power for a brief period in 2008, they launched a program to free Haliyas after tremendous pressure from Haliyas and civil society. Because of this pressure, it also constituted a high level land reform commission. The

<sup>4</sup> Kattal (2008)

commission lost its approach to land reform and could not produce a report. Haliyas were declared free but without any support to guarantee their rights. It was even reported in the media that Maoist leaders were proposing a very high ceiling of 10 ha. This did not come as their official position, but some leaders of this party (e.g. Dev Gurung) expressed this. Because of this the Maoists were considered more 'capitalist' than the capitalist political parties like the Nepali Congress, which had reduced the ceiling to 10 bigha or 6 ha for the Tarai in 2001. With the change of government, another commission was formed, which submitted a report in 2009. But the government has not yet released the report and thus it is collecting dust in some place of the government office. Donor agencies are generally supportive of land reform programs, especially if it is based on a soft approach such as tax subsidies to the poor to buy land.

By now, however, the agrarian systems have changed to such an extent that land reform begs a different perspective. One of the major factors for this is the increased mobility of people and a reduced dependence on farm production for livelihood. This is, in part, also a result of demographic pressure in an environment where every male child (now also female) is entitled to parental property, including land. In the absence of non-farm income opportunities due to lack of industrialization, it has been difficult to reduce demographic pressure on agricultural land by shifting people from

rural areas to urban-based industrial areas. At present, however, there has been an increase in non-farm income through foreign labour migration. A study has shown how this new change in agrarian economy impacted the land tenure pattern (Adhikari, 2010). This study reveals that those households having access to cash income through migration of one or more of its members have started renting out land. The terms and conditions of tenancy have also been softened. Even the small farmers having such income have started to rent out the land. On the other hand, the new cash income from remittances has also led to the new practice of investing in land for price speculation. The poorest people, about one fifth of the population, have no access to remittances (Seddon et al, 2001). Moreover, they can neither afford to buy land as it has become extremely expensive, nor do they have access to meaningful employment in rural areas as the agricultural sector has not been modernized. To take an example, the land price in Chitwan has increased by almost a hundred times in the last 20 years. This is a result of land speculation and political conflict in the eastern Tarai.

The changed context in the agrarian structure calls for new land reform programmes that look into the decline in land per household and highly speculative price,<sup>5</sup> and helps households to have easy access to land with no, or less, rent. Land is available for the poor households or to those households not getting remittances, but they do not have tenurial security. Moreover, land

<sup>5</sup> Poverty is also concentrated in these people, who depend on wage labouring on land. For example, NLSS survey of 2003-04 reveals that poorest households are those headed by agricultural wage labourers. The incidence of poverty among this group was almost 56 % in 1995-96, and it remained high in 2003-04 at 55 % (nationally the poverty rate declined from 42 % in 1995/96 to 31 % in

speculation is working against the poor farmers. Therefore, land reform or management should also encompass mechanisms to discourage land speculation.

### **POLITICAL CHANGE AND LAND REFORM IN NEPAL**

From the analysis and description above, it becomes clear that no land reform programme has been implemented in its true sense. There seems to have been some real efforts after the downfall of the Rana regime. But these efforts were thwarted by traditional landlords. Land reform during *panchayat* period was aimed at helping landlords legitimize their land ownership. Many tactics were used for this purpose, including delaying or phasing implementation and claiming that records were lacking. Therefore, it was not really meant to be redistributive land reform. However, this reform brought some positive change in tenurial security. This was possible because of the dictatorial system of governance, which was focussed in the partial success of improved tenurial security but not in the redistribution of land.

Likewise, no significant land reform programme has been implemented since the return to multi-party democracy. The programmes prior to the People's War (1996-2006) were mainly driven by the market economy. The economic

liberalization pursued during this period was certainly not conducive to land reform, let alone redistributive land reform.

The real prospect for redistributive land reform was seen after the political change in 2006, which had a main agenda of 'land reform'. The UCPN (Maoist) consistently pressurized other parties to keep 'redistributive land reform' as a main agenda of the CPA and the Interim Constitution 2007. However, these have remained only at the level of discourse.

Another important constraint for land reform has been that all political parties have given much emphasis to individual property rights in relation to land. As of now, these rights cannot be violated unless it is for the greater public good and there is provision of compensation<sup>6</sup> in line with existing land prices (see the provision of Interim Constitution 2007 mentioned above), which has increased exponentially in recent times. The history of the property system in Nepal tells us that this individual property rights to land was brought from western development practice, however, a concept which seems irreversible now. This recognition means that the government is not able to undertake redistributive land reform because it is too expensive. The present trend of agrarian change suggest that land has become very expensive as 'land' has become an item to invest for quick

2003/04). This group is a small and declining share of population. It is made of 6 % of the population and 11 % of the poor in 2003-04. Their share of the population declined from 12 % in 1995/96 to 6 % in 2003/2004 (CBS, 2006). The second poorest group comprises the households headed by 'self-employed in agriculture'. Poverty in this group declined from 43 % in 1995-96 to 33 % in 2003-04. Two-thirds of poor are in this group (CBS, World Bank, DFID and ADB, 2006, p.12).

<sup>6</sup> This is an existing provision in the Interim Constitution (2007). However, this does not mean that compensation is required. There are arguments and counterarguments on this issue. It is just mentioned here that this provision in the constitution has put a constraint on effective land reform.

returns – not through farming but through speculation. The multi-party nature of politics also means that there will be parties which will support those not wanting land reform and also that land reform could be reversed. Therefore, it will not be easy to undertake redistributive land reform under present circumstances in Nepal. Governments in countries like India, where radical land reform could not be realised even in communist controlled states thus have shied away from redistributive land reform and instead opted for 'guaranteed employment', 'food coupons for very cheap basic food' and 'social security'. These provisions have also changed the political make-up in the 2009 election in India where caste-based parties lost miserably.

A radical land reform is certainly needed in Nepal, but it is not sure as to whether it will be enacted in the future. The pre-capitalist nature of social relations in rural areas certainly means that access to land, for the people and communities following land-based livelihood strategies, is important for true democracy to flourish and to bring about capitalist development in farming. Apart from access to land, these people and communities need support to improve their agriculture and produce more food and other produce. This increase in production and income/saving from farming is important to expand non-farm activities and to shift population pressure away from agriculture land. This will facilitate capitalist development in agriculture. Today, however, farming in Nepal (and in other developing countries) has been adversely affected by the international policies on agriculture and the policies of developed countries to subsidize their agriculture sector. As a result, cheap food from developed countries (due to subsidy and support, and environmental

costs) is adversely affecting the development of true capitalist agriculture in many parts of the world. This has also adversely affected agriculture in Nepal. The cheaper foods that are imported from foreign countries and the attraction of urban and well-to-do people to these foods means that there is less incentive to produce more food in the country. This has further entrenched phenomena such as absentee landlordism and other obstructive relations of production as policy makers and landlords argue that land is less important for food production.

The growing shortage of land in the country and the progressive decline in land holding size may call for a different kind of land reform that could combine a system that guarantees access to cultivation for the cultivators – also called security of tenant rights, and land distribution for the landless people who had become landless because of historical injustices. The recommendations of the present High Level Land Reform Commission (2010) includes a provision that the minimum land holding size for land cultivating families be set at 0.5 ha. It also highlights the fact that land needed for this level of minimum holding or the floor ceiling should come from public land and degraded forest. However, this report also shows that the prospect of obtaining land for distribution through setting a land ceiling is low, as land holding size has already been reduced to a great extent. Moreover, the tenurial patterns developed in recent times because of out-migration for work by middle and lower middle class also creates a constraint. As discussed above, even the smaller farmers are now renting out land when they have family members involved in foreign labour migration (Adhikari,

2010). To facilitate redistribution, a changed approach is needed with regards to compensation for the land owned in excess to the land ceiling and is thereby taken by the state. The state should not be obliged to compensate on the land obtained from the state as a 'gift'. However, those who have obtained land through their hard work need to be reasonably compensated, but certainly not at the market rate, which has been raised artificially. This nominal compensation could be necessary to prevent resistance and problems in the implementation of land reform.

Given that there is much less to expect from the political parties and political leaders, the prospect for land reform lies squarely on the activism and organization of the landless and marginal farmers. As stated earlier, leaders of political parties are generally from landed classes and they further amass money and property through corruption. One of my friends told me of a conversation among 'Members of Parliament' (MPs) after a land reform programme was announced by Prime Minister Sher Bahadur Deuba in 2001. In this conversation, an MP from CPN (UML) expressed his happiness to a Nepali Congress MP that the ceiling of 10 *bigha* (for farm) and 1 Bigha (for house) was just right in his case and that he did not have to rush home and divide the land property to make it smaller than the proposed ceiling. Even those who were previously from lower classes quickly turn into a landed class or merchant class by acquiring properties through corruption. This has been the reality until now – even after the 2006 revolution. However, democratic norms and governance could still be useful instead of a dictatorial system. At least the democratic

system helps in the organization of the people who have not received benefits from the state. The lessons from the organization of community forestry users groups could be useful in this regard. They have been able to gain, and retain, much right over their forests through their political organizations and regular protests. With raised political consciousness and activism since 1990 and particularly since 2006, landless and marginal farmers have been organized in various groups. Civil society actors have been helping them to organize, especially since the return to multiparty democracy in 1990. Even before that Nepali society had witnessed a number of peasant uprisings, mainly for access to land and against exploitation, high interest rates and low wages (Adhikari, 2008). This shows that here exists an agency within this landless community.

The democratic political system, unlike the *panchayat* system, has remained conducive for these movements. For example, UCPN (Maoist) government in 2008 yielded to the protest of Haliyas and then declared them free, even though it was only in paper. However, it shows that these rights-holders have made attempts. These people need a political space to express themselves, and this is possible only in a democracy. They need to be encouraged to continue their struggle and be self-dependent in resource generation. External agencies need to be careful while intervening in these organizations, especially in providing financial support. External financial support has made these organizations passive and opaque in financial matters. Moreover, external funding could dilute the activism of the target people as they may not argue or search for the value of their

contribution. By depending on the small support they receive from their own members, they could become more accountable. Small financial and other contributions of key people in their organisations could have a significant impact. On the other hand, a larger financial contribution by external agencies could bring only small benefits, if not an adverse

impact. However, civil society and external agencies could instead lobby the government for minimum wages and insurance for landless and land poor labourers. This could create a better environment and capacity for their political action. In this way, these people can set their own agendas and methods of political action.

#### REFERENCES

Adhikari, J., 2010. Access to land and social inclusion in the context of high mobility in Nepal. In: K Stokke and M. D. Manandhar, eds. *State and society social exclusion and inclusion in Nepal*. Kathmandu: Mandala Book Point and Social Inclusion Research Fund, pp.91-130.

Adhikari, J., 2008. *Land reform in Nepal: problems and prospects*. Kathmandu: ActionAid and NIDS.

CBS (Central Bureau of Statistics), World Bank, DFID, and ADB, 2006. *Resilience amidst the conflict*. Kathmandu: CBS and World Bank.

CBS, 2006. *Monograph. Agricultural Census 2001-2002*. Kathmandu: CBS.

Ghimire, K., 1992. *Forest or farm? the politics of poverty and land hunger in Nepal*. Delhi: Oxford University Press.

Gill, P., 2009. The politics of land reform in Nepal 1951-1964. *Studies in Nepali History and Society*, 14(2), p.217-59.

Kattal, S. C., 2008. Land reform in election manifestos. *Kantipur Daily*, p.4.

Lebedinsky, W., 1977. Agrarian reform in Nepal. In: L. J. Walinsky, ed. *The selected papers of Wolf Lebedinsky. the agrarian reform as unfinished business*. Washington D.C: World Bank and Oxford University Press, pp.332-5.

Regmi, M.C., 1976. *Land ownership in Nepal*. Berkeley: California University Press.

Reidinger, J., 1993. Prospects for land reform in Nepal. *South Asia Bulletin*. 8(1 and 2), pp.23-32.

Seddon, D., Adhikari, J. and Gurung, G., 2001. *The new lahure: foreign labour migration and remittances economy of Nepal*. Kathmandu: NIDS.

Sen, A., 2000. *Social exclusion: concept, application and scrutiny*. Manila: Asian Development Bank (Social Development Paper No. 1).

Thiesenhusen, W.C., 1988. *A critical review of HMG 1988 white paper on land reform in Nepal* (report for World Bank. Madison).