



Amnesty International Nepal (AI Nepal)
Community Self-Reliance Center (CSRC)
Justice and Rights Institute (JuRI-Nepal)

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A COMPREHENSIVE LEGISLATION MUST BE ENACTED TO MEET LONG-STANDING COMMITMENTS FOR LAND REFORM

Amnesty International Nepal (AI Nepal), Community Self-Reliance Center (CSRC) and Justice and Rights Institute-Nepal (JuRI-Nepal) today called for the Government of Nepal to formulate and introduce an integrated legislation to address the long-standing agenda of land reform and to enhance the access to land to those households and communities dependent on land for their livelihood.

Although the Constitution of Nepal has recognized access to land as one of the fundamental rights, only 5% of the population controls 37% of arable land. Overall, 26.1% of agricultural households in Nepal do not have land to farm on. Only 19.71% of women have ownership of land and landlessness among Dalits is very high - at 36.7% among the hill population, 41.4% among Madhesi Dalit and those that do hold land have very small landholdings.

"Access to land and productive resources for communities that are marginalized and discriminated against is indispensable for enabling them to enjoy many of their economic, social and cultural rights including the right to live with dignity, the right to food and the right to adequate housing" said Nirajan Thapaliya, director of AI Nepal. "Realization of economic, social and cultural rights including through enhancing equitable access to land is a must also to address one of the root causes of the decade long armed conflict and other political and social justice movements in Nepal"

While recognizing the recent amendments to the Lands Act as important steps towards addressing the problem of landlessness, the three rights organizations in their Briefing Land for Landless Peoples: Comments and Recommendations on Amendment to the Lands Act 1964 point out numerous flaws in terms of the process and substance of the amendments. Flaws pointed out in the Briefing basically relate to the definition of landlessness, determining the entitlements, setting the criteria for providing land to landless peasants Dalits and other Indigenous communities including Tharu and creating an independent mechanism to assess the situation of landlessness.

"If the Government of Nepal and leadership of ruling and the opposition parties are serious about their commitments repeatedly reflected in their election manifestos for land reform since 1950, they must give up a piecemeal approach to addressing the land issues and prioritize the formulation and enactment of a comprehensive legislation on land reform" said Jagat Basnet, executive director of CSRC. "Land reform in Nepal is gradually becoming a forgotten agenda given the lack of genuine political will towards turning the goal of "equitable access to land" for peasants into a reality".

The Briefing also stressed that the future legislation on land must bring in its scope the constitutional and human rights promises for land reforms and access to cultivable land for peasants, other groups such as Indigenous Peoples and women within these groups mindful of the Government of Nepal's obligations under the core international human rights treaties including the Covenant on Economic, Social and Cultural Rights that Nepal is party to.

"The legislative initiative on an integrated approach towards land reform with implications for fundamental rights must not only be flawless in view of the Constitution, the international human rights treaties and promises for the Sustainable Development Goals, but the the process for formulation of any bill or regulation must also be open, transparent and participatory" said Pankaj Kumar Karna, Chair of JuRI-Nepal. "Broad-based ownership garnered through consultation and participation of stakeholders is a prerequisite for effectiveness of any law and public policy".

The briefing recommends that the government adopt a holistic approach that addresses a wide range of issues including exploitative land relations, access to land for those who are dependent on land and ceiling of landholdings.

Background:

Following the promulgation of the new Constitution in 2015, the Government of Nepal amended the Lands Act 1964 through enacting a Lands (Seventh Amendment) Act in 2018 providing a legal framework for implementation of Article 40(5) of the Constitution of Nepal (2015) that requires the state to provide land to landless Dalits. With the endorsement of the President of Nepal, the amendment came in force on 18 September 2018. Subsequently, the Government of Nepal has also introduced a Bill in the Parliament for an eighth amendment to the Lands Act,¹ which, among others, aims at providing ownership of land for "landless squatters"² and "unmanaged dwellers".³ The Eighth Amendment Bill was already considered and endorsed by both Houses - the House of Representatives⁴ and the National Assembly.⁵ The Bill at the time of writing this briefing was awaiting its authentication by the President.

¹ Registered on 13 March 2019 and in the House of Representatives on 21 June 2019.

² As proposed under Section 52B(13)(a) of the Bill, "Landless squatters" is defined to include "the individual and members of the family dependent on him/her who or his/her family never had any land since generations under their ownership and is unable to manage land through his/her or their family's source of income, sources or efforts."

³ As proposed under Section 52B(13)(b) of the Bill, "unmanaged dwellers" is defined as "the individuals and the members of the family depending on him/her who have a registered private land in his/her or their family ownership within the State of Nepal and is living by building a house, tent in government unregistered, unused or forest land."

⁴ Endorsed dated 19 September 2019.

⁵ Endorsed dated 18 September 2019.