

BARRIERS TO WOMEN'S LAND AND PROPERTY ACCESS AND OWNERSHIP IN NEPAL



International Organization for Migration

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ACRONYMS

CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CSO	Civil Society Organization
DLRF	District Land Rights Forum
FGD	Focus Group Discussion
LRO	Land Revenue Offices
NLRF	National Land Rights Forum
SLC	School Leaving Certificate
VDC	Village Development Committee

EXECUTIVE SUMMARY

Land ownership is a significant indicator of wealth, power, political and social security in Nepal. Despite this, up to 25 per cent of the country's population is estimated to be landless. Land reform efforts carried out by the Government of Nepal have mostly concentrated on securing land rights of the family, without much regard for differences in land ownership of individuals within households. Over the past few years, consensus has emerged around the idea that there is a link between women's land ownership and household welfare. In addition to this, land is a valuable asset for women that raises their community status and shapes their identity as producers. However, according to the population census of 2011, women enjoy ownership over land and property in only 19.71 per cent of households in Nepal.

Given the importance of securing women's rights to land, this study provides qualitative and quantitative insights into conditions that hamper women's land rights in three districts of Nepal. The study, conducted in nine Village Development Committees (VDCs) of Morang, Nawalparasi, and Surkhet, looks at sociocultural and structural, legal, administrative and institutional barriers that women face in accessing and owning land, along with identifying the knowledge gaps among women. It employed both qualitative and quantitative research methods such as household surveys, in-depth interviews, focus group discussions (FGDs) and observation. The study covered 450 households and surveyed 471 individuals, of which 43.65 per cent were women. Throughout the survey areas, only 14.6 per cent of households were headed by women.

The study found that in all three districts, less than 50 per cent of women have ownership of land. The most common sources of land ownership for women in all the districts are through husband's earnings or dowry from parents. 16 per cent of women have acquired land through dowry; only 7 per cent of women have acquired land through their own earnings.

The study identified patriarchy and conservative social set-up as one persistent barrier to women's land ownership in all the study districts. Patriarchy was found to be traditionally accepted, with men as the prime household decision makers. Further, men were mostly found to have more information about policy and legal practices concerning land registration and inheritance. One notable exception in this regard was found among women living in nuclear families, who were found to have more liberty and support from families, and thus enjoy more rights and demonstrate a higher degree of land ownership than women from other groups.

Less than 20 per cent of women in all three districts were aware of the tax exemption when registering land in their names, and the minimal registration cost (NPR 100, approximately USD 1) for joint ownership. Similarly, the proportion of women who had proper knowledge about the kinds of documents required for completing the registration process was only 12.9 per cent. Women's access to information depended on their level of education; however, less than 25 per cent of women had an education level of School Leaving Certificate (SLC) and above. According to the respondents, their involvement in user groups has been helpful in accessing information of such kind, particularly their membership in saving and credit groups.

The most common administrative challenges faced by women respondents were high administrative and paralegal costs and slow service at the Land Revenue Offices (LROs). The role of paralegals was seen as vital by the service seekers, but the process and discourse of land registration was found to

be gendered. There were only few female paralegals as well as service seekers. Most women service seekers are accompanied by men to the LROs to ensure that everything is done properly, while women generally just sign the papers under the direction of accompanying male members.

The study also observed the LROs in Kathmandu valley (Kathmandu, Bhaktapur and Lalitpur) to assess their women friendliness, i.e. how well prepared these facilities were to meet specific needs of women. All the offices lacked basic infrastructure like toilets, breastfeeding rooms and waiting areas for women. Most of the service seekers in all the LROs were male while women, especially elderly and those with children were seen struggling to receive assistance.

Based on the findings, this study provides a number of recommendations. First of all, it is imperative to remove legal barriers that hamper women's access to land. Legal reforms should guarantee women's equal inheritance rights without any form of gender bias. Additionally, existing laws and policies should be effectively implemented. Second, the study emphasizes the need for campaigns and advocacy programmes through Civil Society Organizations (CSOs) to strengthen and empower communities. Other important recommendations for the LROs include: adoption of strict anti-harassment policies, recruitment of more female staff and paralegals, provision of gender sensitivity and capacity-building trainings to staff and improvement of basic physical infrastructure to provide better services.

CHAPTER I

INTRODUCTION

I.1 BACKGROUND

Nepal has made considerable progress in terms of women's rights, gender equality and women's empowerment over the last two decades. A substantial number of legal reforms have been initiated by the Government of Nepal to eliminate gender-based discrimination. Until 1975, there were no clear provisions regarding property rights for women in Nepal. With the UN declaration of 1975, the year that is identified as International Women's Year, the Government of Nepal started celebrating International Women's Day on March 8 every year.¹ That same year, the *Muluki Ain* (Civil Code) was amended and a clause on women's inheritance and property rights was included, which stated that if a woman remains unmarried up to 35 years of age, she would have a right to inherit property.² After the restoration of democracy in 1990, the new Constitution promulgated in the same year guaranteed that no one should be discriminated against on the basis of sex. Since then, Nepal has become a signatory to a number of international human rights instruments including the Beijing Platform for Action and the United Nations Security Council Resolutions 1325 and 1820, among others. In 1991, the Government ratified the UN Convention on Elimination of all forms of Discrimination against Women (CEDAW).³ The CEDAW, which was adopted by the UN General Assembly in 1979, is often described as an international bill of rights for women, which defines the constituting factors for discrimination against women and sets up an agenda for national action to end such discrimination.⁴

As a result of the different interventions by the Government of Nepal, the status of women has improved in the areas of employment, education and health. For instance, as per government data, women's literacy rate has increased from only 25 per cent in 1991 to 57 per cent in 2011. Similarly, in terms of maternal health, between 1996 and 2013, maternal mortality rate declined from 539 to 170 and women's life expectancy increased from 55.5 years to 70 years.⁵ Most notably, the gender equality and social inclusion (GESI) policies and gender-responsive budgeting have improved women's equitable access to resources, including credit. Moreover, women's representation in politics, government and community decision-making has been enhanced. Regardless of these remarkable achievements, a lot is yet to be achieved to ensure that women are truly able to enjoy the benefits of development equal to that of men.

According to the census of 2011, the total population of Nepal is approximately 26.6 million of which more than 50 per cent are women. Government data shows that 11 million rural women work more than 12 hours a day to ensure subsistence of their families.⁶ Most of them work in farms and play a decisive role in agricultural production and ensuring food security. Notwithstanding the important role played by women, actual changes that improve women's access to resources and production-related services in Nepal are limited, constrained by various legal, social and cultural practices.

¹ B. Pandey, *Women's Participation in Nepali Labour Movement* (Kathmandu, GEFONT-Nepal, 2009).

² Ibid.

³ C.N. Subedi, *Elimination of Gender Discriminatory Legal Provision by the Supreme Court of Nepal with Reference to Women's Right to Property*, *Tribhuvan University Journal*, XXVI(1), pp. 37–54 (2009).

⁴ UN Women, *Convention on the Elimination of all forms of Discrimination Against Women* (2009). Available from: www.un.org/womenwatch/daw/cedaw/

⁵ UN Women, *Progress of women in Nepal (1995-2015 – Substantive Equality: Non-negotiable)* (Kathmandu, 2016). Available from http://un.org.np/sites/default/files/Progress%20Of%20Women%20In%20Nepal%20-%20Low-res_1.pdf

⁶ Central Bureau of Statistics, *Nepal in Figures 2011* (Kathmandu, CBS, 2011).

In Nepal, property ownership is associated with social status and prosperity, as well as economic and political power.⁷ Land is a property that creates direct economic benefits through renting, sale and collateral for credit.⁸ In fact, access to and control over land is still one of the major determinants for sociocultural and economic development of a family as well as of individuals within a family. In particular, given the insecure position of women in Nepali society, land ownership has the potential to enhance their social status, livelihood options and psychological well-being. This is even more important since the majority of rural women in Nepal are dependent on agriculture for livelihood. Women spend much of their time working in the fields and despite their remarkable contribution to agricultural productivity their ownership of land and property is only 18 per cent in rural areas.⁹ As a result, the largest population engaged in agriculture in the country is deprived of their land ownership rights.

A number of studies conducted in different countries, including Nepal, have suggested that strengthening women's land rights increases their bargaining power within the family; provides a sense of security and confidence; contributes to better social status in the society; ensures better education, health and nutrition of their children; contributes to the reduction of gender-based violence, among other positive effects. Land ownership gives women economic security as they grow old, or in the events they become household heads as a result of their husband's migration for work, abandonment or death.¹⁰ Women can thus access and have control over land and land-based earnings by owning it, either independently or jointly. Many comparative studies done in African countries have shown that women's property rights and their overall role in the household economy are interrelated, which means women who own land have greater control on agricultural income, higher shares of business and labour market earnings, and more frequent access to credit.¹¹ Women who enjoy land tenure security are less likely to be economically vulnerable especially when they grow old or are leading single lives. According to Keera Allendorf, women in Nepal who own land have more say in decision-making at the household level.¹²

While it has been established that women's ownership of land and property can have far-reaching positive impacts, those rights are not easily realized. According to data from the population census of Nepal in 2011, women enjoy ownership over land and property only in 19.71 per cent of households in the country. This shows that women's access to land tenure and ownership is very limited. Moreover, in most cases, land registration in women's name is an urban phenomenon, used mostly for non-farm purposes.

Overall, women in Nepal face a number of barriers to exercise their rights to access, own and control land as well as property. First, there is discrimination and ambiguity in laws and regulations. Legislation in the country is not yet completely gender-friendly. In general, laws or programmes that are directly or indirectly associated with land tenure in the country have explicitly or implicitly excluded women, or at least have not taken any steps to guarantee their access to land.¹³ Although the Constitution proclaims equal rights to men and women, the laws and policies contain some discriminatory provisions against women. Second, there are several structural barriers that perpetuate gender discrimination in access to services and resources. In

⁷ S. Dhakal, *Land Tenure and Agrarian Reforms in Nepal* (Kathmandu: Community Self-Reliance Centre, 2011).

⁸ International Center for Research on Women (ICRW), *Property Ownership and Inheritance Rights of Women for Social Protection-The South Asian Experience* (New Delhi, ICRW, 2006).

⁹ Central Bureau of Statistics, Nepal in Figures 2011 (Kathmandu, CBS, 2011).

¹⁰ Landesa, *Women's Secure Rights to Land: Benefits, Barriers and Best Practices* (Seattle, 2012).

¹¹ Food and Agriculture Organization of the United Nations, *Current and Emerging Issues for Economic Analysis and Policy Research* (FAO, 2006). Available from <http://fao.org/docrep/006/y4940e/y4940e09.htm>.

¹² K. Allendorf, *Do Women's Land Rights Promote Empowerment and Child Health in Nepal?* *World Dev.*, 35(11), pp. 1958–1988 (2007).

¹³ OHCHR and UN Women, *Realizing Women's Right to Land and Other Productive Resources* (New York and Geneva, OHCHR and UN Women, 2013).

Nepal, patriarchal cultural norms continue to hinder women's access to land and property. Similarly, there are institutional barriers such as inadequate mandates, budget and human resources that also act as a hindrance for women to truly realize their rights. Therefore, in addition to the establishment of a legal framework and policies with a gender perspective, it is equally important to look into institutional and cultural factors that hinder women's access to land. This study provides a research-based insight into these issues, and many more.

The report is divided into four chapters with several sub-chapters. The first chapter introduces the research, focusing on the background, area, objectives and rationale of this study. The second chapter discusses the methods and processes of the research, shedding light on how it was implemented in the field, and the reason for using the selected research methods and tools. The third chapter gives an introduction to legal provisions that are in place for land acquisition and property rights in the context of Nepal. This chapter also reviews the experiences of other countries regarding women's right to land and property. The fourth and fifth chapters are the core chapters of the report. The fourth chapter analyses all the findings received from the field, and assimilates both the qualitative and quantitative information generated during the course of the study. Finally, the fifth chapter concludes the report, and offers key recommendations based on the findings and information discussed in the previous sections.

I.2 OBJECTIVES OF THE STUDY

The overarching objective of this study was to explore and document structural, institutional, legal, social and cultural barriers to women's access to land (ownership and tenure rights) and independent exercise of related rights.

More specifically, the study aimed to:

- Study and understand the administrative, traditional and sociocultural practices that act as barriers for women to be able to exercise their rights over land.
- Provide a rapid assessment of the LRO in Kathmandu valley to identify possible logistical and institutional barriers for women in relation to land registration.
- Evaluate progress regarding implementation of centrally developed laws at the district level; and educational and knowledge gaps among women regarding land laws and procedural structures.
- Review international experiences and best practices in relation to gender-responsive processes and procedures of land registration.
- Develop a set of concrete recommendations to the Government of Nepal in addressing the identified gaps and weaknesses.

I.3 RATIONALE OF THE STUDY

Land stands as the most valued property, which enhances individual's socioeconomic status. Land rights, as a set of institutionalized rules and regulations that are socially recognized and enforced by an external authority, are linked with the notion of property rights.¹⁴ Land rights as property rights generally entail the use, transfer and control of property. It is challenging when there is disconnect between different social and

¹⁴ B. Agarwal, Gender and Command Over Property: A Critical Gap in Economic Analysis and Policy in South Asia. *World Development*, 22(10), pp. 1455–1478 (1994).

legal settings due to the fact that property rights belong to more than one legal arena. Property rights are also defined through a mix of customary and religious laws. The existence of competing legal systems can create contradictions and confusion in defining and recognizing women's rights to land.

It is widely recognized that women's rights to access and control over land are central to the goal of poverty reduction and rights-based approaches to development. The level of women's right to access and control over land determines or greatly influences their overall living conditions, the question of everyday survival, economic security and physical safety and has a profound effect on gender relations. The persistence of discriminatory laws, policies, patriarchal customs, traditions and attitudes in various countries, including Nepal, is still blocking women from enjoying their rights as State laws and State institutions compete with informal regulatory systems.

In recent years, there have been some positive indications in relation to women's access to land and property. Nevertheless, the legal provisions have not yet been fully realized in ensuring women's rights to property. While women have a great role in management and utilization of property, including farmland, their access to and control over property are often overlooked. In addition, Nepal being a multiethnic and multicultural nation, various customary practices and cultural rules also define gender relations, including the concept of women's property rights.

In order to frame gender-friendly legislation and remove institutional and cultural barriers, it first becomes essential to explore and document the ground realities in relation to land and property in the country, perceptions, as well as challenges faced by women in acquiring their rights to own, control and use family resources. This study therefore, fills in the gap by shedding light on the barriers faced by women in accessing, using and controlling land in Nepal.

The importance of this study lies not only in understanding the legal, institutional and sociocultural barriers faced by women in accessing land rights; the findings of this study can also help in formulation of appropriate policy in order to overcome those barriers. Rights-based organizations and groups can use these findings to support evidence-based advocacy, as well as design programmes that could help in removing sociocultural barriers. As a public document, it can also be used by other governmental or non-governmental organizations, including academic institutions.

I.4 LIMITATIONS OF THE STUDY

There are a number of limitations of the study. Firstly, this study is limited to three selected districts. Therefore, the study findings may not represent all the barriers that women face throughout the nation as well as the barriers women face in other districts; rather, findings are more specific to the selected study sites. Second, in the assessed areas women were largely restricted from participating in private conversations and public talks. This was challenging when engaging in informal or semi-formal conversations as well as when conducting FGDs, since women would rely on men to reply and engage in discussions.

CHAPTER 2

RESEARCH METHODOLOGY

2.1 CONCEPTUAL FRAMEWORK

The study begins with the realization that access to and control over property is gendered. Gender and power relations assign and determine different roles and responsibilities to men and women in any given context. Therefore, social and cultural context in relation to women's access to land appears to be the key area of concern for this study. These assigned gendered roles and responsibilities create a value structure that perpetuates unequal power relations between men and women as they become part of a nation's policies and programmes. Once such policies and programmes are institutionalized, they redefine the role of men and women in the society and treat them accordingly. Thus, a traditional value system and a country's policies maintain an intricate relationship, which consequently reproduces and exacerbates inequalities between men and women. Therefore, legal, social and cultural barriers for women to access land are concurrently studied. Exploring the level of knowledge and information among women in relation to land policies, laws and procedural structure is also central to this study.

Through exploring and assessing the legal, social, cultural and administrative barriers to women's access to land in their respective social environment, the study comes up with a set of recommendations for removing those barriers and ensuring equal access to land for both men and women.

2.2 SELECTION OF THE RESEARCH AREA

The study was conducted in three districts: Morang, Nawalparasi and Surkhet. The selection of these three districts was purposive since they are the working districts of the International Organization for Migration (IOM). The study also involved participant observation of the LROs in Kathmandu valley (Kathmandu, Bhaktapur and Lalitpur) to identify gender friendliness in terms of physical infrastructure and service provision. The three districts served as three distinct strata and from within each district, three Village Development Committees (VDCs) were randomly selected.

Table 1: Selected VDCs in the three districts

Morang (Eastern Region)	Nawalparasi (Central Region)	Surkhet (Western Region)
Dulari	Dedgaun	Kunathari
Baijnathpur	Pithauli	Uttarganga
Rangeli	Pratappur	Sahare

Morang

Morang is a part of Koshi zone in Terai-Madhes plain, with total population of more than 965,300.¹⁵ The ethnic majority in the district is of high caste hill population (Brahmin, Chhetri) and the Tharu community. The other indigenous communities (Rai, Limbu, Newar) are scattered in smaller pockets.

¹⁵ Central Bureau of Statistics (CBS), Nepal in Figures 2011 (Kathmandu, CBS, 2011).

Nawalparasi

Nawalparasi lies in Lumbini zone with a total population of 643,508.¹⁶ The district has a linguistic mixture of Nepali and Bhojpuri, with other major linguistic communities like Tharu, Magar, Gurung and Newari as minorities. The district has an ethnic domination of high caste hill population, Magar and Tharu communities.

Surkhet

A part of Bheri zone, Surkhet is located at about 600 kilometres west of the national capital Kathmandu with a total population of 350,804.¹⁷ The district has a majority of Chhetri and other high caste hill population, Magar and Tharu communities and other Dalit communities. The linguistic feature of the area shows a majority of Nepali and Magar language speaking population, with a scattered population speaking Tharu language.

2.3 SELECTION OF SAMPLE

Stratified random sampling method was used to ensure the representative voices of the targeted population. A total of 50 households were drawn from each VDC, and the total sample size was 450. All the selected households were grouped into four clusters according to ethnicity and caste:

- i. Brahmin/Chhetri/Tharu/Sanyasi.
- ii. Janajati (the ethnic group).
- iii. Dalits (hills and Terai).
- iv. Other middle castes (mostly in case of Morang and Nawalparasi).

The sample was selected based on proportional representation of these four caste and ethnic clusters. Since the study also aims to explore the social and cultural aspects of the barriers to women's access to land and other productive resources, these four clusters also broadly represent the major social and cultural categories. The individuals within the clusters were selected through a random sampling technique to ensure proportional probability of the sampling unit, that is, the households.

2.4 STUDY METHODOLOGY

The study employed both qualitative and quantitative methods including household survey, semi-structured interviews, key informant interviews and observations. A number of data collection methods were used during the course of the study. The methods used have been detailed below:

2.4.1 Household survey

The study covered 450 households (150 in each district) and 471 individuals were interviewed using a semi-structured questionnaire,¹⁸ including both closed-ended and open-ended questions. This provided an opportunity to not only collect information that could be tabulated quantitatively, but also helped to understand the perceptions and experiences of the respondents. The questionnaire had three sections. The first section aimed at collecting the individual and familial details of the interviewees; the second section was designed to recognize the general patterns of land ownership, food security and livelihood options. The third

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ The questionnaire is included in Annex III.

section was especially designed to gain information on women's status within the context of land ownership, their knowledge about different legal provisions and the existing challenges.

2.4.2 Key Informant Interviews (KIIs)

Some selected individuals in each of the VDC were consulted and interviewed to gain in-depth information on related issues. The Key Informants (KIs) in the different VDCs comprised VDC Secretaries, Land Revenue Officials, legal experts, local political activists/leaders and different government officials, members of the National Land Rights Forum (NLRF) at the district and village levels, social mobilizers and community members.¹⁹ Information collected from all of the KIs focused on provisions and constraining factors for women in gaining land ownership.

Interviews with Land Revenue Officials and VDC Secretaries were designed to provide information on government provisions to facilitate the land registration process for women and the related bureaucratic and administrative challenges. The interviews with legal experts centered on understanding the existing legal provisions and weaknesses in the legal system concerning opportunities for women to claim land rights.

Likewise, views of political and rights activists on the aspects of empowerment through land and property rights were also collected through the interviews.²⁰ The KIIs with the community members focused on understanding the societal perceptions on women's land ownership; and, the difficulties women face while accessing services in the land registration offices. These interviews, in particular, were helpful in building some positive case studies.

2.4.3 Focus group discussions (FGDs)

FGDs were semi-structured in nature with key questions and a checklist²¹ prepared ahead of the discussion. Altogether 12 FGDs were conducted discussing the critical issues of land ownership, and obstacles faced by women. These were conducted with Women Cooperative groups (members and staffs), Community Development Forums, women working for landless people, and User Groups.²²

2.4.4 Case studies

Some relevant cases were selected from each study site. Those case studies²³ constitute the major components of qualitative information, and they help to explain the pattern drawn by the quantitative data. The case studies are presented as and when they fit in the analysis and discussions.

2.4.5 Observation

A team of researchers along with field associates visited different study areas, interacted with the community people and conducted interviews. They observed the land use and settlement patterns, public utilization patterns and other sociocultural aspects which helped in analyzing the current practices and providing practical recommendations.

¹⁹ The list of people interviewed has been provided in the Annex VII.

²⁰ The checklist for the interview has been provided in the Annex VII.

²¹ The checklist for the FGDs has been provided in the Annex IV.

²² The list of participants in the FGD has been provided in the Annex VI.

²³ The checklist for case studies has been provided in the Annex IV.

CHAPTER 3

LEGAL PROVISIONS FOR PROPERTY ACQUISITION BY WOMEN IN NEPAL

3.1 INTRODUCTION

The right to property, in general, is known as the right to possess, use, and enjoy a determinate thing, or the right of ownership.²⁴ However, there is no fixed definition in Nepalese law regarding property. According to the Constitution of Nepal, property constitutes “all types of movable and immovable property, including intellectual property.”²⁵ The proposed Civil Code 2014 (*Prastabit Dewani Samhita 2071*) defines property as “cash, goods or work that can be consumed, bought, sold or transferred by any means for transaction or profit.”²⁶ The same code mentions that property is sub-divided into two categories, namely, immovable property and movable property. Usually, goods that can be transferred from one place to another are categorized as movable property²⁷ (like stocks, securities, guarantee, promissory notes, financial note, letter of credit, other financial authorizations and profit thereof, intellectual property, trademarks and franchise, and those other than immovable property). Likewise, immovable property²⁸ includes houses, land or any other structure permanently associated to it.

3.2 CONSTITUTIONAL PROVISIONS REGARDING RIGHT TO PROPERTY

The Constitution of Nepal has guaranteed the right to equality as a fundamental right, which strengthened the concept of equal protection under law. It also contains the right against discrimination in the application of general law on any ground,²⁹ aimed at ensuring gender equality. Additionally, it provides special rights through a special provision for the protection, empowerment or advancement of women.³⁰ Similarly, the right to property has also been guaranteed as fundamental right, which provides every citizen the right to “acquire, enjoy, own and sell, reap professional gains, and otherwise utilize or dispose property, subject to the existing laws.”³¹ Most importantly, the constitution has guaranteed the right of women, inter alia, containing right against discrimination³² on the basis of gender. But there is no specific provision for women under Directive Principles and Policies in the present constitution regarding land and property.

²⁴ Black Law Dictionary, 9th edition (2009).

²⁵ The Constitution of Nepal 2015, Article 25.

²⁶ Proposed Civil Code, Section 270.

²⁷ Ibid.

²⁸ Ibid.

²⁹ The Constitution of Nepal, Article 18, Right to equality: (1) All citizens shall be equal before law. No person shall be denied the equal protection of law (2015).

(2) No discrimination shall be made in the application of general laws on grounds of origin, religion, race, caste, tribe, sex, physical condition, condition of health, marital status, pregnancy, economic condition, language or region, ideology or on similar other grounds.

(3) The State shall not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or on similar other grounds.

³⁰ Ibid., Article 18 (4) No discrimination shall be made on the ground of gender with regard to remuneration and social security for the same work.

(5) All offspring shall have the equal right to the ancestral property without discrimination on the ground of gender.

³¹ Ibid., Article 25.

³² Ibid., Article 38.

3.3 LEGAL GROUNDS FOR ACQUISITION OF PROPERTY

The modes of acquiring property in Nepal are classified as partition (*Aungsa*),³³ inheritance (*Aputali*)³⁴ and self-earned (*swoaarjan*), which are described below:

3.3.1 Partition

Partition in law is used to understand the division of property into separate portions representing the proportionate interests of the stakeholders or coparceners. There are different provisions that govern the way a woman can get her share of property as a daughter, wife and/or single woman (widow).

i. Partition by birth (*Aungsa*)

This explains the property rights of women as daughters to claim their share of parental property. The *Muluki Ain* (Civil Code) 1854, the first codified law of Nepal recognized, to some extent, a daughter's right to parental property. It provided that unmarried daughters below the age of 35 are entitled only to the wedding expenses and daughters who remain unmarried above the age of 35 are entitled to the equal share on parental property. If the daughter is married after obtaining property, she would be allowed to bring such property to her husband's house. However, this was not valid if the daughter got married without her parent's consent (*poila janu*).³⁵

When the new *Muluki Ain* 1964 was enacted, which replaced the *Muluki Ain* of 1854; it did not change the provision regarding the daughter's right on parental property. Later, in 1976 again, the sixth amendment provided that an unmarried daughter above the age of 35 was entitled to right of equal share as of a son, but would have to return the property after marriage, after deducting the wedding cost. However, it was the 11th amendment of the *Muluki Ain* in 2002, which recognized a daughter's equal right to parental property and regarded her equal coparcener by birth.³⁶ However, married daughters remained excluded from receiving the parental property regardless of constitutional guarantee of daughter's equal right to ancestral property. Moreover, a daughter would need to return her share of ancestral property to her parental family after marriage.

The 12th Amendment of the *Muluki Ain* in 2006, after the introduction of the Gender Equality Act 2006, recognized women's equal right to inheritance, whereby a daughter does not need to return the inherited property to her parental family. Hence, the property is partitioned between the father, mother, wife and children, all receiving an equal share of the property. However, this amendment did not provide for married daughters as equal coparceners. A new Civil Code Bill 2014, which is still under discussion in the parliament, has proposed equal inheritance rights so that sons and daughters are entitled to equal shares in parental property, regardless of their marital status.

The following figure provides an overview of coparceners:

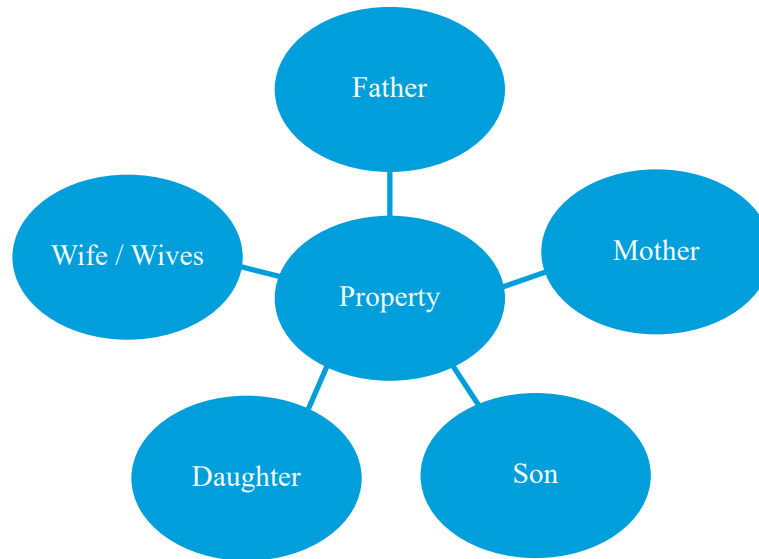
³³ Share of property divided among coparcener.

³⁴ Property supposed to be transferred after the death of its owner.

³⁵ The *Muluki Ain*, Chapter on Partition, Number 12, p. 117 (1953).

³⁶ *Muluki Ain*, 11th Amendment, Chapter 13, Number 1 (1964).

Figure 1: An overview of coparceners



As per the existing provisions of *Muluki Ain*, the children, however, cannot compel their parents to get a share of the parental property as long as the parents are alive. The coparceners can get the property in the following circumstances:³⁷

- If either or both parents do not provide means of living (food and clothing) according to their social status and financial capacity.
- If they do not provide appropriate education as per necessity.
- If they do not provide appropriate medical treatment as per necessity.

ii. Partition by marriage

Partition by marriage provides property rights to women due to her status as a wife; given the condition that she will not be allowed to separate from her husband without his consent and as long as he is alive.³⁸ Thus, women's right to ancestral property does not qualify the absolute nature in itself, rather it is conditional. If a wife is not provided food, clothing, education and medical treatment as per the social and financial status of the family and as per her need, then she is entitled to get a share in the husband's property.³⁹ In case of a single woman (widow), if she wants her share in property and lives separately, precondition for partition is not required; her desire for the same is enough.⁴⁰ If a woman is entitled to receive a share in property, and she is not provided with her share, even after court order, a fine of NPR 5000 (approximately USD 50) is applied with imprisonment for a month, or both, on the person who has failed to provide the property.⁴¹

iii. Partition by divorce

The partition of the property is done prior to granting the divorce decree on any grounds that are provided in the No. 1 of the Chapter on husband and wife in the *Muluki Ain*. Even if the husband has not taken his share of property from his parental property, the court, after calling all the coparceners with the inventory

³⁷ Ibid., Chapter 12 Partition, Number 10.

³⁸ Ibid., Number 10.

³⁹ Ibid., Number 10.

⁴⁰ Ibid., Number 12.

⁴¹ Ibid., Number 10C.

detail, shall estimate his share of the property in his parental property and then partition the property. Until such partition is not executed, the husband is entitled to pay alimony for maintenance and subsistence of the wife.⁴² However, if the wife does not desire to partition the property, rather, she intends to take monthly or annual alimony from her husband, the court shall also grant the alimony for monthly or annual expenses for the wife on the basis of his income and status.⁴³

In other words, if the divorce case is filed by the wife as a petitioner, she can conclude the compromise by either leaving the claims of alimony, or requiring the partition of the property, or none of them. She can only obtain the divorce decree. Additionally, even if there is no property to be partitioned in the name of husband, the husband is entitled to provide the expenses for her subsistence in case the wife intends to get such expenses from him.⁴⁴

3.3.2 Inheritance rights of women and persisting inequalities

The Chapter on Inheritance in the *Muluki Ain* defines an heir as the nearest coparcener of the concerned person within seven generations.⁴⁵ No other person shall be entitled to inherit the ancestral property as long as there is the husband, wife, son, daughter, grandson or granddaughter. If the deceased does not have a son, but has widowed daughter-in-law, she shall be entitled to inherit the property.⁴⁶ The priority to inheritance follows the order of:⁴⁷

- Husband or wife living together.
- Son, daughter or widowed daughter-in-law.
- Grandson, granddaughter or granddaughter-in-law.
- Separated husband, wife, son, daughter, father, mother or stepmother.

The Eleventh Amendment of the Civil Code has provided full rights to widows in inheritance, removing the earlier provision whereby a widow could not claim property from her husband's family if she remarried. Further, the Gender Equality Act entitled women to use property freely and without the consent of male family members (as was previously required).

3.4 DISPOSAL OF HOUSEHOLD PROPERTY

The disposal of household property in the context of Nepal explains how a husband can exercise rights over half the immovable property or all of the movable property at his own discretion, without the consent of his wife or son/daughter and widowed daughter-in-law.⁴⁸ The legal system itself is seen as formalizing patriarchal values persistent in the Nepali society. In the case of more than half the immovable property, it may be spent only after having the consent of the wife, son, daughter and daughter-in-law even for meeting the household needs.⁴⁹ If such a property is used without their consent, it shall not be considered lawful.⁵⁰

⁴² Ibid., Chapter on Husband and Wife, Number 4(A).

⁴³ Ibid., Number 4(B).

⁴⁴ Ibid., Number 4 (C).

⁴⁵ Ibid., Number 1.

⁴⁶ Gender Equality Act 2063, no. 2.

⁴⁷ *Muluki Ain, Aputaliko Mahal*, Section 2 (1963).

⁴⁸ *Muluki Ain*, 2020 BS, *Chapter on Partition*, Number 19 (1963).

⁴⁹ Ibid.

⁵⁰ Ibid.

3.5 DISPOSAL OF SELF-EARNED PROPERTY

In case a property is obtained from one's own personal income, one is not required to obtain the consent of those who live with him or her jointly for any kind of transaction related to that property. One may sell, dispose of and otherwise deal with such property.⁵¹

3.6 DISPOSAL OF PROPERTY BY WOMEN

A woman can sell, use or dispose both movable and immovable property as per her will, without anyone's consent, if the property is received as inheritance, dowry (*Daijo*),⁵² *Pewa* (gift),⁵³ through deed and donation and when the property is self-earned. Before the Gender Equality Act 2006, there was discrimination against married daughters since they were not considered as coparcener, which was against the constitutional provision and also the provision under CEDAW. Right to property of women as daughter, wife or mother has been guaranteed by existing law in equal standing as male members. Likewise, women are free to take decision to acquire, own or sell their property. So the existing legal provision has fully recognized the equal rights of women in regard to property. However, it is hard to translate this into reality since available data shows that women have ownership of land and property in only 19.71 per cent of households.⁵⁴ As such, the situation is one of de jure equality versus de facto discrimination.

3.7 TENANCY RIGHTS

According to the Land Act (1964), after a tenant's death, the land is devolved to one of the trusted members from the same family as the tenant. It can be the husband, wife, son/daughter, mother/father, adopted son/daughter, daughter-in-law, grandson, granddaughter, granddaughter-in-law, elder or younger brother, elder or younger sister living in the same family.⁵⁵ However, the Act does not specify that the wife will own the land after her husband's death.

3.8 GOVERNMENT INITIATIVES FOR WOMEN'S OWNERSHIP OVER LAND

In the Eleventh Periodic Three Year Plan (2007–2010) prepared under the leadership of National Planning Commission (NPC), the Government of Nepal, for the first time, introduced the unique concessional scheme in the form of tax exemption while registering land in women's name and under joint ownership of husband and wife. The rationale behind such provision was to increase women's access to land.

3.8.1 Provision for tax exemption for land registration in the name of woman

The Financial Act 2072 (2015–16) has provided various concessional measures for land registration in women's name.⁵⁶ The Act provides 25 per cent tax exemption during the registration of any deed where ownership is established in a woman's name. Likewise, there is a provision of 35 per cent tax exemption for land registration in the name of a single woman (whose husband has died).⁵⁷ Further, the exemption is even

⁵¹ Ibid.

⁵² The movable and immovable property of a woman received from her parents' family, her mother's parents' family and the property that she has increased from it shall be her *Daijo* (dowry).

⁵³ The movable or immovable property given to her with a deed of consent coparceners of all the heirs by her husband or the coparceners on the side of her husband, and the movable and immovable property given to her by other relatives or friends on the side of her husband and property she has increased from it shall be her *Pewa* (exclusive property).

⁵⁴ Central Bureau of Statistics, National Population and Housing Census 2011 (Kathmandu, CBS 2011).

⁵⁵ Land Related Act, Section 26 (2064).

⁵⁶ Financial Act, 2015/2016.

⁵⁷ Financial Act, 2015/2016, Schedule 4 (10).

increased to 50 per cent for the same in some enlisted Remote Mountainous Districts⁵⁸ as well as remote mountainous VDCs of Sankhuwasabha, Dolakha, Dhading, Sindhupalchowk and Gorkha. Moreover, 100 per cent tax exemption is provided to the landless, freed bonded labour (*Mukta Kamaiya* and *Mukta Haliya*), if the land is purchased through the bank loan.⁵⁹ Likewise, only 0.5 per cent of the total tax will be charged if the ownership is transferred in the name of daughter and granddaughter.⁶⁰ These provisions have been purposefully designed to encourage women to register land in their own name.

3.8.2 Joint Ownership

The Financial Act 2072 has provided an easier procedure for women to have joint ownership of land with their husbands. If the existing land registered in the name of either husband or wife is transferred in the name of both the spouses, only NPR 100 (approximately USD 1) will be charged as registration fee.⁶¹ This procedure works in favour of joint land ownership and consequently provides equal ownership rights to both husband and wife over such land, avoids male's exclusive right over land, and facilitates joint decision-making in relation to the land. Thus, the initiation of joint land ownership certificates tends to promote women's equal access to land rights.

Although legal provisions have provided rights for women in Nepal in relation to land and property, there are limitations whereby women have not been fully able to realize those rights. For example, married daughters are still not considered as coparceners for her parental property. Moreover, women have very limited or no control over household decision-making.

3.9 EXPERIENCES OF OTHER SOUTH ASIAN COUNTRIES

It has been argued that “women form approximately half of the world's population, perform two thirds of the world's working hours, and generate half of the world's agricultural production.”⁶² Still, they are not considered as farmers in many South Asian contexts. Generally, women around the globe have similar stories to share regarding their access and control over rights. In more than half of all countries, laws or customs hinder women's ownership or access to land undermining women's empowerment.⁶³

While most South Asian populations value land as the most important form of property with exceptional economic and political significance, countries in the region face challenges of population growth and landlessness. The rural landless people work as agricultural labourers or as tenants for others to make ends meet. The legal frameworks in different countries of South Asia reflect their own particular political, social, and economic histories and are characterized by some degree of plurality, especially when it comes to women's land rights.

Afghanistan

Article 22 of the Constitution of Afghanistan 2004 announced equality of both men and women and the Afghan Civil Code 1977 provides rights for women to own or inherit property.⁶⁴ Land rights in the country are governed by three important systems: (i) customary law and practice which is not uniform between different

⁵⁸ The enlisted VDCs of Mountainous Districts namely Taplejung, Solukhumbu, Manang, Mustang, Rasuwa, Humla, Jumla, Mugu, Kalikot, Dolpa, Bajhang and Darchula.

⁵⁹ Financial Act, 2015/2016.

⁶⁰ Ibid.

⁶¹ Ibid., Schedule 4 (20).

⁶² J. Asiimwe, Making Women's Land Rights a Reality in Uganda: Advocacy for Co-Ownership by Spouses, *Yale Human Rights and Development Journal*, 4(1): 172–184 (2014).

⁶³ www.landesa.org.

⁶⁴ A. Hozyainova, *Sharia and Women's rights in Afghanistan* (Washington, D.C., United States Institute of Peace, 2014).

communities; (ii) the Sharia Law which primarily addresses inheritance issues and the issues not addressed in the Civil Code; (iii) Civil Code and State Laws and decrees.⁶⁵ Although the Shariya Law clearly provides for women's rights to inherit land (one eighth of husband's share and one third for daughters) only 2 per cent of Afghan women were found to own land as of 2012.⁶⁶

Bangladesh

Studies in Bangladesh have shown that around 1 per cent of arable land is lost annually to degradation and natural disasters, with an added threat of growing population.⁶⁷ This has also resulted in unequal land distribution, resulting in income inequality in rural areas. Land and property ownership by women still seems to have distant goals for Bangladesh, since the practices of land administration resemble those of the colonial era. The British prioritized a centrally controlled management of the country and a secure and steady source of state finance.⁶⁸ Only few changes have taken place after the independence.

The Constitution of Bangladesh of 1972 announced equal rights to its citizens, irrespective of their gender, religion or any other social divisions, granting equal protection under law. Nevertheless, the country does not have a uniform civil law that governs marriage, divorce, property division or inheritance.⁶⁹ The 1925 Succession Act governs inheritance, under which the wife inherits only one-third of her husband's property after his death and the remaining is divided amongst the heirs, regardless of their sex.⁷⁰ In the Muslim communities, the Quranic law prescribes share for each individual's nearest relations including the female heirs in the property left by deceased person. This suggests that in Muslim communities, women have the right to inheritance. Similarly, the Christian communities also provide inheritance to their daughters when dividing family property. However, for the Hindu communities, the scenario of property inheritance is different. According to the Dayabhaga School of Hindu law, for Hindu communities in Bangladesh, women do not have inheritance rights until exceptional circumstances (in case of widows, unmarried daughters and daughters with sons).

India

In India, the Constitution guarantees equal treatment for all its citizens under the law as a fundamental right and prohibits discrimination on the grounds of sex. In 1993, India also ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW).⁷¹ Despite having legislation to protect property rights of women and rights to agricultural land, social customs and practices make women dependent on men, supported by a general reluctance to implement legal measures in favour of women. The socially constructed norms for women act as barriers to exercise their agency.⁷²

The demand for equality of land and property within the family started in India in 1938, when a Sub-Committee on Women's Role in Planned Economy of the National Committees of India began its work on women's right

⁶⁵ S. Yasin and S. Friciska, *Land Rights and Mine Action in Afghanistan: Analysis and Programming Entry-points for Mine Action Organizations* (Geneva, GICHD, 2012).

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ M. Howes, *Land Policy and Administration* (Dhaka, CARE Bangladesh, 2003).

⁶⁹ E. Scalise, *Women's Inheritance Rights to Land and Property in South Asia: A Study of Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka* (Brandon, Rural Development Institute, 2009).

⁷⁰ *Ibid.*

⁷¹ All State parties ratifying CEDAW are required to abolish or modify all existing laws, customs and practices and regulations that discriminate against women. As mentioned in Articles 15(2), 16(1) (h), all State parties must also recognize equal rights between men and women to conclude contracts and administer property and provide equal rights for both spouses for owning, acquiring, managing, administering and disposing of property. Available from www.un.org/womenwatch/daw/cedaw/text/econvention.htm

⁷² The World Bank, *Gender Equality and Development* (Washington, D.C., The World Bank, 2012).

to property in their names.⁷³ Land legislation in post-independence India progressively aimed to reform the exploitative system of land revenue assessment that was established in the colonial regime. The focus of the Government shifted towards agricultural development and the State enacted the Estates Abolition Act (1951) to eliminate the *Zamindari*⁷⁴ system.⁷⁵ A number of other measures were introduced afterwards, such as the creation of a uniform system for all Hindus for inheriting land and property rights through the Hindu Succession Act (1956) and the regulation of rent and de-concentration of land holding through fixation of land ceilings.⁷⁶ The Constitution of 1950 also classified land-related issues as matters of jurisdiction of Indian states, which meant that, “it fell to states to legislate on land rights issues in line with local requirements and contextual specificities.”⁷⁷

Despite these positive reforms, it was only in 1980s that significant biases preventing women from acquiring land rights were removed. The national Eighth Five-Year Plan (1990–1995) gave attention to women’s land ownership rights and changed the inheritance laws in favour of women. It directed the state governments to allot 40 per cent of ceiling surplus land to women alone (that is, the state re-distributed land in names of women alone) and rest jointly to both spouses.⁷⁸ The Ninth Five-Year Plan (1997–2000) included policies to promote group rights, collective farm management and infrastructural support for women, also recognizing the need to collect gender disaggregated information on land ownership and use.⁷⁹ In 2005, the Government of India also amended the Hindu Succession Act (1956), introducing daughters as coparceners having right at birth to a share of agricultural land and property equal to that of sons, thereby establishing gender equality on land and property inheritance.⁸⁰ The 12th Five-Year Plan (2012–2017) of India has recommended promotion of awareness regarding women’s land rights and conducting mass media campaigns, particularly in reference to the amendment in the Hindu Succession Act.

Sri Lanka

There is no official data on the status of property and land ownership among women in Sri Lanka. The Constitution of Sri Lanka ensures that both men and women can legally own, transfer, inherit and dispose of land and property. Moreover, there are different laws that govern land ownership, such as the Muslim Law and the Roman Dutch Law. The Muslim Law governs the land rights of Muslim women. Under this law, women appear to be treated equally in terms of inheritance and property under the Muslim Law, in reality, daughters receive less than sons. As per the Roman Dutch Law, which governs land rights of all not covered by the Muslim Law, women and men are treated equally, wherein women are assured equality of ownership and inheritance.⁸¹

In addition, there are some personal laws that govern land and property ownership of women, including the *Kandyan Law* and the *Tesawalami Law*. As per the *Kandyan Law*, which applies to all Sinhalese families and their descendants, a bride ceases to possess the rights to inheritance to her parental property after marriage. However, if over the course of years, she divorces or separates from her husband and reconnects with her

⁷³ G.D. Kelkar, *The Fog of Entitlement: Women and Land in India* (Washington, D.C., The World Bank, 2013).

⁷⁴ The Zamindaris were the feudal intermediaries during the colonial regimes, appointed by the British to collect rent from tenants.

⁷⁵ S. Patnaik and S. Pradhan, *Securing Land Rights For Women Through Institutional and Policy Reforms* (Washington, D.C., The World Bank, 2013).

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ B. Agarwal, *Gender and Command Over Property: A Critical Gap in Economic Analysis and Policy in South Asia*. *World Development*, 22(10), pp. 1455–1478 (1994).

⁷⁹ Ibid.

⁸⁰ G.D. Kelkar, *The Fog of Entitlement: Women and Land in India* (Washington, D.C., The World Bank, 2013).

⁸¹ L. Wanasundera, *Rural women in Sri Lanka’s post-conflict rural economy* (Thailand, Food and Agriculture Organization of the United Nations, 2006).

paternal family, her rights to her parental property are resumed, even if she was provided with dowry during marriage.⁸² The *Tesawalami* is the customary law, which governs inheritance of property and matrimonial rights of Tamil women in Jaffna.⁸³ As per this customary law, a woman is entitled to patrimonial and non-patrimonial inheritance, can own property individually, can acquire property during marriage and can keep the dowry she received. Regardless of this, the woman does not have control over such property, which rests in the hands of her guardian, that is, the father before marriage, and the husband after marriage.⁸⁴ According to women activists, as a result of the *Tesawalami* Law, many single women or women whose husbands are missing have not been able to use, sell or dispose land in the absence of their husband's consent.⁸⁵ One of the biggest bottlenecks in Sri Lanka for women to truly enjoy their property right is the concept of "household head." The Land Development Ordinance 1935 gives preference to male inheritance, which is reinforced by the practice of accepting only men as the household head, even when the man is disabled or dead, and the woman has taken up to responsibility of being the head. This has particularly been a critical issue because women in many households took up the role of household head after they lost their husbands during the civil war that engulfed the country for 26 years.

As a positive step, a 2008 housing regulation in Sri Lanka provided that the Housing Authority responsible for providing loans would give preference to applications made by widows, jointly by husband and wife, or by a woman who has been divorced or legally separated from her husband.⁸⁶ Such positive steps provided not only an incentive for joint applications but also acted as an affirmative action giving preference to women.

As has become clear, in many South Asian countries women have certain de jure property rights. However, as a result of poor implementation of legal provisions and discriminating social structures, they are often barred from enjoying those rights.⁸⁷

⁸² I. Bulakulame, Property ownership in Domestic Violence: a perspective from Sri Lanka, in Property Ownership and Inheritance rights of Women for Social Protection-The South Asian Experience (India, International Center for Research on Women, 2006).

⁸³ L. Wanasundera, Rural women in Sri Lanka's post-conflict rural economy (Thailand, Food and Agriculture Organization of the United Nations, 2006).

⁸⁴ Ibid.

⁸⁵ www.salary.lk/home/labour-law/fair-treatment/property-rights-in-sri-lanka.

⁸⁶ OHCHR and UN Women, Realizing Women's Right to Land and Other Productive Resources (New York and Geneva, OHCHR and UN Women, 2013).

⁸⁷ Draft Consolidated Briefing Paper on the Status of Women's Land Rights in three Countries of South Asia (India, Nepal and Pakistan) (Landesa, 2015) (unpublished).

CHAPTER 4

RESULTS AND DISCUSSIONS

This chapter presents and discusses the findings of the study. The findings from different sources are synthesized to present some general findings like the demographic features, land use pattern, food security and livelihood and the status of female-headed households in the study areas. The specific findings include land ownership in women's name, and the legal, administrative, sociocultural and other challenges to women's land ownership; and the knowledge gap and policy-level awareness.

4.1 DEMOGRAPHIC FEATURES OF THE STUDY AREA

Of the total number of individuals interviewed, 56.1 per cent were male, 43.7 per cent were female and one respondent belonged to third gender. The table below presents the district-wise gender disaggregation.

Table 2: Population disaggregation by gender

District	Female (%)	Male (%)	Other (%)
Nawalparasi	30.4	69.6	0
Morang	58.4	41.2	0.4
Surkhet	42.5	57.5	0

4.1.1 Ethnic composition

The study covered nine VDCs, three in each district. The households from within the VDCs (50 each) were divided into six major ethnic categories, to make the study proportionally representative, namely Brahmin/Chhetri, Hill Janajati, Terai Janajati, Terai Dalit, Terai middle caste and Hill Dalit.

The following table presents the disaggregated data of the respondents based on caste/ethnicity:

Table 3: Population disaggregation by ethnicity/caste

District	Brahmin/Chhetri (%)	Hill Janajati (%)	Terai Janajati (%)	Terai Dalit (%)	Terai Middle caste (%)	Hill Dalit (%)
Morang	28	28.6	25	13.4	5	0
Nawalparasi	19.4	35	22	9	14	0.6
Surkhet	41.7	5.1	27.8	0	25.4	0

4.1.2 Literacy rate

The literacy rates were found to be low among the studied population in all the three study districts: 28.9 per cent in Nawalparasi, 28.40 per cent in Surkhet and 17.9 per cent in Morang. The general trend in all three districts indicates that people tend to drop out or leave studies after the lower secondary level. It was only in Nawalparasi that the proportion of respondents with undergraduate and graduate degree was higher in comparison to Surkhet and Morang.

4.1.3 Major occupation

Agriculture is the primary occupation in all the communities surveyed. The data indicates that in Morang, 45.27 per cent of the households that were part of the study were practicing agriculture as the primary mode of occupation, 52.79 per cent in Nawalparasi and 48.5 per cent in Surkhet. Of the surveyed population, only 1.31 per cent of people were involved in government jobs in Morang, 3 per cent in Nawalparasi and 4.11 per cent in Surkhet. In Surkhet, 12.5 per cent of the respondents were involved in small scale entrepreneurship, compared to 2.41 per cent in Morang and 3.68 per cent in Nawalparasi. Small scale entrepreneurship generally includes petty traders, small shopkeepers and local hotel owners. Foreign employment was taken as a primary mode of occupation in all districts with at least one person in around 6–9 per cent of all the surveyed households in each of the districts going abroad.

The following table presents major occupation of the respondents:

Table 4: Population disaggregation by primary occupation

Occupation	Morang (%)	Nawalparasi (%)	Surkhet (%)
Agriculture	45.27	52.79	48.5
Government job	1.31	3	4.11
Small scale enterprise	2.41	3.68	12.5
Foreign employment	9.23	9.95	5.58
Daily wage labour	0.65	0	3.08
Unemployed	0.21	20.87	4.11
Others	40.92	9.7	22.12

4.1.4 Land tenure arrangements

Among the surveyed population, the ratio of households having their own registered land in all the studied districts was more or less the same, for example, 62.40 per cent in Morang, 61.75 per cent in Nawalparasi and 50 per cent in Surkhet.

2.37 per cent respondents in Morang, 3.18 per cent in Nawalparasi and 1.58 per cent in Surkhet have rented their land out, on the basis of sharecropping or in thekka. It was also learnt that most of the landowners do not make any written contracts that can later be legally binding; and all depend on verbal contracts. Another interesting finding was the proportion of *Guthi*⁸⁸ land in the study areas which was not found in Morang whereas it was found to be in use among 8.36 per cent of the households in Nawalparasi 8.36 per cent and in 3.79 per cent of the households in Surkhet 3.79. The use of public land was also found to be common among the surveyed households, with 36.39 per cent in Surkhet, 18.18 per cent in Morang and 12.74 per cent in Nawalparasi using public land for different purposes, particularly for housing. The selected VDCs in Surkhet had a higher number of squatters, which is the reason why there was relatively high percentage of households utilizing public land in Surkhet.

Table 5 presents the proportion of different types of landholdings.

⁸⁸ *Guthi* is a system of land tenure arrangement where the land is endowed for religious or philanthropic purposes. It is usually made institutional practice in Nepal by the religious practitioners and leaders, enjoying an arbitrary power. In this system, the tenants do not possess any legal authority over the land even if they have been using it for a very long time.

Table 5: Patterns of landholding

Patterns of land holding	Morang (%)	Nawalparasi (%)	Surkhet (%)
Own registered land	62.4	61.7	50
Land rented out	2.4	3.2	1.6
<i>Guthi</i>	0	8.4	3.8
Public Land	18.2	12.7	36.4
Land rented in	17	14	8.2

The variation in rented out and rented in land is explained by the fact that some of the owners do not want to reveal information about the rented out land. At the same time, it is also attributed to the fact that one owner may rent out land to more than one cultivator, or a cultivator may rent in land from more than one owners.

4.1.5 Female-headed households

Only 14.6 per cent of the total surveyed households were headed by women: 19.5 per cent in Morang; 14.2 per cent in Surkhet, and 10 per cent in Nawalparasi. Women were normally seen as household heads by compulsion and not by choice in all study areas. In all the cases, women managed the household and major responsibilities usually when any adult male member of the house, husband or son, is absent for an extended period of time. In addition to cases of widows and separated women, the number of *de facto* female-headed households has grown alongside the growing number of male migrants. As a result, women have now to shoulder not just the responsibilities of the household but also agricultural production. However, women taking up the role of household head did not translate to their decision-making power. With the exception of single women living alone or with children, the majority consulted their husbands working abroad or outside the districts for important decisions, especially related to major expenses.

4.2 WOMEN AND LAND OWNERSHIP

In Nepal, women's ownership of land and property has increased in the last 10 years. For instance, the proportion of households in which women owned land has increased from 10.8 per cent in 2001 to 19.7 per cent in 2011. While this increase is worth noting, it should be highlighted that 77 per cent of all households in the country reported to have ownership of agricultural land. Moreover, while 85 per cent households reported to be living in their own houses, in only 10.7 per cent of the households, women had land in their names.⁸⁹ These numbers show that while there has been progress, proportionally women are still far behind regarding access to land ownership.

Of the total surveyed population, 23.8 per cent of women in Morang, 52.5 per cent in Nawalparasi and 58 per cent in Surkhet have land registered in their names. Similarly, 61.6 per cent of women surveyed in Morang, 27.1 per cent in Nawalparasi and 18.4 per cent in Surkhet, have their house registered in their names. Of them, 14.3 per cent in Morang, 20.3 in Nawalparasi and 23.7 per cent in Surkhet own both lands and houses. If the data is to be analysed any further, Brahmin/Chettri household are at the top of providing ownership of house

⁸⁹ UN Women, Progress of women in Nepal (1995–2015)-Substantive Equality: Non-negotiable (Kathmandu, 2016). Available from http://un.org.np/sites/default/files/Progress%20Of%20Women%20In%20Nepal%20-%20Low-res_1.pdf.

in a woman's name. That is, of the total households in which land ownership is in a woman's name, 36.5 per cent belong to Brahmin/Chhetri caste group, followed by Hill Janajati (26%) and Terai Janajati (20.5%). Terai Dalit and Hill Dalit (less than 8%) have the lowest proportion of land ownership in a woman's name.

It was observed in all three study districts that the trend of women's ownership over land has been increasing in recent years. One reason identified was the provision of tax exemption while registering land in a woman's name. Another reason was to avoid possible intra-family conflicts over land. Usually, when the parental property is divided between sons, conflicts arise among brothers and they can be a long term issue. To avoid such potential conflicts, land is transferred immediately to women's name by husbands to avoid future complications. In fact, the Executive Officer at Dulari Municipal Office attested that the trend of registering the land in women's name is increasing in Morang and women usually receive land from their husbands. Similar observations were made in Nawalparasi and Surkhet. Additionally, according to informants at the Land Registration Office in Dulari in Morang, land is increasingly being registered in women's name because of rise in labour migration among men.

However, it needs to be understood that ownership does not necessarily translate to control. Despite the encouraging trend of land ownership in women's name, it was consistently observed that women do not necessarily have control over the property they own, and the decisions related to any kind of transaction of such property is taken by the men of the family, whether it is the father, husband or the son. This is demonstrated through the following case:

Case 1: No land for women

Baijani, 52, of Koshi Haraicha-10, Morang owns 0.2 hectares of land. Before dying, her mother left some land for her. *"It was really unfortunate that I could not meet my mother as I was unwell when she passed away. Later, through my relatives, I heard that she had left some land for me. My brothers hadn't informed me about this for a long time,"* she said.

Baijani had dropped out of school to get married and she can barely read or write. She was, therefore, joined by her husband to go to the LRO, where the officials informed her that her brothers had claimed a stay order over that property. Shocked by her brothers' action, Baijani and her husband filed a case of fraud against them but lost since they could not provide sufficient evidence of fraud. Later, her brothers gave her 0.1 hectare of the 0.2 hectare land that her mother left for her.

However, although the land is in her name, she does not exercise any control over it. She shares, *"I have not seen the ownership papers but my husband has them."* She is confident that her husband is responsible enough to keep the papers safely. She adds, *"I think the land is in my name because my husband had once taken me to Belbari sign the papers. I trust my husband."*

Chandra Prasad, VDC Secretary, Baijanathpur Morang, provided further information:

"More than 70 per cent of land in Baijanathpur is in men's name, and the rest in women's name. Even those women who have the ownership of land do not necessarily have control over it. It is the men, mostly husbands, or other male members of the house, who are involved in decision-making pertaining to that land. This is mostly observed when the land is either brought or sold or when the transaction is happening, women are present just to sign the papers and are unaware of their rights and how to exercise them."

4.3 SOURCES OF PROPERTY IN WOMEN'S NAME

During the study it was found that the land that is registered in a woman's name is mostly through the earnings of either the husband or other family members (51.3% in Morang, 46.7% in Nawalparasi and 65% in Surkhet). Following table (Table 6) illustrates the different sources of finance for women to own land.

Table 6: Sources of landownership of women

District	Parental Property (%)	Family partition (%)	Dowry (%)	Self-earned (%)	Husband/ Family earning (%)	Pewa/ Gift (%)	Government (%)	Others (%)
Morang	7.1	6	19	12	51.3	1.2	2.3	1.1
Nawalparasi	26.7	10	13.3	1.7	46.7	0	1.6	0
Surkhet	5.4	10.7	13.5	5.4	65	0	0	0

As can be seen in the table above, one of the sources of property ownership for women is dowry too; and its contribution varies along the study districts. Data indicates that the cultural practice of dowry expands the scope of women's land ownership. Dowry is more dominant in some cultures than in others. For example, in Morang, dowry is common among all Terai caste and ethnic groups, including Tharus. Therefore, more women in Morang than in Nawalparasi and Surkhet have land ownership through dowry. Dowry is also one of the common forms of transferring parental property to daughters among Tharus of Morang. FGDs in Morang and Nawalparasi suggested that education has not been an effective factor in dowry; rather it largely depends on the economic status of the bride's parents and the unwritten marriage contracts. Only around 7 per cent of women have ownership of land with their own earnings. This is a testimony that women are still largely dependent on their family members, mostly men, for ownership of land and property.

An interesting case was covered in the study where a woman owned land as an equal inheritor like her brothers (Case 2).

Case 2: Conditioned inheritance

Maya, 37, from Nawalparasi is the third child of her family between two elder and two younger siblings. Maya spent most of her childhood visiting doctors. A heart problem at an early age severely affected her eyesight, forcing her to drop out of school. After a year of treatment and multiple visits to a hospital in Kathmandu, her eyesight was restored. She has almost completely recovered from her heart disease, and is now working as an Office Assistant in a homeopathy clinic in Nawalparasi.

Maya's frail health was a source of worry for her parents, and to ensure that she is financially strong, they decided to give her some land. After a month of waiting, Maya received the official papers from the LRO at Kawasoti. The land was divided following the *jiya-jiya* system, in which inheritance amongst all siblings is divided equally. However, Maya received 0.30 hectare of land, a little more than her siblings because of her vulnerable health status. Later, Maya bought an additional 0.0062 hectare of land and registered it in her own name. She shares that the process of getting the land transferred in her name was cumbersome and time consuming, and some officials at the Land Registration Office asked her for money to expedite the process. However, she did not bribe any of them and got her work done in three days.

Maya is grateful to her parents, who she now lives with and looks after. Having property of her own has made her feel more secure and confident. In the future, Maya plans to use the land for agricultural purposes for survival and lease some land for noble causes.

4.4 BARRIERS TO WOMEN'S LAND OWNERSHIP

Women face several barriers to accessing, owning and controlling land and property. While poverty could constitute as a major barrier, they face gender-specific barriers, including the design and implementation of programmes that do not take women into consideration, lack of awareness among women in relation to their rights and land-related programmes, gender-biased behaviour of land officers, as well as social and cultural practices of specific communities. The study has made an attempt to identify such gender-specific barriers, categorized as social, cultural and institutional barriers faced by women to secure land.

4.4.1 Sociocultural and structural barriers

A woman may have legal right to land and property, and yet the right may not be recognized socially legitimate. When economic activities and social responsibilities are defined along the lines of gender, women's access to productive assets such as land are often influenced by social norms, culture and attitudes. In the three study districts, patriarchy and conservative social setup persist, influencing women's mobility and status in society. This is often related to the absence of support to women in recognizing their land rights and fighting against discrimination in access to and control over land.⁹⁰

Table 7 lists down some of the major sociocultural factors that hinder women's land and property ownership. These figures are based on responses from women.

Table 7: Sociocultural factors preventing women's land ownership

Sociocultural factors	Respondents (%)
Patriarchy is a tradition	37.6
Society's distrust in women's land ownership	24.7
Perception about misuse of property by women	23.2
Discouragement from neighbours	9.3
Others	5.2
Total	100.0

Patriarchy, the main obstacle

In the districts of Morang, Nawalparasi and Surkhet, the proportion of land owned by women is significantly less in comparison to that by men. The strong patriarchal value was found to be a significant barrier to women's right over land ownership in all three districts. Inheritance, for instance, has traditionally been patriarchal in which the ancestral property is passed through the male line, except for in some cases where it is matrilineal in which ancestral property is passed through the female line. As a result, there remains a wide gap between what is provided for in law and what is actually practised. In most communities all over the country, there is a strong male resistance to women's land ownership. Moreover, it is usually men who have

⁹⁰ Community Self Reliance Centre (CSRC) Reflections 2013: Land and Agrarian Rights Movement in Nepal (Kathmandu, CSRC, 2013).

the decision-making power, as well as access to outside information, which means that women's priorities are often overlooked. Of the surveyed population, 37.6 per cent of women thought patriarchal values hindered women's claim over their land ownership rights.

In Morang, patriarchy was traditionally accepted and men continue to hold the ultimate decision-making power in the households. Women's right to land is neither considered important, nor is valued. In most cases where women have land in their names, it is either because male members of the household want to take advantage of the provision of tax exemption, or women have received land as dowry from her parents. In Nawalparasi too, the societal aspects attached to women's land ownership were similar to those of Morang. In Surkhet, the patrilineal society and culture exists alongside the emotional dependency of women on men. This also has much to do with the societal recognition of the husband as sole decision maker.

In all of the surveyed VDCs, the perception that daughters are sent off to her husband's house after marriage remain as the prime obstacles for women to be considered coparceners in family property. To illustrate, a Brahmin male informant in Morang described women as *"aruko ansh khaane jaat"* (daughters carry the names of her in-laws). As a result, parents' property generally belongs to sons, and only rarely are daughters considered as the inheritors of parental property.

There were few exceptions where men saw women's land ownership as equally important, and provided land to women as equal inheritors.

Case 3: Ascribed social status through land ownership

Narayani of Kunathali VDC, Surkhet, is one of two children in her family. She received 0.3 hectares of land from her father after she got married in 1986. Since Narayani's husband was from the hills, her father wanted her to live nearby. Hence, he divided the property into three shares and distributed two shares to each of his children. In her share, Narayani got 0.2 hectares agricultural land and 0.1 hectares homestead land. She shares her experience of going to the LRO: *"Everyone was surprised that my father had given me land like he gave it to my brother and many suspected it was another form of dowry."* A retired Indian Army officer, her father loved both his children equally. Narayani adds, *"My father always knew that if I had my own land, I would not have to be dependent on anyone in times of need. Plus, no one would dare to humiliate me."*

She feels very fortunate to have her family's support. She maintains that ownership of land has given her a sense of confidence. People respect her and seek her leadership in village level forums and networks. Additionally, the ownership to property has given her the opportunity to talk about issues related to women, which otherwise would not have been available to her if she herself was deprived of ownership.

Lack of trust on women

Another presumption in the villages is that women cannot handle the financial responsibilities as well as men do. Men were found to possess more information and procedural knowledge about policy and legal practices with regard to land registration and inheritance. Women, in contrast, are limited to doing household chores and taking care of the family, and are not regarded as capable of handling property and dealing with land transactions. This was similar in all groups studied, with little variation between "high-caste" groups and ethnic groups, particularly Magars in Nawalparasi and Tharus in Morang.

Moreover, there was a general sense of mistrust towards daughters and wives. A man shared, "If land is transferred to a woman at a young age she might take that away with her if she gets married or goes away

with another man while her husband is away. If a wife elopes this way, the husband cannot claim his share; that is also one of the reasons why people fear to register land in a woman's name."

In Surkhet and Morang, FGD participants highlighted two cases where women "eloped" with land and property while their husbands were working in Arab countries as labour migrants. A staff at the LRO in Dulari, Morang hinted that such incidences have "demoralized" women to make any claim on land and property even if they wished to. Similar cases and opinions were found in Nawalparasi and Surkhet as well, where land officers, local leaders from different political parties and community members did not see credence in giving land and property to women.

In addition, ironically, some women were found to accept men as the ultimate decision makers and worthy of being the landowners. During FGDs in the three districts, some women argued that it was not necessary for women to have land registered in their names as long as the land is family's property. Of the surveyed population, 14.7 per cent of women each in Morang and Nawalparasi and 47 per cent of women in Surkhet, believed that as long as the husbands and sons are around, women should not have land ownership.

During a FGD, women from Ailanpur, Mrigauliya unanimously maintained that the husband's role is more important in transferring land ownership to women; therefore, as they argued, men along with women should be aware of the positive aspects of registering land in women's name, because, as they said, "husband's support and trust is must." This was an interesting finding since women showed an understanding on what equality of gender would really mean and that gender equality is not necessarily only about women.

Case 4: The fight for more

Gangajali, 40, of Gorakhpur, India was married to a teacher from Athlai, 9, Pratappur of Nawalparasi after she finished her schooling. It was only after her son was born that she acquired her citizenship. It was the first time she had been to any institution like the District Administration Office (DAO) to acquire a citizenship certificate. While her husband had done all the paperwork, Gangajali had covered her face with a corner of her saree, and signed in places her husband asked her to. For years, she had not spoken to other men, "My husband would do all the shopping for me, it was not necessary for me to go out for anything. I stayed at home, worked and looked after the children," she shares.

As years passed, Gangajali started to familiarize herself with the community people and she became active in women's groups. Later, her father-in-law transferred 0.2 hectares of land in her name. Ever since the land was transferred to her, she has been using it to grow sugarcane and peanuts, which she sells in the local market. As a result, she is now able to save some money and does not depend on her husband financially. She shares: "Things are different now. In the past, my husband would beat me for little mistakes. It does not happen anymore."

Although she enjoys her independence, she is not completely satisfied. She agrees that because she is not educated like her husband, she has to depend on him for administrative matters. Like last time when the paralegal supporter made a mistake with her name, it took her two more days to get it fixed. She shares: "I am often confident about myself now, but when things like this happen, I panic. The government officials are intimidating and I lose my confidence. During these times, I have to turn towards my husband."

Family Structure

The structure of the family also has a bigger role to play in women's awareness and mobility. A general observation of the study was that women living in nuclear families have more liberty and support from

families, and thus realize more rights and ownership than other women do. Ancestral property is mainly in men's name and it is likely to get transferred to the other men following the hierarchical order. However, women with family support are likely to have freedom to be socially active, be involved in politics and public spaces and also have better access to knowledge regarding rights. Educated families are women-friendly to some extent, with high acceptance of their freedom and rights. Educated men are aware about the legal systems and constraints so they are willing to support and encourage women's land ownership.

Social Perceptions

Social perceptions play an important role in influencing whether or not women can claim their rights to land and property. 26 per cent of the surveyed population consider it necessary for women to own land to ensure their rights and 17.8 per cent relate to using land as collateral or investment for business by women. The study observed that survey respondents rarely associated land-related responsibilities to women. Another finding validated by this study was that ancestral property, assets and land is passed on to sons and not daughters, except for in special conditions (in case when daughters are unmarried, disabled or economically vulnerable).

Table 8 presents the different social perceptions regarding women's land rights.

Table 8: Societal perceptions on the importance of women's land ownership

Perception on land holding by women	Per cent of respondents (%)
To assure women's rights	26.0
To use as collateral or use in business	17.8
To secure the family position	13.8
To enhance social status in the society	11.1
To protect property	10.1
To minimize difficulties in the future	9.7
To provide socioeconomic security	7.7
To minimize domestic violence	3.0
To assure responsibilities	0.8
Total	100.00

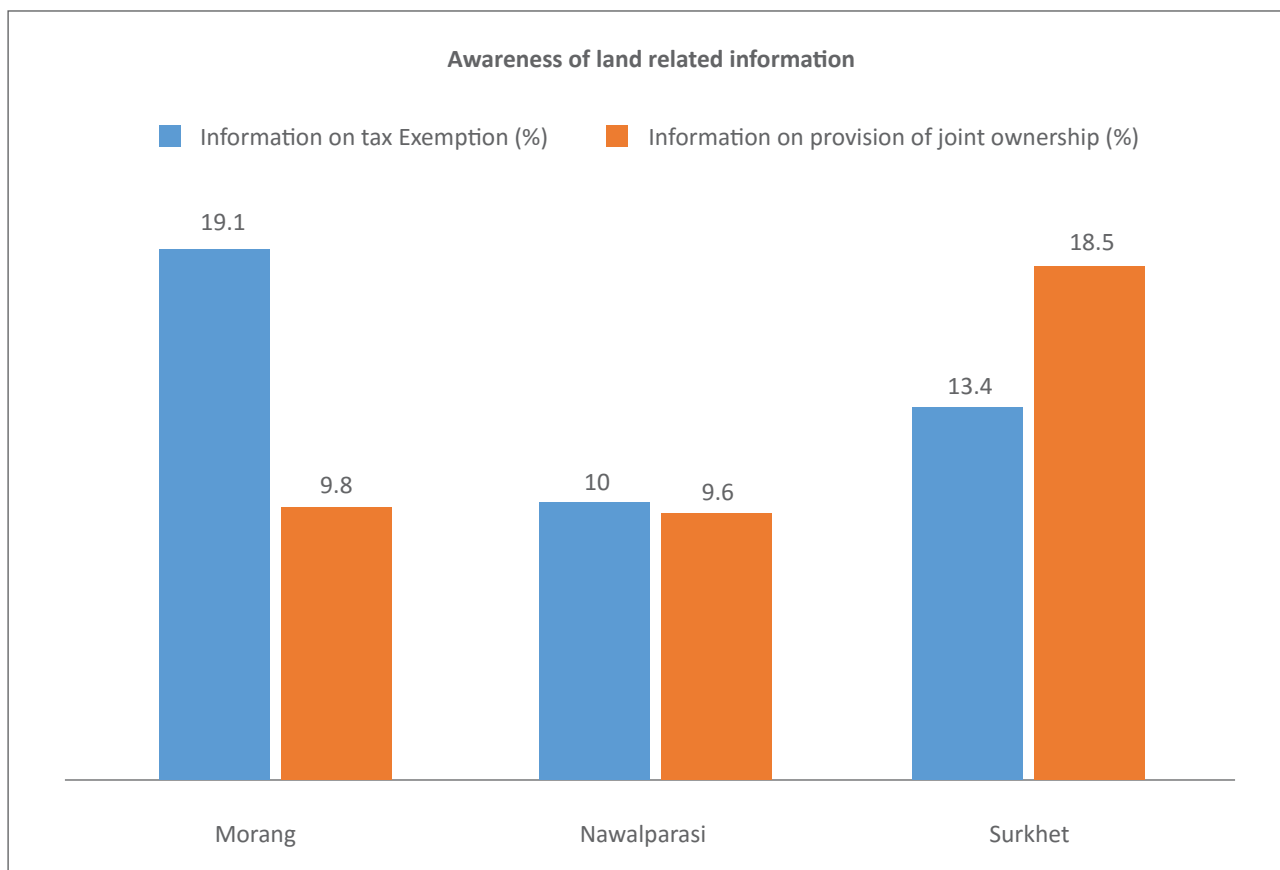
4.4.2 Knowledge and information gap

Access to information is vital to access property rights, including land rights. It is important to identify the knowledge level on legal and administrative policies regarding land, to understand the awareness in women regarding their rights under state and customary systems. Of the surveyed population, 56.9 per cent women respondents in Morang, 30.3 per cent in Nawalparasi and 39.8 per cent in Surkhet are aware about the provision of tax exemption when registering land in the name of women. Similarly, 24.6 per cent in Morang, 19.30 per cent in Nawalparasi and 47.4 per cent in Surkhet are aware about the minimal registration cost for joint ownership of spouses. Most of them lacked the understanding of legal provisions impacting their rights to own land and property, calling the legal strategies into question. The knowledge of legal provisions was minimal among women (2.4% in Nawalparasi and 7.3 in Surkhet). Such lack of knowledge acts as a significant barrier to women's land and property ownership because without the information, they are not in a position to demand or exercise their rights.

“If women get land in their name, their decision-making power will increase; but women are less informed about laws because they are confined within the house.”

- Laxmi Bhandari, 24, Empowerment Worker at Women for Marginalized Women Program, United States Agency for International Development (USAID).

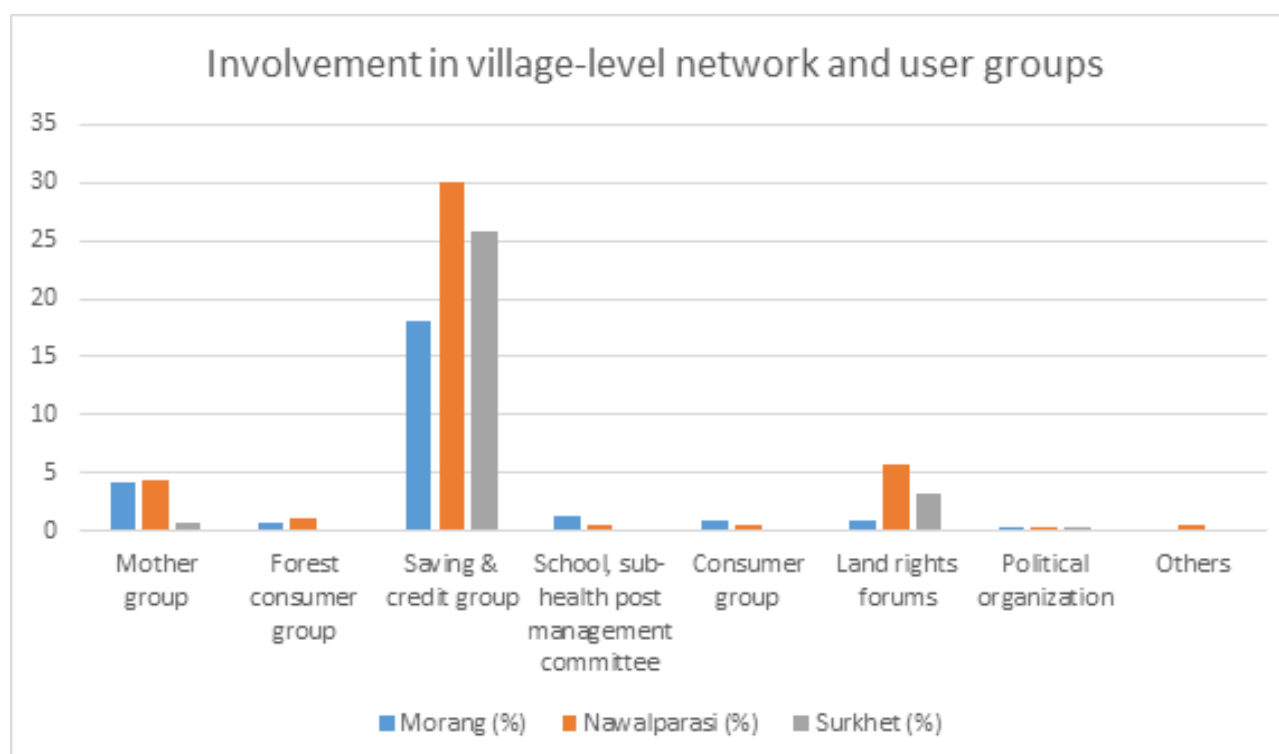
Figure 2: Awareness of land-related information



Additionally, there is an apparent lack of awareness and proper information on the land transfer and registration processes and requirements. This study found that few women had knowledge of the kind of documents required. Only 12.90 per cent of the total surveyed female population had knowledge about the documents required during the process of land registration.

One of the major capabilities required for accessing the information is the level of education. Among the surveyed population, only 16.50 per cent of women in Morang; 16.50 per cent each in Nawalparasi and Surkhet have an education level of SLC and above. A large proportion of women are still illiterate. This severely impedes their ability to remain updated on the legal provisions meant for them.

Figure 3: Involvement in village level networks and user groups



In the three districts studied, women shared that they receive most of the information on legal provisions on land ownership through the meetings of the groups they are members of. Savings and Credit groups are the most popular groups among women; 18 per cent of surveyed women in Morang, 30 per cent in Nawalparasi and 25.80 per cent in Surkhet are members of such groups. Similarly, Mothers groups, and Land Rights Forum⁹¹ also remain popular. Other groups include forest groups, consumer groups, and land rights groups, but very few respondents are members of such groups.

The study also found that District Development Committee (DDCs) and VDCs as well as Non-Governmental Organizations (NGOs) working at the local level were not disseminating such information, unless they were specifically working on land rights issues. NGOs working on “women’s empowerment” did not have any programme on women’s land rights. Therefore, while the knowledge and information gap among women remains an issue, it is equally important that all sectors of society possess adequate information about existing legal policies regarding women’s land rights and their importance.

“Tax exemption in itself means nothing, unless the mindset is changed, beginning from the household level. On one hand, women do not have information about the benefits reserved for them. On the other hand, even government staff at the local level are not well informed about the legal provisions with regard to women’s land rights. It is also important to have land in women’s name as they are more sensitive towards property. If they are educated and empowered they do take care better. I have also bought a ‘ghaderi’ (a piece of land to build house), which is registered in my wife’s name.”

- Yagya Pr. Devkota, Land Reform Office, Mehelkuna, Surkhet

⁹¹ Land Rights Forum has been working focusing only in some VDCs in each district where the issues related to land rights are more critical; it is a movement-based forum but not merely a membership-based organization. Therefore, it was learn during the field observation that even if many of them knew about the NLR, DLR and Village Land Rights Forum (VLR), have participated in their programmes, but are not the member, per se.

4.4.3 Long distance travel and mobility constraints

The mobility of people in villages is severely constrained because of geographical remoteness. People have to travel to the VDC Centre and district headquarters on foot or by cycle for any kind of administrative matters. Moreover, the distance and limited mode of transportation, coupled with the burden of household work particularly limit women's mobility. It was observed in the study districts that women have to spare time not just for travel between the village and land offices, but also for the lengthy and bureaucratic processes to complete land transactions. This is always not possible for women since they have to handle the responsibilities of the household as well as agriculture.

Case 5: The cost of getting an ownership

Padma from Dedgaun, Nawalparasi lives with her children, while her husband works abroad and sends her money regularly. A few years ago, Padma bought some land with the money her husband sent. It was, however, not easy for her to register the land and faced several difficulties throughout the land registration process. First, the distance between her house and the land registration office was more than half a day. Second, the process of registration itself took considerably long. It was not easy for her to leave her kids at home alone. She shares her story:

"I bought 0.065 hectares of land from my neighbour, who accompanied me to the LRO to complete the process. I had to leave my children at home all by themselves. The Office is at Kawasoti, the other side of the Mahabharat hill, and it takes more than half a day to get there from our village. Only after reaching Kawasoti did the land owner realize that he had forgotten some papers. In order to expedite the process, I bribed the officials. It still took me another day to complete the registration process. Yet, I did not receive the official ownership papers by end of the day. On the third day, I received the ownership papers. On the fourth day, hoping to start early for home, I hurried to the bus stop but unfortunately there was a general strike and vehicles were not allowed to ply on the roads. I was stuck in Kawasoti for two more days while my children were alone at home. Finally, on the sixth day, the general strike was called off, and I headed home. This whole process was painstaking and kept me constantly worried about my children. I will never want to leave my children like that again."

Difficulties are almost similar for the women in Terai, as well. Phulkumari Mahato, Kawasoti, 13, Tengri shares: *"In the land office, the work is not done in a day. A woman is not allowed to stay out of the house. If I spend the night out of the house, people will start talking about me. Also, who is going to take care of the house when I am gone?"*

4.4.4 Administrative and institutional barriers

The process of land registration and transfer is often lengthy⁹² and time-consuming, entailing high administrative costs and requiring different documents. Moreover, all the cases observed in the LROs in the valley and in the districts were facilitated by *lekhandas*, paralegal agents charging fees. For women, the challenges are often exaggerated as they are not familiar about the process that one has to follow to complete such kind of work. Additionally, women also reported facing harassment when they engage in land-related transactions, including buying and selling. Women who visited the land offices recounted that they were asked personal questions about their family, husbands and children, and so on, which, as they observed, were not asked of males. However, according to LROs, such questions are routine and for everyone, so that they can confirm

⁹² A flowchart outlining the entire process of land registration has been presented in Annex I.

that the land transaction is happening with full consent of both the buyer and the seller. LROs in Kathmandu Valley did not have any specific help desk or information booth for women.

At the institutional level, there are several administrative and legal difficulties faced by women when making land registration/ownership certificates. Most of the institutional barriers are related to slow service at the land offices, high administrative costs and ignorance about the documents required for completing the processes. The following table (Table 9) lists the administrative challenges faced by women during the land registration/transfer process.

Table 9: Administrative challenges during land registration

List of Difficulties	Nawalparasi (%)	Surkhet (%)	Morang (%)
High administrative cost	5.7	6.8	0.0
Slow service	9.1	28.4	2.3
High paralegal cost	3.4	2.3	0.0
Inaccuracy caused by the paralegal	0.0	1.1	0.0
Need for repeated visits	1.1	11.4	0.0
Inappropriate behaviour from the officials	0.0	3.4	0.0
Lengthy processes	0.0	5.7	0.0
Lack of awareness on required documents	1.1	12.5	0.0
Having to bribe the officials	3.4	0.0	0.0
Lack of information on tax exemption	1.1	1.1	0.0
Total	25.0	72.7	2.3

As can be seen, women in Morang did not report many administrative challenges. While this could be surprising, the reason why women in Morang do not face administrative barriers is because women there hardly go to LRO on their own. As discussed already, they are mostly accompanied by male members of the households who take care of all the administrative matters, while women just sign papers.

Throughout the study districts, people feel that the VDC has not played an effective role in raising awareness on women's land rights; rather, its role has been limited to providing recommendation letters to facilitate the process. Neither they nor the LROs (in all three districts) had a special programme, strategy or unit for awareness and advocacy to encourage women's access to and ownership of land and property. The offices were only involved in providing services regarding land tax collection, land transfer and registration.

The process of land registration itself has been developed as a "man's domain", from approaching a licensed paralegal to following all administrative and legal formalities. In Morang, there were only one or two licensed female paralegals; a few others were their assistants and were in the process of getting a license. Having a paralegal was seen as necessary because most people wanted to avoid the lengthy administrative hassles. In Nawalparasi there are no paralegals in the LRO, except one Tharu woman supporting the clients on behalf of the agent she works for. However, one of the staffs in Dulari LRO in Morang noted that the number of female paralegals is on the rise primarily due to the increasing number of female service seekers, as a result of rising foreign labour migration among men. He noted that female service seekers are more comfortable to receive services from female paralegals as compared to male paralegals.

In most cases, women lack basic documents needed to get the land ownership, like citizenship for identification and photographs. For instance, a divorced woman is entitled to receive a share of property from her husband. But for that, she needs to produce her marriage certificate. Conversations revealed that marriage registration was not common earlier, so many of them do not have marriage certificates. As a result, as shared by a number of respondents, without marriage registration certificate have not been able to claim any share because legally, without the proof of marriage, they are not entitled to anything from their husbands.

4.5 OBSERVATION OF WOMEN-FRIENDLY SPACES IN LAND REVENUE OFFICES IN KATHMANDU VALLEY

The process of buying and selling of property is lengthy and demanding. To verify documents, the beneficiary has to pass through all the officials in six different divisions of the LRO, before finally reaching the Executive head to secure his/her approval. Only 13 per cent of employees in the LROs in Kathmandu district were women, mostly computer operators and office assistants. The situation is worse in districts, for example, only 3 of 32 staff in Morang are women, of which only one is permanent and two are temporary. Women interviewees agreed that the presence of more women employees in higher positions would make it easier for women service seekers.

“It is easier to talk to female employees, they respond to our queries appropriately. Conversation with male employees gets difficult, they do not respond about things we enquire.”

- Ratna Maya, LRO, Lalitpur

Dependency on paralegals

Service seekers shared that they were fully dependent of paralegals for all land-related transactions, as well as transfer and ownership documentation. In Bhaktapur alone, there were more than 200 certified paralegals. The study found that this overdependence on paralegals for all land-related services is a reflection of service seekers' ignorance of land-related laws and policies. People who came for land transfer in their own names were not aware of the administrative departments. Women service seekers were observed to first get in contact with a paralegal instead of the officials. The paralegals help them arrange all the necessary documents and letters and complete the process. Upon completion of all the processes, service seekers pay certain fees to the paralegals; the service charge however had no fixed margin or criteria. Even the officials were seen asking their clients to come through the registered paralegal agents.

Status of women paralegals

This study found the role of paralegals to be positive and helpful for the service seekers. Both male and female respondents emphasized the need for more female paralegals in the field. A major observation was the physical and mental challenges faced by female paralegals in a male-dominated field. Some female paralegals agreed that their job is more challenging in comparison to their male counterparts, and women mostly work as assistants to men. In addition, not all those female supporting the registration process are certified paralegals, rather, they are simply helping the clients of the agents they work for.

“Most service holders do not trust us because we are female and this is a traditionally male-dominated service area. It’s been a year since I am working in this field and it has been very challenging. Everyone, from the Land Revenue Officials to the male paralegals try to dominate us. We have to please the officials by talking to them nicely or smile at the time, otherwise they tend to delay our files.

-A female paralegal



Figure 4 : A female paralegal supporter at work, Land Revenue Office–Dillibazar

Infrastructure of the Land Revenue Offices

Restrooms

Based on the observation made during the study, it has been concluded that the LROs in all three districts in Kathmandu Valley are not necessarily women-friendly. Although Bhaktapur and Lalitpur LROs are housed in their own buildings, the Kathmandu LRO in Dillibazar is set up in a rented building, after the original building was damaged in the April 2015 earthquake. This new place does not have adequate facilities for women, children and elderly. Usually these offices are crowded with male service seekers who visit the office for land registration, ownership or transfer. Women service seekers, including elderly women and those with children were seen struggling from amongst the crowd to get their work done. There were no sitting arrangements or proper toilets for female. Similarly, at two other districts of Lalitpur and Bhaktapur, people either use paid toilets outside the office building or use male toilets, which the women complained as being uncomfortable to use. In addition to this, there were no breastfeeding rooms, which were also regarded as a challenge by women service seekers.

“Since the ladies toilet was locked, I was forced to use the men’s toilet. I asked my brother to wait outside and used the service.”

– Female service seeker, Bhaktapur

Figure 5: Locked ladies toilets in land revenue offices of Bhaktapur and Lalitpur



Citizen Charter

The Citizen charter in all the LROs is supposed to help women learn about the processes and documents required for land transfer and registration. However, they were found less useful by the female office visitors. The Citizen's Charter in the LRO in Bhaktapur was placed in the corridor where most people walk along, so it was not easy for people to read the information. In the LRO of Dillibazar, there was no Citizen Charter because of lack of space. The notice board in the same office was not managed properly. Only in the LRO of Lalitpur, the Citizen Charter was displayed in a proper place where the service seekers could read it. Even the officials at the offices accepted that the use of Citizen's Charter is minimal at the land offices.

"The Citizen's Charter is placed in a wrong place in our office, often people gather there. Most women cannot make use of it because the place is crowded."

- Land Revenue Official, Bhaktapur



Figure 6: Notice board at the Land Revenue Office in Dillibazar

4.6 PERCEPTIONS ON BEHAVIOUR OF OFFICERS TOWARDS FEMALE SERVICE SEEKERS

The LROs were usually very crowded and the officials were always busy. The crowd was visibly dominated by male service seekers, with only few women coming to the office without any male support. Similar to the study's observation in other districts, women in Kathmandu were also accompanied by other male family members. They usually do not have any important role in the processes. According to the officials in all the offices, women who come by themselves usually do not tolerate the crowd and prefer to pay extra charges to get their work done faster. This is particularly true because they do not have knowledge of all the legal and administrative processes involved, and depend on paralegals to get things done for them. However, contrary to this, some male employees also asserted that the female service seekers are given special attention, and their requests are prioritized.

"I give priority to female clients and if women come to me with their problems I support them from my own office. But I am not alone in this. If there are elderly women, I request my colleagues to process their requests first".

- Revenue and Information Officer, Kathmandu

An official in the LRO in Dillibazar emphasized the role the Government could play to promote women-friendly spaces and facilities, and to have more female staff, so that more women could avail from the entitlements provided by the Government.

CHAPTER 5

CONCLUSION AND RECOMMENDATIONS

5.1 CONCLUSION

This study concludes that the social and cultural barriers are still a major challenge for women to have land ownership and other property rights in Nepal. Usually it is the male member in the family who gets all the parental property and is also at the forefront of all land-related transactions. Traditional beliefs in surveyed communities are so strong that only sons are considered as the inheritors of parental property. In such cases, the most common source for women to own property is through dowry that they receive from their parents. Among the Tharus in Morang, it is a customary practice to give a plot of land to the daughter during her marriage. Similarly, the Magars of Nawalparasi also have customary practice of *Pewa*, but usually they constitute things other than land, such as goats, chickens or other commodities and ornaments. This is why the proportion of land registered in Morang in women's name is higher compared to the other two districts.

Women in the study districts are often limited to traditional gender roles and often seem to readily accept discriminatory customs and practices. Women are confined to the domestic or private spheres and are less active in public spheres. The practices and perceptions of women's position in the household, family and community affect the extent to which they can exercise their land rights. This would also amplify the administrative and logistical challenges that women have to face – first the offices being far away from their homes, they would either be cut off from services, or they would have to handle all the stress as a result of leaving the household chores and responsibilities.

Lack of proper legal and administrative support has further aggravated the situation. For example, among the surveyed population in the study districts, only 21 per cent in Surkhet, 32.6 per cent in Nawalparasi and 46.4 per cent in Morang have land registered in women's names. The larger share of the land is still under men's control. On the other hand, even if women own land, they rarely make any decision with regards to the land. Generally, women in a nuclear family, or at least living in a family without parents-in-laws, have land in their names. In joint families, the family structure itself is a barrier in transferring land to women.

The ineffective legal provisions, in combination with prevailing social perceptions have remained a challenge for women to exercise their land rights. Moreover, a woman is required to produce more documents in comparison to men at the LRO for land transactions, which also discourages women to go through the hassle of registering land in their names. The provision of tax exemption, to some extent has promoted land registration in women's name. This indicates that policy reform can enhance women's access to land ownership. However, the information dissemination and communication systems are inadequate, ineffective and inefficient to the extent that many rural women still are not aware of such provisions. Only 37.9 per cent of women consulted for the study were aware about the provision of joint ownership. Women mostly gained inheritance through their husbands' earnings. Interestingly, women have started realizing that owning land not only provides social security and but also contributes in reducing domestic violence. The need for now, therefore, is to sensitize women and aware them regarding their entitlements to progressive provisions to promote women's use, access and control over land.

The study could not identify any single woman who independently, without company of any male members, went to the LRO in order to start a land transfer process. Women reported of often being mistrusted and even harassed in the land offices. Consequently, women merely join their husbands to sign papers, without

any knowledge of administrative and legal processes. Additionally, office staffs, service providers and service seekers in the LRO are mostly men, which make the office space and environment unaccommodating to women.

This study leads us to conclude that women will continue to face challenges in asserting their land and property rights unless there is an organized and effective mass education campaign for women, leading to the movement for women's land rights as well as a demand for more women-friendly legal provisions and gender-friendly office environment and administrative processes.

5.2 RECOMMENDATIONS

Although the new Constitution is progressive compared to the previous ones, it is not enough to include the principle of equality without a coherent legal framework and implementation mechanisms in place. Cultural patterns and institutions cannot change in the absence of a conscious, collective, well-thought and comprehensive targeted programme which can ensure sustained outcomes.

Based on the findings and conclusions of the study, the following recommendations are made.

Legal recommendations

- a. The provisions for equal inheritance of parental property (as mentioned in the Chapter 16 of the Civil Code, the Chapter on Inheritance) should be guaranteed by legal reform without gender biases. Working with and engaging government authorities and policy formulating bodies should be a priority in order to make such favorable policy reforms. The clauses on equal inheritance on property as per the Article 38 of the Constitution should be implemented through a legal framework and right institutional set-up.
- b. Land is a productive asset and a direct access to it means access to source of income. The Government should introduce provisions of Independent Land Rights through the Civil Code and provincial Acts, targeting single women and unmarried daughters. Women should be given options of having either a joint or independent ownership of property received from her husband's side. The ownership of parental property should be made independent.

Recommendations for CSOs

- a. Organizations working on women's rights, human rights and land rights should continue to raise awareness on women's land rights through a comprehensive information, education, and communication campaign. They should also work to challenge the perception that women are not capable enough to handle land and property. Additionally, CSOs should also offer free legal advice and aid to facilitate rural women to improve their access to land.
- b. CSOs should provide trainings to frontline workers at the government offices as well as social mobilizers at community level on legal provisions in relation to women's property inheritance and ownership.
- c. They should work to promote women's land ownership independently as well as jointly through advocacy at the user groups and mobility camps at the VDC level, with participation of both men and women. For this, CSOs working for women rights as well as land rights should join hands and work as an alliance so as to carry out their advocacy work more effectively through the use of print and visual media as well as the community radios.

- d. CSOs should promote mutual sharing and learning among the actors in community development, working to promote women’s social and economic well-being. Networking should be the first step to this, which can be done through the existing groups in the village which have membership of local government officials, youth groups, school students, media, etc. Those same groups should be mobilized for advocacy and sensitization workshops.
- e. The CSOs working for women’s rights as well as land and agrarian rights should continuously engage in policy dialogues with the Government. They should bring the international human rights instruments which protect women’s rights to land and property to the attention of the Government. This can be done through the line agencies at the local, regional as well as national levels.
- f. CSOs should also provide trainings to more women land rights activists at the local level as paralegals. In addition to providing them information, tools and techniques required to become a paralegal, the training could also provide them skills on negotiation and information on legal provisions with regard to women’s property rights. Doing so shall not only generate employment, it can also provide much needed support to the women service seekers in availing seamless service at the land offices removing some administrative barriers faced by them.

Recommendations for Government

- a. The Government should adopt a strict anti-harassment policy and implement this throughout the system. The policy should be detailed about all the forms of harassment and should be promoted and enforced strictly.
- b. The Government should initiate a policy of hiring and appointing at least one female paralegal in all the LROs throughout the country. Additionally, it should also increase the representation of women at all levels of revenue administration, ensuring that there are women officers at the LROs at all the regional and central level offices. This initiative can help in better addressing women’s concerns and issues when they visit those offices.
- c. Provide gender-sensitivity and capacity building trainings for staffs at all the VDCs, district and central level offices. This can help in enhancing their understanding of women’s needs and help them interact with and serve women better. Periodic legal literacy programmes on women’s property right should also be conducted, especially focusing the VDC Secretary and support staffs; and subordinate staff at LROs.
- d. Install Citizens Charter and notice boards in a place that is easily accessible and visible, with information presented in simple easy to understand language. Similarly, information on women’s land rights should be displayed in public spaces and advertised through media that is accessible to both men and women.
- e. The Government should also devise a mechanism whereby districts or municipalities that make outstanding contribution to community sensitization on women’s rights, welfare and effective resource utilization are awarded and recognized.

Recommendations for local level land offices

- a. Women friendliness should be taken into consideration while designing and constructing LROs. Women friendly infrastructure can include a separate counter for women to complete land registration transactions and processes – staffed by women. Additionally, there should be provision

of separate toilets for both men and women, making sure they are clean and operational. Similarly, there should be resting room for women (service providers as well as service seekers) making special arrangements for breastfeeding mothers.

- b. LROs at all regional and central levels should adopt a strict no-harassment policy.
- c. The District LROs should operate satellite office services, targeting remote areas. Through the satellite service, staff when visiting communities in the remote areas within their jurisdiction followed by pre-announced information, can help people from these areas avail the facilities of land registration and transfer without having to make inconvenient journey. This will especially provide support to women who do not have the time, money or opportunity to leave their homes for extended periods of time to carry out any kind of land transaction.
- d. The local offices should also establish helplines at the District LRO as a grievance redressing mechanism for women to report cases of abuses, disputes and mismanagement of land-related transactions. Moreover, they should ensure that the cases are not only heard, but are also addressed quickly and fairly.

In addition to above recommendations, CSOs and researchers should continue to carry out research related to women's land ownership in Nepal. For instance, although the Population Census 2011 has incorporated some data on status of women's land ownership, it is framed to provide information on the household level data. There is still no data available on the proportion of women in the country who have land and property ownership. Similarly, more research is essential given the complexities of Nepali society and cultural practices, as well as the nature of the issues concerning land rights and women's rights. Since this study has been limited to three districts in Nepal, similar studies should be conducted to other areas to understand the challenges women face in other parts of the country.

In the course of this study, some possible themes for future research were identified including feminization of agriculture, especially amid increasing out-migration of Nepali men; the impacts of the April 2015 earthquake on women's land ownership (how were women and their land rights affected, as compared with men); in-depth case studies featuring women who have successfully secured their land rights and what they have done with their land.

Qualitative studies can deepen and enrich understanding, as well as surface new issues; whereas quantitative studies can tease out relationships links between variables like caste and ethnic groups. The research questions should be directed towards the interests of women on the issue of land ownership, to gather women's perceptions on a range of current issues like land use. Finally, land research should include sex-disaggregated data. Similarly, applied and action research can identify gaps in policy formulation and implementation, support capacity development and social mobilization and inform the advocacy of CSOs and social leaders.

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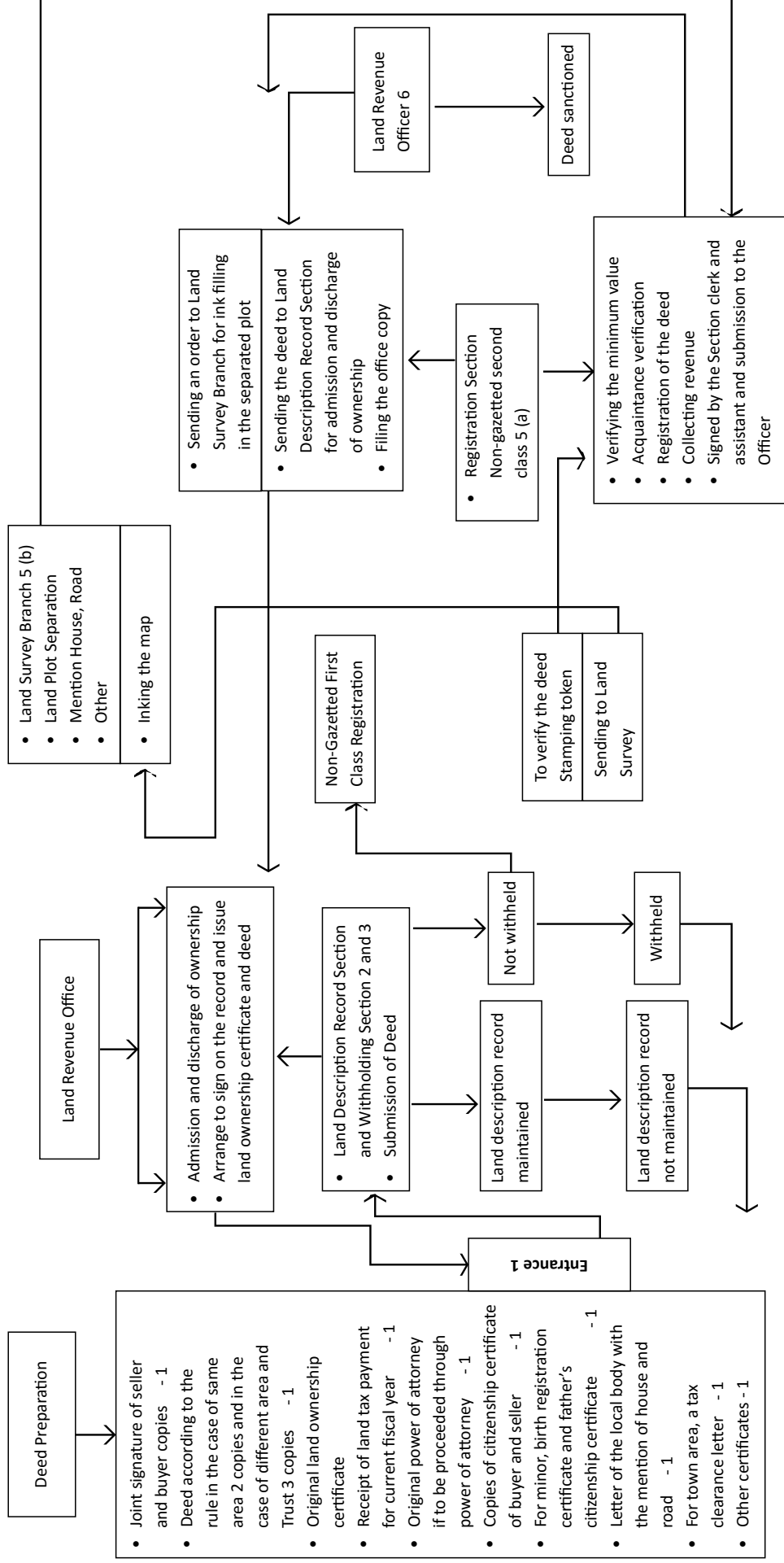
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ANNEX I: PROCESS OF LAND REGISTRATION



ANNEX II: GENERAL CHECKLISTS

Following each of the specific objective of the study, a general checklist is prepared to guide to and to make sure that the required information is collected.

1. Legal Aspects

- i. Existing laws and constitutional provisions (in the new constitution) that enable or hinder women's ownership and access to land and (including registration of land in women's name): list of the policies and laws that are related women's property rights.
- ii. Inheritance (legal provisions, legal barriers).
- iii. Divorce, marital property rights.
- iv. (Access to) Laws/legal enforcement of rights (of women in relation to land; registering in their names and other lands; control over land).
- v. Legal structure and procedures.
- vi. How difficult it is to register land in women's name?
- vii. Laws/legal provisions that enables or hinders to exercise the rights (registered in their names and others lands; control over land).
- viii. Transition of law to law enforcement institutions/agencies at the district/local level.
- ix. Types and nature of cases filed in the district courts, relating to women's ownership of the land/ women-owned land.
- x. Dispute resolution related to land. If it becomes more complicated if that land is registered in women's name?
- xi. International experiences, best practices in relation to gender responsive process and procedure of land registration (policy, law, law enforcement mechanism).
- xii. It will be interesting to check how these legal provisions are being translated in the districts. Also, include information on women having ownership on land in each districts/ number of joint ownership certificates.

2. Logistic and institutional barriers (for women in relation to the land registration): rapid assessment of the land offices in the district and central level

- i. Land registration process: structure and process in the land registration offices (also considering the rebate upon registration for women): Present it in the flow diagram.
- ii. Staff structure (male domination, not women friendly, sexual and other harassment in the workplace).
- iii. Lekhapadhi (Para-legal?) support (logistics and structural barriers).
- iv. Office space: resting place, facilities (separate toilets for women).
- v. Attitude and behaviour of the officials and concerned authorities.

- vi. Why it is difficult to register land in women's name in the land registration offices? Structural/policy constraints and agency related difficulties.
- vii. We need more personal narratives of female staffs in land offices, responses of male officials, stories of women who have been to the office for land registration, male and female "paralegal " (?) personnel (lekhandaaas, etc) in land office.
- viii. Knowledge of land officials on gender responsive land administration and management.
- ix. Placement of Citizens Charter in office premises: is it helping service seekers, mostly female service seekers with required information?
- x. Are different forms available online?
- xi. Are land-related terminologies, used in the land offices difficult to understand?

3. Cultural barriers forming obstacles for women to be able to exercise their rights over land

- i. Religious beliefs associated with women's access and ownership.
- ii. Ritual practices hindering women to exercise their rights over land.
- iii. Traditional practices that alienate women from land ownership.
- iv. Inheritance.
- v. Extended family responsibility.
- vi. Division of labour, restriction and imposition.
- vii. Divorce and marital property rights.
- viii. Dowry, marital rights.
- ix. Social structure (of community).
- x. Customary practices.

4. Cultural barriers, mind set and traditional practice that hinder women to exercise their rights

- i. Social traditional practices that hinders enforcing their rights.
- ii. Prevalent patriarchal views and stereotypical roles in the community.
- iii. Decision-making process within family/households, also who holds the decision-making power within the family.
- iv. Family structure (particularly in relation point ii).
- v. Extended family responsibility.
- vi. Division of labour, restriction and imposition.
- vii. Inheritance.
- viii. Dowry, etc.
- ix. Social structure (of community).

- x. Customary practices.
- xi. Religious beliefs and worldview.

[Note: 3 and 4 look almost similar, we need to make distinction in them].

5. Educational and knowledge fissures regarding land laws and procedural structures

- i. Access to basic education.
- ii. How much information do women have about land law and procedural structures? If they are aware of the supporting documents, including citizenship certificate that is mandatory to have access and ownership on land?
- iii. Women in the district with citizenship certificate and marriage certificate.
- iv. Information dissemination mechanism: how women can access to the information: the source of information (access to means and source of information) .
- v. Assessment of the land law and procedural structure based on the information they have.
- vi. Access to social capital (saving-credit gorups, community groups).
- vii. Governance at the local level (responsibility of local government?).
- viii. Outside intervention (e.g. NGO, social movements).

7. Review international experiences and best practices in relation to gender responsive processes and procedures of land registration

- i. International best practices in relation to women's ownership and access on land. What were the processes to achieve those legal provision in favour of women.
- ii. What are the lessons that are relevant to our context to ensure women's land rights (access, ownership, decision-making rights)?

ANNEX III: QUESTIONNAIRE FOR HOUSEHOLD SURVEY

HH No:

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The study questionnaire is prepared for study regarding women’s access to land, legal provisions and barriers faced by them. This questionnaire shall be administered to the concerned household head or adult member and a woman member. All the information received during this study shall be used only for the study and academic purpose. Confidentiality shall be maintained for individual identity and information.

2015.

(Section A)

1.1 Basic Information

1.	VDC/Municipality: _____
2.	Ward No:
3.	Name of Tole:
4.	Household Number:
5.	Household Head: Name Surname:
6.	Cast/ethnicity: (Coding to be done later)
7.	Gender of Household Head: Male <input type="radio"/> Female <input type="radio"/> Other <input type="radio"/>
8.	Religion: (Coding to be done later)
9.	Name of the Respondent _____
10.	Relationship with the household head (What should the household head call the respondent?)
11.	Time taking to reach the VDC Office: _____ hour ___ minute ___ vehicle type _____
12.	Time taking to reach the nearest land revenue office ___ hour ___ minute ___ vehicle type
13.	Time taking to reach the district headquarters ___ hour ___ minute ___ vehicle type

1.2 Personal and household detail

SN	Full Name	Gender 1. Male 2. Female 3. Third Gender	Age (Completed Year; Write 0 if not completed 1 year)	Level of current study or the level that completed	Marital Status (To be asked to those who are 10 years or older than this)	Age at the time of marriage	Where is the current residence?	If the respondent is the outsider from the village, ask the reason why is he/she residing there?	Profession (To be asked only to those who are 10 years old or older than this. To write primary profession in the first and to write secondary profession in the second.)		If the respondent is a member of any association, organization, group? (To be mentioned 2 in a priority basis)		
									19	20			
11									18	19	20	21	22
1													
2													
3													
4													
5													
6													
7													
8													
9													
10													
11													
12													

Write in a separate page if the number of family exceeds 12.

	1. Unmarried	2. Married	3. Widow/Widower	4. Divorcee
Code: 16:	5. Separated	6. Polygamy	7. Remarried/Second marriage=	
18.	1. Away from village	2. Away from district	3. Away from the country (India)	
	4. Away from the country (Malaysia, Gulf Country)		5. Away from the country (Other countries)	
19.	1. Job	2. Study	3. Medical treatment	4. Other
	1. Agriculture	2. Government or Corporation employee	3. Employment in private or NGO sector	4. Self-employment
20, 21:	5. Foreign employment	6. Cottage industry	7. Social work	8. Extended economic activity
	9. Nothing	10. Other		
	1. Mother group	2. Forest User Group	3. Saving and Credit Group	4. School, sub-health post management group
22, 23:	5. User Group	6. Land Rights Forum	7. Political organization	8. Other

(Section B)

2. Land ownership, Food sovereignty and Livelihood

2.1 Land Ownership and Area (To be used local unit of land measurement)

Type of Land	1 Curtilage / Self-registration, Self-cultivation			2 Given to others for tilling			3 Village block, trust			4 Public, uncultivated, (Parti land)			5 Tilling other's land			6 (1+2+3) Total area of land in her ownership/ entitlement		
	Bigha	kattha	dhur	Bigha	Kattha	dhur	Bigha	kattha	dhur	Bigha	kattha	dhur	Bigha	kattha	dhur	Bigha	kattha	dhur
Unit of Land																		

Note: 1 bigha = 20 kattha (Write a complete bigha)

2.2 Is there any curtilage or land in the name of woman in your family?

1. Yes 2. No -----> If not, go to question No. 2.12

2.3 If yes,

1. Curtilage 2. Land 3. Both

2.4 What is the source of the above land (in the name of woman) (How did you acquire it)?

1. As an ancestral property
2. As a partition
3. As a dowry or received from parental family
4. Self-earning
5. Earning of husband or family
6. As a gift (pewa)
7. Acquired by the Government
8. Other

2.5 If this land in the name of woman was procured, when was it procured?

1. Within 1 year
2. Within last 5 years
3. Within last 10 years
4. Prior to more than 10 years

2.6 Is/was there any family dispute, case filed about the land or curtilage (site of house) that is in the name of a woman?

1. Yes
2. No

2.7 If yes, what was the case or dispute about?

1. Case regarding partition
2. Tenancy adoption
3. Land sharing
4. Tenancy transfer
5. Land registration
6. Trust leasehold
7. Land dispute, boundary dispute
8. Registration for temporary land certificate
9. Other (mention)

2.8 Did you submit any application or a petition to any agency to acquire land ownership?

1. Yes
2. No

2.9 If yes, in which agency? (You can tick for more than one)

1. VDC
2. Court
3. Land Revenue, Land Reform Office, etc.
4. Policy/Administration
5. Group, etc.
6. Other

2.10 What kind of barrier did you or the female member of your family face to acquire the land ownership? (Legal, administrative, political, social, family related)

- 1.
- 2.
- 3.

2.11 If there is no ownership of land in your name and in the name of any other woman member of your family, what is the reason of not having ownership?

- 1.
- 2.
- 3.

2.12 Are there any birds or animals, except the land in the name of any woman member in your family, as a jointure?

1. Yes 2. No

2.13 If yes, what are they?

1.
2.

2.14 How long does your production last for your subsistence? (Circle any one answer)

1. Up to 3 months 2. Up to 6 months 3. Up to 9 months 4. Throughout the year
5. For more than one year or spare for sale 6. No production

2.15 How do you manage the short supply of food? (More than one answer can be circled)

1. Earning wages from agriculture sector
2. Earning wages from other sector
3. Borrowing loans
4. Through a small business
5. By borrowing, credit, loan
6. By searching edible wild roots
7. By obtaining assistance or grant from the Government
8. Through government, non-government service, employment
9. Through foreign employment or income receiving
10. Through the support of friends and relatives
11. By keeping children in other's homes
12. Other (mention)

(Section C)

It is obligatory to ask these questions to the female member.

3.1 Do you know or did you know the government provision of tax rebate while transferring or registering the land on a woman's name?

1. Yes 2. No

3.2 If a land was registered in your name or in the name of any female member of your family, what per cent of exemption did you receive?

3.3 Have you heard about a joint land ownership certificate (land certificate in the name of husband and wife) ?

1. Yes 2. No

3.4 Do you know the legal provision regarding joint land ownership certificate or tax rebate for land registration tax?

1. Yes
2. No

3.5 If yes, how did you obtain this information? How did you learn about it?

1. Radio
2. Television
3. Newspaper
4. From the family member (mention who told it)
5. Neighbour, relatives
6. Discussions in the group
7. Other

3.6 Do you know what types of documents are required to get the land registered in the name of a woman?

1. Yes
2. No

3.7 If yes, what documents are required?

- 1.
- 2.
- 3.

3.8 In your view, is it necessary or not to have a land ownership (land certificate) in the name of a woman?

1. Necessary.
2. Not necessary

3.9 If necessary, why?

- 1.
- 2.
- 3.

3.10 If not necessary, why?

- 1.
- 2.
- 3.

3.11 In your experience, what kinds of barriers or practical difficulties might arise while registering or attempting to register the land in the name of a woman? All or only the relevant answers can be written.

1. Legal barrier

- a.
- b.
- c.

2. Administrative barrier

- a.
- b.
- c.

3. Social, cultural barrier barrier

- a.
- b.
- c.

4. Other barriers

- a.
- b.
- c.

Thanks a lot for your time and assistance!

Person to fill in the form: _____ Date of filling in the form: _____

Person to verify: _____ Date of verification: _____

If anything to be mentioned by the person to fill in the form or the by the person to verify: _____

ANNEX IV: CHECKLIST FOR DATA COLLECTION

1. Focus Group Discussions (FGD)

Two FGDs in each VDC; i.e. 6 FGD in each district and 18 in total. Each FGD hosts 6 to 10 participants.

- i. Those who have land registered in their names.
- ii. Those who may or may not have land registered in their names but are organized in groups, e.g., mother group, saving-credit groups, etc.

Can we have a small survey among the female service seekers in the land offices? This will help us to have in-depth information about the institutional barriers.

1.1 Checklist for FGD-I*, women who have registered land in their names

- i. General introduction of the participants (also note, the hh questionnaire number, included in the survey).
- ii. What are the different ways, traditional and/or recent, a woman have land in her name.
- iii. How did each of them receive land.
- iv. Was it difficult or easy to obtain land, the process.
- v. Did they seek help from paralegal (scribers) in the land office?
- vi. If they even had to face the difficulties, the process.
- vii. If they had to go for the court cases or legal support, the process.
- viii. Who helped and who did not, the process.
- ix. Benefits if the land is registered in women's name.
- x. Why should women also have rights over land?
- xi. What should be done to enhance access of women to productive resources, land.
- xii. What kind of support are needed for women to have ownership on land.
- xiii. Any cultural or traditional practices that facilitates or hinders women's rights over the land.
- xiv. What are the social and cultural barriers affecting women's access and ownership on land.
- xv. Even if women have lands in their names, have they really been able to enjoy the rights.
- xvi. Who makes the decision about the land? They themselves or male members of the family?
- xvii. Other supporting documents they submitted during registration of their deeds.

* as much practical cases as possible need to be collected, some of the interesting, illustrative cases should be followed up later for the detail case studies.

1.2 FGD II, women who are also members of a community groups

- i. Sharing of experiences and observations of participants in terms of overall status of women in their village.
- ii. Is it good idea to have land in women's name, as well? Why?
- iii. What is the process, or what are the different ways a woman have land in her name.
- iv. What is the overall status of registration of land in women's name in their VDC?
- v. Why there are only few women who have land in their names.
- vi. What advantages or disadvantages women may get on having land on their own names.
- vii. What benefits can there be to the family, if land is registered in women's name.
- viii. Inheritance: How willing are family members willing to pass on their property to daughters.
- ix. What are the social and cultural barriers in registering land in women's name.
- x. Do you think there are legal barrier also, or supportive to women.
- xi. Who would be helpful if a woman wants register the land in her name.
- xii. Linkages between education and land rights.
- xiii. How do the women normally get information about these issues.
- xiv. If being a member in a group helps in accessing land rights or to exercise the rights? What activities are carried out by your group? (If any?) or planning to any?

2. Key Informant Interviews (KII)

2.1 Legal person, rights advocates/activists

- a. Legal provisions, enabling or/and constraining factor.
- b. What are the weaknesses in existing laws.
- c. If the laws are translated into the practice (or to be claimed).
- d. What are the challenges in translating the laws in practice (customary practices, lack of information, etc.).
- e. If new constitutions has provided enough space/opportunities to make the law in favour of women's property rights.
- f. What immediate revisions should be made to make the existing law and legal practices more women friendly, in relation to the women's property rights.

2.2 Government officials (e.g. in land offices)

- a. What facilities women have if want to register the land in women's name.
- b. What difficulties women have if want to register the land in women's name.
- c. If the office environment, particularly the land registration office, women friendly.

- d. In women employees' view and experiences in land offices, what sorts of problems and challenges one has to face to register land in a woman's name in the office?
- e. What reforms to be made to make the office space and the process more women friendly.
- f. Outreach by land officials regarding the provision to promote women's ownership on land.
- g. Where can service seekers get information regarding these proactive provisions?
- h. Have you received any training on gender issues?
- i. Do you think it is necessary to promote women's access and ownership on land and property?
- j. Disputes (types of land and women related) handled by land offices.

2.3 Local government representatives (e.g. VDC secretary)

- a. Types of cases reported in VDCs relating to women's tenure security.
- b. If VDC provide any paralegal support.
- c. Can VDC decide the cases, if reported to the VDC, or what authority does the VDC have to settle the cases regarding the land issues.
- d. Who do support in favour of women's property rights in this this VDC.
- e. If VDC play any role in implementing existing laws and provisions.
- f. Support of other local institutions such as police office, District Women and Children Office and coordination of VDC with other agencies.

2.4 NGO, social movement activists (e.g. those working on land rights movements, gender equity/justice, legal literacy, paralegal support, etc.)

- a. Related to any movements focusing on gender equity, women's property rights, land rights, etc.
- b. What kind of support they provide to district women?
- c. Sociocultural barriers in accessing women's rights over land.
- d. Legal and administrative barriers in accessing women's rights over land.
- e. If they think it is important for women to have land registered in their names.

2.5 Family members of those women who have registered land in their names

- a. Why there are only a few women who have land registered in their names?
- b. How 'she' (the family member indicated to) got the land in her name?
- c. What does it mean to a family to have land in a woman's (female family member's) name?
- d. Any practical benefits you have experienced.
- e. Any practical difficulties you have experienced.
- f. Was it easy or difficult to register land in women's name? Why?

- g. What social, cultural barriers one has to face, if someone wants to register land in women's name.
- h. How family, if it does at all, distinguishes between a daughter/sister and a daughter-in law/wife. An analysis of this relationship, who is more favoured and who is less from other family members in terms registering the land in different female member's name.

2.6 Representatives of political parties at the local level (whoever available, preferably women)

- a. If you or your party has any position on women's access to land or other productive resources? What is your personal opinion on this?
- b. Do you think that ensuring women's land rights leads to their empowerment? How? Why not?
- c. Opinion regarding women's access and ownership on land.
- d. How can we improve the situation where women also can have equal access to land or property? Do you think politicians also have opinion on this? Is 'women's property right' also a political agenda?
- e. What is your parties' position in relation to women's empowerment and women's access to land? What does their manifesto say?
- f. What are the practical advantage or disadvantages if land is registered in women's name.
- g. What are the practical difficulties in securing women's land rights, including social, cultural barriers.
- h. Any training on gender issues? If no, are they interested in participating in trainings in relation to gender issues and gender equality?
- i. What are the practical difficulties in securing women's land rights, including social, cultural barriers.

3. Case Studies, Personal Narratives

Such case stories will be prepared utilizing information obtained through multiple sources/methods, or they could also be the personal narratives of the "informants". These will be presented as the empirical evidences to illustrate the enabling or obstructing structural, legal, logistics, institutional, cultural and social factors affecting women's access to land and exercise the rights.

Individuals who have registered the land in their names, who have struggled or faced unintended obstacles and difficulties in registering the land in their name; also including the ones who have sought the legal support to obtain the rights.

Cases relating to registering land in women's name; this could range from family support or discouragements to court cases; focus will also be given to land rights issues of single women (unmarried, divorced, separated, widow, etc.)

ANNEX V: RESEARCH TEAM

S.N	Name	Role
1	Dr Suresh Dhakal	Team Leader
2	Prapti Adhikari	Writer
3	Kalpana Karki	Focal Person
4	Catherine Lianzon	Editorial
5	Manisha Gauchhan	Media Expert
6	Reeta Mainali	Legal Expert
7	Garima Adhikari	Field Researcher
8	Smita Magar	Field Researcher
9	Poonam Limbu	Field Researcher
10	Phadindra Karki	Data Analyst
11	Bimala shrestha	Enumerator
12	Kamal Chaudhary	Enumerator
13	Krishna Khatri	Enumerator
14	Biju Khand	Enumerator
15	Bimal Thapa	Enumerator
16	Anita Gharti	Enumerator
17	Suman Khawas	Enumerator
18	Gita Siwa	Enumerator

ANNEX VI: PARTICIPANTS IN FOCUS GROUP DISCUSSIONS

A. Morang

Khawas Tole, Baijanathpur

1. Rupsariya Khawas
2. Rajkumari Khawas
3. Shyam Kumari Khawas
4. Ludiya Devi Khawas
5. Pooja Khawas
6. Lelti Khawas
7. Manju Khawas
8. Parmila Khawas
9. Shila Khawas
10. Durga Khawas
11. Binda Khawas

Dhanpura, Baijanathpur

1. Tara Thandar
2. Kabita Choudhary
3. Lalita Choudhary
4. Jagirbati Choudhary

Ailanpur Mirgauliya (First FGD)

1. Fekanbati Biswas Majhi
2. Janaki Choudhary
3. Mansari Choudhary
4. Jitiya Choudhary
5. Harani Choudhary
6. Sibsati Choudhary

Ailanpur Mirgauliya (Second FGD)

1. Laxmi Majhi
2. Suman Choudhari
3. Akali Majhi
4. Gori Sardar
5. Hari Majhi
6. Neplu Majhi
7. Januka Magar

Sunder Dulari-5, Tinpaine (First FGD)

1. Nanimaya Pulami Magar
2. Sita Gurung
3. Ramba Rai
4. Sita Pokharel

Sunder Dulari-5, Tinpaine (Second FGD)

1. Sukmaya Pradhan
2. Buuddhamaya Lumbu
3. Kaushila Basnet
4. Dhanamaya Biswokarma
5. Bhagiratha Pokharel
6. Durga Pokharel
7. Devimaya Ghimire

B. Surkhet

Kunathari, Salghari Swabhalamban Aama Samuha (First FGD)

1. Motisara Pun
2. Sarada Shrestha
3. Deupara Khadka
4. Padam Jolmi Magar
5. Kegi Sara Salami
6. Ganga Saru
7. Kwari Saru
8. Khagi Sara Budathoki
9. Sita Khadka

Kunathari, Salghari Swabhalamban Aama Samuha (Second FGD)

1. Khagisara Budathoki
2. Motisara Pun
3. Sapand Damber Pal
4. Lila Marsangi
5. Maya Devi Saru
6. Lila Bok
7. Manju Thapa

Laligurans Aama Samuha, Uttarganga (First FGD)

1. Suman Chaudhary
2. Manju Chaudhary
3. Kamala Chaudhary
4. Laxmi Chaudhary
8. Ramkumari Chaudhary
9. Sushila Chaudhary
10. Ratna Chaudhary

Laligurans Aama Samuha, Uttarganga (Second FGD)

1. Suman Chaudhary
2. Anita Chaudhary
3. Sunita Chaudhary
4. Dhundi Tharuni
5. Bimala Chaudhary
6. Ishowari Bhandari

Sana Kisan Baachat Samuha, Sahare (First FGD)

1. Purna Kali BK
2. Phulmaya Kami
3. Gangisara Dangii
4. Belkumari Rana
5. Dilmaya BK
6. Samana Budha Magar

Sana Kisan Baachat Samuha, Sahare (Second FGD)

1. Purna Kali Oli
2. Lila Dangi
3. Dalli Thapa
4. Kamala Oli
5. Janaki Bhattarai
6. Radhika Churara
7. Amrita Khadka

C. Nawalparasi

Pratappur VDC, Nawalparasi (First FGD)

1. Gangarani Chaudhari
2. Mahendi Devi Chaudhari
3. Kunti Chaudhari
4. Aasha BK
5. Gangajali Kurmi
6. Maanmati Yadav
7. Radha Debi Tharu
8. Radha Chaudhary

Pratappur VDC, Nawalparasi (Second FGD)

1. Radha Panjiyar
2. Indrawati Panjiyar
3. Chanda Chaudhari
4. Manmaya Chaudhari
5. Pushpawati Devi Chaudhari
6. Khelkumari Panjiyar
7. Mayadevi Chaudhari
8. Sugandhi Shrestha

Pithyauli VDC, Nawalparasi

1. Khem Kumari Thanet
2. Phirmati Gurou
3. Durgamaya Chaudhari
4. Pabitra Mahato
5. Rita Devi Thanet
6. Kreetima Sapkota

Kawasoti, Nawalparasi

1. Bishnu Maya Bhusal
2. Lila Kumari Chaudhari
3. Tara Devi Bhusal
4. Bimala Chaudhari
5. Yem Kumari Mahato
6. Durga BK
7. Tulsi Maya Mahato
8. Deepa Gurau
9. Bandana Bhujel (Tiwari)
10. Kaliya Musahar

Dedgaun VDC (First FGD)

1. Mayadevi Shrestha
2. Meena Shrestha
3. Laxmi Shrestha
4. Guna Kumari Shrestha
5. Makhmali Shrestha
6. Gauri Shrestha
7. Keshari Shrestha
8. Indra Shrestha

Dedgaun VDC (Second FGD)

1. Krishna Kala Shrestha
2. Satyadevi Pandey
3. Mayadevi Pandey
4. Matimaya Pandey
5. Chhabimaya Shrestha
6. Radhika Adhikari
7. Shyam Kumari Kunwar
8. Devimaya Thada
9. Nuradevi Dhakal

ANNEX VII: LIST OF KEY INFORMANT INTERVIEWS

A. Nawalparasi

1. Binda Gupta, District Member, National Land Rights Forum, Pratappur
2. Ramraj Prasad Harijan, Social Mobilizer, Indreni Bikas Manch, Pratappur
3. Deshakant Bashyal, VDC Secretary and Chairperson, Pratappur Village Development Committee
4. Khem Prasad Kaphle, Regional Member, CPN (UML) and Coordinator, Samudayik Melmilaap Samiti Kawasoti
5. Bishal Dev Singh, Son-in-law of Reshmidevi Thakur, Panjarkatti
6. Kadak Bahadur Gurung, Ward Coordinator, Ward Citizen Forum, Kawasoti, Pithauli
7. Maya Kumari Mahato Chaudhari, Ward Secretary and President, Kusnahari, Pithauli
8. Bimala Chaudhari, President, Mahila Adhikar Manch (area level), Social Mobilizer, Kawasoti, Pithauli
9. Yug Maya Manda, President, Paralegal Committee, Kawasoti, Pithauli
10. Narayan Ojha, Assistan Secretary, VDC Office, Dedgaun, Nawalparasi
11. Buddiraj Shrestha, Family member with land in woman's name, Amranthar, Dedgaun
12. Bal Prasad Thada Magar, Regional President, CPN (UML), Family member with land in woman's name, Dedgaun
13. Tulsiram Lamsal and Bishnumaya Lamsal, Father and Mother of Sita Lamsal (Case Study), Dedgaun
14. Laxmi Shrestha, Social Mobilizer, Local Governance and Community Development Programme
15. Mayadevi Shrestha, Local Representative, Nepali Congress

B. Morang

1. Jhiral Sardar, NCP UML Ward Committee President, Mrigauliya
2. Deepak Bhagat, Chairperson, Nepali Congress, Mrigauliya
3. Bed Prasad Acharya, Locals, Ufrauliya
4. Goma Ghimire, Local resident, Ufrauliya
5. Shiva Ghimire, Local resident, Ufrauliya
6. Sabita Rai, local resident, Ufrauliya
7. Naikala Magar, local resident, Ufrauliya
8. Devi Maya Khawas, local resident, Lobtoli
9. Chandramani Luitel, Non-gazetted Officer, Koshi- Haraicha Municipality
10. Matrika Dahal, local resident, Koshi- Haraicha Municipality

11. Chandra Prasad Kattel, VDC Secretary, Vaijanathpur Municipality
12. Matrika Rajbangsi, local resident, Koshi- Haraicha Municipality
13. Chandra Prasad Kattel, VDC Secretary, Vaijanathpur Municipality
14. Matrika Rajbangsi, local resident, Vaijanathpur Municipality
15. Sunita Devi Khawas, President, Baijanathpur
16. Chinta Rajbangsi, local resident, Baijanathpur
17. Chandra Maya Gautam, local resident, Baijanathpur
18. Suvarna Ghimire, Executive Officer, Sundar Dulari Municipality Office
19. Narayani Ghimire Bhandarari, District Committee Advisor, NCPUML, Program Coordinator, Maiti and WOREC, Sundar Dulari
20. Aas Bahadur Magar, local resident, Sundar Dulari
21. Ram Bahadur Rai, local resident, Sundar Dulari
22. Kharu Dev Chundal, Chief Officer, Land Revenue Office, Belbari
23. Chandramani Pokhrel, Communications Officer, Land Revenue Office, Belbari

ANNEX VIII: PICTURES TAKEN DURING THE STUDY







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