

Statutory Versus Locally Existing Land Tenure Typology: a Dilemma for Good Land Governance in Nepal (UN-HABITAT GLTN)

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Key words: Access to land; Cadastre; History; Informal settlements; Land management; Customary tenure; Good land governance

SUMMARY

Nepal adopted a land reform in 1961 and abolished different so-called feudal land tenure types then existing in the country based on customary practices and official grants by the State. The statutorily recognized land tenures were limited to private (Raikar), religious and philanthropic trusts (Guthi), Government (Sarkari) and public (Sarbanjanik). A land ceiling was enforced and dual ownership of land between the landlord and the tenant was to abolish through land sharing. Despite all these efforts landlessness, skewed land ownership, informality of land tenures and unregistered tenancy are among the key problems of land administration and management in Nepal. The land and tenure issues were among the key triggers of the armed conflict (1996-2006), and also part of the impediments to judicious reconstruction and rehabilitation process after the 2015 mega-earthquake. There are various studies on the historical evolution of land tenure typology in the pre- land reform era and the statutory land tenures in the post- land reform era but there is big gap in the systematic studies on locally existing tenure typology in the country. While the new Constitution of Nepal promises progressive provisions for good land governance and a national land policy was under progress, it was felt necessary to study and document all different land tenure typology, statutory or non-statutory, locally existing in the country to facilitate this process. The paper describes the methodology and findings of the study based on elaborate desk studies and field investigations based on qualitative analysis of key informant interviews, focused groups discussions, experts' observations and informal conversations, and case studies covering at least 16 different areas covering 5 out of the 7 provinces in the country. Besides statutory or formal tenures, it was concluded that different types of non-formal, informal and customary land tenures do exist and different forms of unregistered tenancy based on verbal contracts between the landlord and the tenant are existing in the country. Acceptance to formal or statutory land tenures alone and ignoring to such informal, non-statutory and unregistered land tenure is a dilemma to good land governance. The study provides a documentation on different locally present land tenure typology in support of

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a land policy based on the principle of recognition of continuum of land rights and tenure security for all.

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