



HOUSING, LAND AND PROPERTY ISSUES IN NEPAL and their consequences for the post-earthquake reconstruction process

in collaboration with



Acknowledgements

This report was written by Agathe Nougaret and Ram P Danuwar and was produced by CARE Nepal with the collaboration of The Community Self-Reliance Centre and the support of the CARE International UK Shelter Team.

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Cover photo: Somjana, 35, lives in a small village in Gorkha. Her house was badly damaged when the earthquake hit. She said (May 2015): "We don't know what to do. We do not own land. The plot where our house used to stand has huge cracks in it and there have been landslides. There is no other public space close by where we can rebuild."

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Acronyms

CSRC	Community Self-Reliance Centre
DDC	District Development Committee
DDRC	District Disaster Relief Committee
FAO	Food and Agriculture Organisation of the United Nations
FWLD	Forum for Women, Law and Development
IDP	Internally Displaced Person
INGO	International Non-Governmental Organisation
LGBTI	Lesbian, Gay, Bisexual, Transgender/Transsexual and Intersexed
NBBS	Nepal Basobas Basti Samrakchan Samaj – Nepal Settlement Protection Society
NGO	Non-Governmental Organisation
NLRF	National Land Rights Forum
NMES	Nepal Mahila Ekata Samaj – Nepal Women's Unity Society
SPOSH	Society for the Preservation Of Shelters and Habitations in Nepal
VDC	Village Development Committee

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EXECUTIVE SUMMARY

Land rights have been at the heart of Nepal's political agenda for the past 70 years, mostly because the unequal distribution of land had led to a high level of vulnerability and dissatisfaction among the population. After the 1996-2006 conflict, a series of progressive laws was passed by temporary and now permanent institutions of the new Republic, allowing women, low-caste people and the landless to gain more control over the land they live on and cultivate.

Unfortunately, most of these measures are not effective in practice due to the challenges faced by the Nepalese institutions such as lack of technical and financial capacity or a busy political agenda. As a consequence, women, low-caste, and landless people are still living in precarious situations, unable to claim formal rights over the land they occupy and struggling to make a living out of very small plots.

The April and May 2015 earthquakes have destroyed 604,254 houses and damaged 288,255 more (Post-Disaster Needs Assessment, June 2015). In the face of such widespread destruction, the Government of Nepal has formulated a consequent reconstruction policy, promising NRP 200,000 (about USD 1,928) to every homeowner whose house was damaged beyond repair. The Government will have to ensure the disbursement process is harmonised and transparent, although its implementation will be decentralised and local bodies have limited technical and financial resources.

Although ambitious, the Government reconstruction policy might leave some earthquake-affected people behind, including very vulnerable ones such as squatters, undocumented citizens or owners without a formal land title. Those whose houses were partially damaged are also excluded from the grants, as well as renters who might find it difficult to find affordable and safe housing units in their area.

The reconstruction of so many houses also raises questions about the safety of their location. Rebuilt homes should provide a safe living environment for their occupants, both from natural disasters (earthquakes, landslides, floods) and economic difficulties. Hence, this report highlights land use planning as a necessary step in reconstruction.

Looking further than medium-term recovery, this report also recommends specific actions to allow progressive

rights to become effective in practice. Improving the tenure situation of the most vulnerable groups of Nepal through information campaigns, incentives and institutional capacity building will help reduce inequalities in Nepal.

In spite of significant social progress in its legislation for the past 40 years, Nepal still denies equal rights to inheritance and property to women, undocumented residents and refugees. Nepali civil society, already at the forefront of land rights struggles, deserves strong technical and financial support from the international community to advocate further progress.

SUMMARY OF RECOMMENDATIONS



ENSURE TRANSPARENCY OF GRANT DISBURSEMENT

- **Central Government:** Issue guidelines to include undocumented people in the process
- **Central Government:** Design a harmonised complaints mechanism throughout districts
- **Civil Society:** Monitor the reconstruction policy and hold the Government and INGOs accountable



ADDRESS THE GAPS OF THE RECONSTRUCTION POLICY

- **Donors and Government:** Create additional grants and loans for large households
- **Donors and Government:** Provide legal assistance and subsidies to tenants and refugees
- **Donors and Government:** Deliver rental subsidies to squatters to avoid new slums
- **Donors and Government:** Design a subsidised loan system for partially damaged houses



SEIZE THE OPPORTUNITY FOR LAND USE PLANNING

- **INGOs and Local Government:** Produce, use and share risk maps in reconstruction areas
- **Local Government:** Seek informed consent for relocation
- **Local Government:** Implement community-level land use planning
- **INGOs and Government:** Produce and exchange data in standard formats for further use



MAKE RIGHTS EFFECTIVE IN PRACTICE

- **INGOs:** Build the capacity of local administration on land rights
- **INGOs and Government:** Run information campaigns on equal rights and design incentives to encourage implementation
- **INGOs and NGOs:** Create legal assistance mobile teams for remote areas



SUPPORT CIVIL SOCIETY'S CAUSES

- **INGOs and Donors:** Support national advocacy campaigns for equal property rights
- **NGOs:** Monitor the enforcement of existing laws
- **Donors, INGOs, NGOs and Government:** Design and implement long-term programmes in favour of citizenship and tenure

INTRODUCTION

CARE is one of the world's leading humanitarian and development organisations, founded 70 years ago. Its programmes focus on achieving lasting change by tackling the underlying causes of poverty and strengthening the capacities of poor communities to help themselves. CARE places special focus on gender issues and working alongside women and girls. CARE was one of the first international aid agencies to work in Nepal in 1978, helping the most vulnerable communities to improve their living conditions and fight discrimination.

Since the devastating earthquakes on 25 April and 12 May 2015, CARE has been working with partners to deliver emergency relief in four of the worst affected areas of Nepal: Gorkha, Sindhupalchok, Dhading and Lamjung, reaching over 130,000 people.

CSRC is one the leading NGOs working on land rights in Nepal. CSRC pursues the twin objectives of empowering poor farmers to claim their rights while ensuring that land reform is high on the political agenda. CSRC educates and organises people to claim their basic rights to land. The programmes of CSRC have focused on strengthening community organisations, capacitating human rights defenders, improving livelihoods and promoting land and agrarian reform. CSRC has constantly worked to transform discriminatory and unjust social relations by organising landless, land poor and marginalised communities to claim and exercise their rights.

Objectives of the report

CARE has identified housing, land and property (HLP) rights as crucial for early recovery and long-term reconstruction. Lack of information about HLP rights and reconstruction policy might exclude the most vulnerable people from the reconstruction process, especially the government subsidies. Therefore a detailed and qualitative assessment of HLP challenges and implications for the post-earthquake recovery in Nepal was necessary to ensure CARE's programming includes specific activities related to land rights of earthquake victims, including women and socially excluded groups.

Tenure security is not only important for disadvantaged groups but also for the general earthquake-affected population of Nepal: safe land rights will encourage reconstruction programmes' beneficiaries to invest time

and money in their dwellings, hence creating a much sought-after leverage effect of humanitarian assistance.

Report structure

This document defines tenure as the conjunction of a person, land and a right. Therefore, it examines how right holders are identified in Nepal, how plots are registered and managed, and which laws are applicable (and applied in practice) in the country.

PERSON + LAND + RIGHT → TENURE

After analysing the current state of tenure in Nepal and its consequences on the earthquake recovery process, this report formulates recommendations both for reconstruction operations and further programming in favour of equal tenure rights. These recommendations are directed to various stakeholders (INGOs, Nepalese NGOs, donors, central and local government bodies and the private sector).

Finally, section 5 details different procedures to obtain useful documents to secure land rights in Nepal (citizenship certificate, land registration certificate and family ID).

Given the changing context of reconstruction policies and constitutional law, it is necessary to note that the information contained in this report was true at the time of writing (December 2015).

NEPAL EARTHQUAKES INTERVENTION AREAS



1. IDENTIFICATION OF RIGHT HOLDERS

1.1 Official identification and citizenship

LACK OF ACCESS TO CITIZENSHIP CERTIFICATES

Land ownership and citizenship are intimately linked in Nepal as only Nepali citizens can own land. Ironically this provision, initially thought to protect the homeland from its powerful Indian neighbour, does not provide an effective barrier against foreign land grabs since foreign-owned companies can own land (Jones Lang LaSalle 2014). However, this law is another hurdle for the undocumented residents of Nepal, who not only have to prove their identity but also to establish their lineage with the authorities before they can obtain a land title.

Indeed, Nepal confers citizenship through blood only (*jus sanguinis*) and does not accept the fact of being born on Nepali soil as a basis to obtain citizenship (Constitution of Nepal, article I.2).

This situation creates a circle of vulnerability: undocumented citizens do not have access to essential services without a citizenship certificate. It is required to open a bank account, purchase a SIM card, enrol in higher education, occupy a formal job, or establish a contract (such as rental contracts for cultivable land, a house or an apartment). Hence, undocumented people's economic opportunities are limited to the informal sector, without any legal protection and an increased risk of exploitation. Additionally they then give birth to children who will face similar challenges, being unable to confer them the Nepali citizenship.

About 20% of the population does not possess a citizenship certificate (FWLD 2014) and the numbers are growing.

Low-caste and indigenous groups are significantly less likely to possess a citizenship certificate than Hill Brahmins, Chettris and Newars. In the priority earthquake-affected districts, these marginalised groups include Dalits, Hayu, Thami, Chepang, Badi, Chamar/Harijan, Damai, Dhobi, Kami, Kumal, Majhi, and Sarki (UN Protection Report, 2015). Muslims are another category facing citizenship challenges (FWLD 2014).

Women are less likely than men to possess a citizenship certificate. There is a significant gap as nearly 87% of eligible men (older than 16 years old) have documentation, while only 74% of eligible women are documented.

Undocumented people are generally not aware of the importance of a citizenship certificate, as 95% of them have never applied for one (FWLD 2014). Focus group discussions in Gorkha and Sindhupalchok districts show that participants don't know the procedure to apply.

Applying for a citizenship certificate is a complicated process whose outcomes are not certain. Applicants have to address their requests to the local authority (VDC or Municipality) where their fathers registered (Tanaka 2006). Given the amount of internal displacement caused by the decade-long conflict (1996-2006) and the 2015 earthquakes, many IDPs might not find the time and resources to travel for this purpose. FWLD's survey shows that of the 5% of undocumented respondents who did apply for a citizenship certificate (138 people) 43.5% were refused, 26.1% were waiting for the resolution of their application, and 18.8% had been approved but had not yet received the citizenship certificate.

Discrimination can happen in the application process. Dalits and Muslims have reported uncooperative attitudes from Government officials preventing them from obtaining a certificate or even applying for one (FWLD 2014).

Some people have virtually no chance of obtaining a citizenship certificate because no one in their family ever had a citizenship certificate before, especially residents of remote areas. Applying for a certificate also requires a series of documents that are obtainable by citizenship certificate holders only (land title, registration on voters' list, etc.), reducing the chances of success.

The Citizenship Act (2006) contains a provision for a community identification procedure based on testimonies of neighbours and endorsement of local leaders, but it seems that this interesting process functions only when local NGOs support the claims of applicants. FWLD has significant experience of community-based citizenship certificates delivery programmes but individual applicants and civil servants do not know about this solution.



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ARATI NEPAL, 19 YEARS OLD

Arati's husband left for India one year ago to look for work. She stayed behind in her in-laws' house in Salyantar VDC (Dhading district) but it was destroyed by the earthquake. Since then, Arati has been living on her own because her in-laws don't want to assist her. She has not been able to receive any emergency shelter assistance because she does not possess a citizenship certificate. She built a temporary shelter for herself with materials borrowed from neighbours. She owes them money now but she is hopeful her situation will improve and she will receive help.

LOST DOCUMENTS

On top of pre-existing documentation problems, a significant proportion of the population has **previously obtained but now has lost their citizenship certificates**, mostly because of internal displacement during the conflict, various natural disasters and the two earthquakes. About 3% of the surveyed affected population reports lost identification documents, though less than 1% as a direct result of the 2015 earthquakes (REACH and IFRC 2015).

UNHCR and FWLD have created Legal Aid Desks in the 14 priority districts to help earthquake survivors to get duplicates of their lost documents. Unfortunately, in the **absence of post-disaster fast track procedures**, administrative delays often lasted longer than the project funding (up to December 2015).

TIBETAN AND BHUTANESE REFUGEES

Nepal has been home to a significant number of refugees since the 1960s. Living in Nepal without possessing citizenship, their property rights are an issue. Of the 110,000 Bhutanese refugees who fled ethnic tensions

in the 1990s, more than 90,000 have benefited from a relocation programme and now live in Western countries (UNHCR 2015). The 18,000 remaining Bhutanese in Nepal live in camps located in the Eastern region and have not been affected significantly by the earthquake.

The situation of Tibetan refugees is more problematic. Because Nepal is not a signatory of the 1951 Refugee Convention, the country has granted limited identification and rights to its refugee Tibetan population. The systematic delivery of refugee ID cards stopped in 1989, so new arrivals generally remain undocumented. UNHCR estimates the Tibetan population in Nepal to be over 18,000 people. Even with documentation, Tibetan refugees cannot own land in Nepal, although permanent settlements were created in the 1960s on land owned by the Nepal Red Cross (Riffat Hossain 2003). Most of the official Tibetan settlements are located outside the most earthquake-affected areas except Dunche (Rasuwa district), Boudhanath (Kathmandu district) and Jawalakhel (Lalitpur district). More unidentified Tibetan refugees could live in remote earthquake-affected areas.

The current procedures for grant disbursement do not allow Tibetan refugees to participate in the Government reconstruction programme because of their citizenship status and the fact that they rent or squat the land they live on. However, it is important to note that the community of Tibetans abroad is well organised and is collecting donations for its earthquake-affected population. Field observation shows that reconstruction efforts are well under way in Boudhanath. The international community should monitor the situation of Tibetan refugees to determine if they are already receiving the support they need, especially in remote areas.

1.2 Citizenship and gender

SPECIFIC BARRIERS WOMEN FACE WHEN APPLYING FOR CERTIFICATES

FWLD reports that 5.1% of undocumented respondents did not apply for citizenship certificates due to **uncooperative attitudes of family members**. 90% of those facing such difficulties were women. Indeed, focus group discussions show that families are wary to support citizenship certificate applications of women because they fear they will claim their share of inheritance, further dividing the size of plots already too small to support their brothers. Similarly, in-laws often oppose wives' applications for fear they will re-marry and take the property away from the family. Muslim and Madhesi women face particular

challenges to travel to process their applications, since it is **not a culturally accepted practice** for them to travel alone (FWLD 2014).

Another 2.6% of FWLD survey respondents (all of them women) did not apply because their **husbands live away from home**, therefore they could not access the necessary documentation to apply. Currently, 32% of married women report that their husbands live away from home (Government of Nepal 2011), most of them migrating to big cities or abroad to seek employment.

These *de facto* female-headed households as well as widows and women divorced, separated or never married may find it particularly difficult to find time to travel to apply for a certificate, having to perform both income-generating activities and household duties. They were 28.2% of households a few years ago (Government of Nepal 2011), probably more in 2015. The UN Protection Report cites anecdotal **cases of female-headed households excluded from relief assistance** for being too busy to travel.

Childcare and household duties are an obstacle to travel for all women, whether in female-headed households or not, which may prevent women from taking equitable part in programmes.

LGBTI CITIZENSHIP

Bisexual, transgender and intersex people are more likely to face discrimination and abuse in the process of accessing documentation (IFRC 2014). Interestingly, the **legal framework is quite favourable** to the LGBTI community: the Supreme Court of Nepal, on the basis of the Interim Constitution's provisions on the abolition of gender discrimination, ruled in 2007 that the government was to issue **"Third Gender" citizenship certificates**. This political advance was supposed to take effect in 2013 but there is **no evidence of effective implementation** in the field (UN Protection Report 2015).

THE MATRILINEAL CITIZENSHIP DEBATE

One of the 2015 Constitution's most debated topics before ratification was the ability of women to pass Nepali citizenship on to their children. The Interim Constitution (2007) allowed both women and men to pass citizenship by descent to their children. However, from 2007 to 2015, **women, especially widows, faced significant discrimination when trying to apply for citizenship certificates for their children in their name** (FWLD 2014).

The **2015 version of the Constitution is deemed discriminatory** by civil society organisations because it allows matrilineal citizenship only if the father of

the child is unknown. If the father is identified but absent or uncooperative, then the child might remain undocumented. There are **seemingly contradictory provisions** in the Constitution (Articles 2 and 3 on Citizenship), so case law might clarify the situation in the coming years.

Although **this theme does not impact the current situation of earthquake-affected homeowners**, it is very much debated among the international community and national NGOs in Nepal.

1.3 Earthquake-affected households identification

DISTRIBUTION OF EARTHQUAKE-AFFECTED HOUSEHOLD IDENTITY CARDS

According to a Cabinet Decision in May 2015, the District Disaster Relief Committees (DDRC) were instructed to issue **Earthquake-Affected Household Identity Cards** under the supervision of the Ministry of Home Affairs.

In order to receive this document, often referred to as **"red card" or "earthquake victim ID"**, families had to submit a form and supporting documents (**citizenship certificate** and recommendation from a Ward Committee member) to the VDC Secretary. The VDC Secretary would then form a committee comprised of local leaders and representatives of political parties to issue recommendations on the delivery of cards to the DDRC. A dedicated team mandated by the DDRC (consisting of a team leader, engineer, clerk, VDC Secretary and VDC Assistant) would then visit the applicant household and decide which category of card (if any) the household would receive. **Category A cards correspond to fully damaged houses**, the only category of houses entitled to a reconstruction grant from the Government.

It is important to note that local authorities did not always follow such procedures. Cases of **political nepotism** have been reported in the field, including beneficiaries being issued several cards for the same household or issued a card mentioning a higher level of damage than their property actually sustained.

Households identified as **squatters were often denied a red card** (in Lalitpur and Sindhupalchok, for example), although the Ministry of Home Affairs did not make recommendations about it. The decision was generally made at local level, without any harmonisation among districts or VDCs. In general, VDCs and DDRCs **did not**

ask for land certificates from the applicants to deliver Earthquake-Affected Household Identity Cards.

Complaint mechanisms exist at district level. For example, in Gorkha district, the Investigation Committee includes the district advocate, a DDC engineer, a police inspector and the president of the local Nepal Red Cross Society. It is not clear if such investigation committees exist in every district and which verification procedures they apply. **Focus group discussion participants do not seem to know about a possible appeal procedure** to the DDRC's red card attribution decision.

IDENTIFICATION OF RECONSTRUCTION GRANT BENEFICIARIES

In October 2015, the Ministry of Urban Development issued official procedures for the future disbursement of reconstruction grants by the government. It is important to note that **these procedures also apply to NGOs willing to distribute grants in their reconstruction programmes.** They mentioned that the necessary documents included a citizenship certificate and a land ownership certificate, potentially excluding a significant number of undocumented people and informal owners.

A Cabinet Decision **revised these procedures on 16 December 2015, significantly lowering the amount of documentation needed** to access grants. Applicants will have to provide a copy of their citizenship certificate or their voter ID or a copy of their land ownership certificate or their Earthquake-Affected Household Identity Card. The updated procedures even mention that **applicants without any of these documents can still be eligible upon the VDC Secretary's recommendation.** These new procedures will allow a significantly higher number of households to access the reconstruction grant, although the **risk for nepotism remains** since the new procedures do not detail which criteria VDC Secretaries should use to recommend the application of an undocumented household.

The December 2015 procedures also take into account the **situation of beneficiaries who do not have a bank account** and might face difficulties to open one before the disbursement of the grant. They allow them to receive the **first tranche of the grant in cash**, although the second and third tranches will be disbursed via bank transfers only. This represents an improvement for beneficiaries who did not have time or resources to open a bank account, but it does not solve the problem of beneficiaries without a citizenship certificate who cannot open an account without this document.

2. IDENTIFICATION OF THE LAND AND ITS POSSIBLE USES

2.1 Identification/delimitation of plots

A WEAK LAND REGISTRATION SYSTEM

Focus group discussions reveal that 90% of female participants and 75% of male participants could not name the required document for land registration or the authority which delivers land titles. Only **48% of landholdings are registered** in Nepal (DFID 2008).

Existing records are not considered reliable. Documents are rarely updated and often go back decades. They are kept in paper form at district level, making them vulnerable to loss, decay and destruction. Their classification system is weak at best and often non-existent.

ATTEMPTS AT DIGITISATION

For the past 10 years, the Land Survey Department of the Ministry of Land Reform and Management has **attempted to migrate the paper archives** to computer-based systems, but several platforms exist, using sometimes expired proprietary software, and none of them covers the whole territory of Nepal. The **participation of Land Survey District Offices was not successful** because of various difficulties such as a lack of equipment and electricity, a lack of training and resistance to change from the staff (FAO 2012).

FAO and World Bank have implemented a pilot project in Nepal called SOLA (Solutions for Open Source Software) aimed at creating a **digital cadastre on a free platform**. It also sought the participation of district offices, but the results of this 2013 project are unknown to date.

REGISTRATION OF LAND IN EARTHQUAKE-AFFECTED AREAS

The latest survey estimates that **90% of earthquake-affected households possessed a land certificate or a written rental agreement** at some point (both available and lost documentation). 4% reported having had a verbal agreement, with only 4% reporting no documentation or agreement (REACH 2015).

In the light of pre-earthquake data on land registration, **these results could be biased** by the fact that they are **declarative**. Surveyors did not check said certificates

and contracts and it is possible that undocumented respondents claimed they possessed titles to **increase their chances of receiving assistance**. It is **possible, even likely, that a significantly lower proportion of households are able to show certificates** when grant disbursement time comes, although it will not prevent them from receiving the Government grants if they possess other documents such as a red card.

2.2 Land use issues

LAND USE PLANNING

The **Nepali system of land use planning is not yet effective**, although a series of laws from 1962 to 2001 have created various institutions for this purpose. The Land Measurement Act (1962) defines different levels of **agricultural quality of land** (*abal, doyam, shim and chahar*) which are still mentioned on land certificates to this day (FAO 2010), although they are rarely still relevant. The 1997 Conservation Act makes it mandatory to conduct an **environmental impact** assessment before any intervention that would modify the use of land but it seems that neither national nor local authorities implement this law. The 2001 Amendment of the Land Act creates **“Land Use Councils”** at national and district level to adopt zoning maps (not implemented). The National Land Use Project, under the Ministry of Land Reform and Management, is the only functioning institution of the Nepali land use planning system. It has not formulated recommendations yet because of the **lack of baseline information** on current land use (FAO 2010).

The main obstacle to land use planning, in Nepal just as anywhere else, is that it **involves a large number of high-level stakeholders** who have busy schedules and diverging interests. The perspective of an integrated land use policy endorsed by all concerned parties (Ministry of Finance, Ministry of Land Reform and Management, Ministry of Urban Development, Ministry of Forest and Soil Conservation, Ministry of Agriculture, Ministry of Federal Affairs and Local Development, and Ministry of Home Affairs) is very unlikely in the short and medium term.

As a consequence of this lack of effective land use planning and enforcement, a lot of villages and



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Flood-affected families in Surkhet district were still living in camps in April 2015.

neighbourhoods are located in **areas exposed to disasters**, mainly flooding and landslides. The post-conflict migrations have enhanced this phenomenon, with urban migrants settling on riverbanks.

The absence of land use planning also results in an **encroachment of built areas on arable land**, threatening Nepal’s food security and sovereignty further. This issue receives political and social attention since a limited surface of Nepal’s land is suitable for agriculture.

UNDP’s CDRMP project (2013-2015) aimed at developing **risk-sensitive land use plans** in the Kathmandu Valley and selected districts under the authority of the Ministry of Federal Affairs and Local Development (UNDP 2015). Should these plans become available, they could be a useful guide for reconstruction plans.

RISK ZONES AND RELOCATION

The lack of effective risk-sensitive land use planning in the country does not prevent local authorities from implementing punctual disaster risk reduction measures. Before the 2015 earthquakes, flooding and landslides have led VDC Secretaries or DDRC to declare some areas unfit for human settlement.

The example of Surkhet district, documented by the UN Assessment Team, shows that 1,029 flood-affected households are still waiting for an effective relocation solution from local authorities after the 2014 monsoon season. **The help provided is not adapted to landless families**, grants were deemed insufficient to purchase land and/or build a new house, and **beneficiaries generally complained that they were not involved** in decisions about their living conditions (UN Protection report 2015). Other relocation projects have not been successful because the new settlements were located **far away from people’s livelihoods** and restrictions were placed on the use or sale of the new property (IFRC 2012).

These examples show the flaws of small-scale relocation operations prior to the earthquakes. **Legitimate doubts arise about post-earthquake plans citing 50,000 households in need of relocation** in 200 risk-prone settlements (Republica 2015). DDRCs have set temporary settlements up before the monsoon season but long-term plans for these households have not been formulated yet.

Displaced people expressed **doubts about the safety of their new temporary location** in focus group discussions and they are asking for comprehensive risk assessments

before local authorities decide on a permanent settlement there.

In its Post-Disaster Needs Assessment (2015), the **Government acknowledges the need for community consultation and comprehensive site studies** before relocation, as well as a concern for maintaining cultural and income-generating activities of the displaced families, although **little progress** has been made in this direction since the publication of this report.

LAPRAK: A RELOCATION STORY

Laprak is a VDC of 620 households located in Gorkha district at an altitude of 1,900m. A massive landslide destroyed the village in 2005. The DDRC declared the area unsafe then, but no relocation plans were ever implemented. As a consequence, Laprak residents moved back to their former homes. When the earthquakes hit in April and May 2015, the memory of the landslide was alive in villagers' minds. They fled Laprak and settled spontaneously in an open area in Gupsi Pakha (alt. 2,700 m.), property of the State. The DDRC created basic services in the Gupsi Pakha camp (access to water, school, VDC office, solar panels, pathways) but life was hard during the monsoon. Villagers started to move back to Laprak to avoid the giant mud field of the camp and resume their agricultural work. The winter and heavy snowfall in Gupsi Pakha made even more people move back to Laprak.

Some family members stayed behind to take advantage of the existing services and occasional distributions in the camp. They also have hopes that staying in the camp will give them more chances to claim that land for permanent relocation in the future.

All of them are concerned about the safety of the Gupsi Pakha area and they have been asking the VDC for site studies to no avail. Because they don't know if they will be able to stay in Gupsi Pakha permanently, most of the families are not investing much in their temporary shelters, now limited to timber cut from the nearby forest and CGI sheets and tarpaulins distributed by CARE.



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MAILI GURUNG'S STORY

Maili Gurung has been a widow for 10 years. Her Laprak house collapsed in the earthquake so she moved to the Gupsi Pakha camp with her children. Their temporary shelter was located near the helipad, which made the place incredibly loud. Therefore, they went back to lower Laprak and built a temporary shelter on the land Maili owns.

2.3 Community-managed land and buildings

COMMUNITY-MANAGED LAND AND DISASTER RESPONSE

The 2015 earthquakes have **raised the awareness of the crucial role of community land** in disaster response, especially to provide assembly points, temporary shelter and backup agricultural land for those in need. CSRC qualifies communal land as the "real homes" of many earthquake-affected households, but villages and neighbourhoods rarely have this resource available.

SUCCESS STORIES OF COMMUNITY LAND MANAGEMENT IN NEPAL

In order to advocate for the systematic creation of community plots, CSRC underlines the **proven ability of communities to manage land in Nepal**. Following the Forest Act (1993) and the Forest Policy (2000), villagers legally control 14,000 community forests representing 18% of the forested land of the country (FAO 2010). Every household of the village has equal rights over the resources of community forests and participates in management decisions.

Such an example could provide a **model for community-managed land** for disaster risk reduction purposes.

3. APPLICABLE LAWS FOR LAND AND PROPERTY

3.1 Institutional framework and stakeholders

CHANGING LAWS

Since the 1960s, land rights have been at the **centre of the political agenda** in Nepal. From royal ownership of the majority of Nepali soil to land grabs of Maoist rebels during the conflict and a progressive legal framework today, **the pace of reforms has been impressive** over the past 50 years. Although new provisions promise life-changing improvements for the landless and land-poor, they often create more **confusion** than progress in practice. New committees are never formed, commissions are dissolved before they make any progress and land reform offices have to compete for the scarce resources of the Nepali state. Civil servants, especially at district level, are **not properly informed of and trained** about new measures and often prevent their implementation in practice.

DECENTRALISATION

Nepal is progressively moving from a heavily centralised system to a federal one. The 1999 Local Self Governance Act mandates local bodies (VDCs, DDCs, Ward Committees and Municipalities) to maintain records and protect public land. They are also responsible for formulating and implementing land use policies and enforcing the National Building Code. The **transfer of responsibilities from central to local government did not mean a transfer of means and skills**. Working conditions in local administrations are very basic with **little capacity to implement or enforce national laws**.

CIVIL SOCIETY ORGANISATIONS

On top of national institutions (described in section 2.2) and local bodies, **civil society organisations play a significant role** in lobbying, policy formulation and implementation in Nepal.

The **National Land Rights Forum (NLRF)**, supported by CSRC, is a platform of organisations working on land rights from an agricultural perspective. They have affiliates in every district, including grassroots organisations of landless farmers and former bonded labourers.

Organisations working on land rights from a housing perspective are organised separately around Lumanti, an organisation that advocates land allocations and

regularisations for slum dwellers and squatters. Lumanti has facilitated the creation of grassroots organisations such as NBBSS and NMES, which are considered to be the driving forces of the squatter movement (Tanaka 2006). They are affiliated with Slum/Shack Dwellers International (SDI), a well-established worldwide network of grassroots organisations from informal settlements.

All these organisations, as well as **FWLD** working on citizenship issues, take part in Government working groups, commissions and committees on a regular basis and they are well supported by the international community.

3.2 Dispute resolution

LAND DISPUTES CONGESTING NEPALI COURTS

Because of the weak registration system and changing laws, a high number of land disputes lead to lawsuits. **They are the largest category of cases brought in Nepal's courts**, making up an estimated 31% of all cases (Alden Wily et al. 2008). The courts also have high numbers of separately classified landlord-tenant disputes and family law cases, which could involve property disputes (USAID 2010), leading all land-related cases to **represent about 60% of conflict cases** in Nepal (FAO 2010).

In 2007, the Three Year Interim Plan mentioned **103,000 land cases awaiting resolution** (Alden Wily et al. 2008). This situation is partly due to the length of formal court cases resolution: simple cases take more than a year while more complicated ones take several years if they are brought to appellate courts or the Supreme Court (USAID 2010).

UNEQUAL ACCESS TO JUSTICE

The most complicated cases are brought in front of district courts, appellate courts and even the Supreme Court, which represents **significant direct costs** (for legal support, travel and related expenses). **Opportunity costs** are also high: the time spent navigating the justice system is lost for income-generating activities. For the agricultural sector, time lost in a crucial season can hamper the whole year's production.

Disadvantaged groups (women and Dalits, particularly) have **lower levels of literacy**, which represents another barrier to accessing the formal legal system. They are also

less likely to possess a citizenship certificate, necessary to file for a lawsuit. Therefore, disadvantaged people frequently abandon their cases or settle on unfavourable terms (FAO 2010).

EXPLORING COMMUNITY-LEVEL SOLUTIONS

Local Arbitration Boards are supposed to resolve property disputes but they do not exist or function properly in a majority of VDCs (IFRC 2014). As a consequence, **local arbitration remains largely informal**. Although interesting for those who have limited access to the formal court system, this process might favour those with political or personal connections to local leaders and maintain discriminations against Dalits, women and Muslims.

Nepali laws do not mention a community enumeration mechanism for land plots, although such a system does exist to obtain citizenship certificates (see section 1.1).

3.3 Ownership issues

OWNERSHIP CATEGORIES

Land ownership in Nepal falls under three categories:

State land represents 73% of the national territory. It encompasses public land (wells, ponds, pathways, grazing land, cemeteries, market areas, etc.) and government land, which includes forests, lakes, rivers, canals, barren land, roads and government offices (USAID 2010).

Guthi land (0.03% of land in Nepal) belongs to religious bodies and comprises temples and monasteries as well as religious schools and hospitals. Farmland can also fall in this category, even if the religious body has leased it. Guthi land is not subject to taxation (USAID 2010).

Private land accounts for the remaining 27% of land in Nepal. It can be acquired by purchase, inheritance or Government allocations. It is subject to taxation. About 92% of earthquake-affected households report that they own both their pre-earthquake house and the land on which it stood. 6% are renters but this rate is significantly higher in urban areas, especially Kathmandu where renters account for 19% of earthquake-affected households (REACH 2015).

LAND CEILING SYSTEM

The Land Act (1964) imposed **land ceilings to private owners** in order to expropriate above-ceiling parcels and redistribute them to landless farmers. Although the implementation of this measure is limited, **land ceilings still apply in theory**. Any family (husband, wife and children under 16 years) may not own more than 6.7 ha in

Terai, 1.21 ha in Kathmandu Valley and 3.5 ha in all other hilly areas (Jones Lang LaSalle 2014).

The land ceiling system **does not apply to companies and corporations**.

WOMEN AND LAND OWNERSHIP

In 2004, about 8% of land certificates were established in the name of women, accounting for about 5% of the land in Nepal (DFID 2008). Following the Interim Constitution's ban on all types of discrimination, a Government of Nepal directive in 2006/07 **waived land registration fees for women**, people living with disabilities, and members of disadvantaged groups. These fees, paid when the property is sold or transferred to a new owner (excluding inheritance), are currently NRP 300 to 500 for land or houses worth less than NRP 25,000 (about USD 240) and 2 to 4.5% of the property value if it is above NRP 25,000 (Jones Lang LaSalle 2014). This measure had a very tangible effect since 33% of land newly registered in 11 districts in 2008 was in the name of women (Alden Wily et al. 2008). **To this day, property registered in the name of women still receives a 25% discount in registration fees, 40% if they live in remote areas** (CSRC 2014).

Subsequently, the **2012 Joint Land Ownership Certificate policy** allowed a couple to register land in the names of both husband and wife. The cost of this transfer was fixed at only NRP 100. As a consequence, **the number of women owning land or buildings jumped from 10.3% in 2012 to 19% in 2014** (ILC 2014).

Some interviewees observed that the increased ownership in the name of women might represent a male strategy to take advantage of the reduced fees rather than a real progress for women's empowerment. Women in polygamous unions (who report having co-wives), estimated to account for 4% of married women (Government of Nepal 2011), might also be excluded from the joint ownership measure.

INHERITANCE AND DISCRIMINATION AGAINST WOMEN

According to the 2015 Constitution of Nepal (article III-18-5), **all children have equal rights to inherit their parent's properties without gender discrimination**. Similarly the section on "Rights of Women" states that every woman has inheritance rights and rights of marital property without discrimination.

In spite of these progressive provisions for women's inheritance, **the Civil Code still places restrictions on the ability of women to inherit their parents' property**. Only unmarried daughters over 35 years of age can inherit their parents' property, and they have to transfer their share

to their brothers if they marry later in life (UNFPA 2014). A woman can also inherit property from her late husband (equally with her children) but has to abandon her share if she remarries. The **contradiction with the Constitution** might be resolved in case law in the coming years, but in practice, it is unlikely that the realisation of women's inheritance rights will improve radically over the next few years.

Regardless of the applicable law, focus group discussions and informal talks during site visits reveal that **many families still deny daughters and wives their inheritance rights** for lack of knowledge about laws and due to strongly entrenched practices.

EXPROPRIATION RULES

Following the 10-year conflict, when a lot of land was seized illegally, all subsequent legal documents (Peace Agreement, Interim Constitution and Constitution) **prohibit arbitrary seizure of private property**. The state can acquire land if it acts in the **public interest** and justly compensates the landholder, including for land reform purposes. The concept of public interest and **appropriate compensation** are not clearly defined in existing documents and they are supposed to be set by law in the future (USAID 2010).

INDIGENOUS LAND

Nepal has adopted the ILO Convention No. 169 concerning the rights of indigenous and tribal people, which **requires free and informed consent** with respect to decision making about lands that are occupied by an indigenous community. The Government of Nepal has recognized 59 castes as indigenous people in Nepal. In spite of international agreements, there is **no evidence of implementation** of indigenous people's rights in practice in Nepal.

Field observation indicates that **about 70% of earthquake-affected people are from these indigenous groups**.

JOINT HOUSEHOLDS

The definition of a household in Nepal is not limited to the nuclear family (husband, wife and children). **Several generations generally cohabit** in a culture that requires sons and their wives to take care of their parents in their old age. These living arrangements are not legally recognised in general.

The Government did not take multi-occupancy into account when designing earthquake recovery procedures. Emergency cash grants have been **disbursed per property**

so far, regardless of how many households occupied it.

It is expected that future reconstruction grants will follow the same pattern (Government of Nepal October 2015) and leave joint households with very limited resources per capita to rebuild their homes.

3.4 Leasehold issues

TENANT RIGHTS: A HEAVY HERITAGE

A small proportion (6%) of earthquake-affected households report that they rented their pre-earthquake house and the land it is on. A higher tenancy rate is observed in Kathmandu, at 19% (REACH 2015). These renters are unlikely to possess documents establishing their rights since **90% of tenancies are unregistered** (IFRC 2014).

This situation is not only due to a culture of informality in Nepal but also to the **adverse effects of 30 years of supposedly pro-tenant policies**. The Land Act (1964) established that farmers renting the land they cultivated could gain control over 50% of its surface if they could provide the necessary documents (rental contract and



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ASH BAHADUR SUNAR, 52 YEARS OLD

Ash Bahadur has left his birthplace of Kerauja because he faced significant discrimination as a member of a Dalit group. His second home in Laprak VDC (Gorkha District) was destroyed in the earthquake but he will receive no help to rebuild it because the land it was on belongs to someone he had a verbal agreement with. He is now staying in a camp and doesn't know what to do next.

receipt of payments). A small proportion of tenants was able to benefit from the measure, creating a complicated system of “dual ownership” of agricultural land. But it mostly encouraged landowners to refuse to sign contracts or to disguise tenants as labourers, denying them any legal protection. This system was abolished in 1996 but its negative consequences are still felt today (FAO 2010). Focus group discussions held in Gorkha and Sindhupalchok revealed that **most of the tenants had not obtained rights before 1996** and remain in a precarious situation, vulnerable to eviction from their rented land and exclusion from recovery efforts. **They will not receive help from the Government to rebuild their homes** because they don't own land.

BONDED LABOUR

Haliya, *haruwa charuwa* and *kamaiya* are **modern forms of agrarian slavery** practised in Nepal. Traditionally, the entire family of anyone who was unable to repay a loan borrowed from a landlord would be kept as *haliya*, *haruwa charuwa* or *kamaiya*. The “earning” from working for the landlord – often in the form of a few kilograms of grain or a pair of clothes – would be insufficient to pay even the interest. Given the exorbitant interest rates and the practice of *byaaj ko syaaj* (interest on interest), the *haliya* family would not be able to pay back the loan throughout a life-time or even generations of labour and would thus be **trapped in debt, poverty and slavery for generations**. In the caste system of Nepal, 96% of the *haliya* and *haruwa charuwa* people are **Dalits**, Nepal's lowest untouchable caste, while the *kamaiya* are indigenous people of the **Tharu** community.

In spite of effective “**rehabilitation**” policies implemented by the Government of Nepal for the past 15 years to free bonded labourers from their debts and provide them with small plots of land, some forms of bonded labour are still believed to exist in rural communities (USAID 2010), although **no such cases were reported** in focus group discussions in earthquake-affected areas over the course of this study.

URBAN TENANCY

Urban tenants face the same challenges as rural ones in terms of documentation. Although the Ownership of Joint Housing Act specifies the need for rental contracts and their basic contents, the **majority of urban tenants rent their housing units on the basis of verbal agreements** (IFRC 2014).

Urban tenants with valid documentation (citizenship certificate, rental contract and payment receipts) can find

some **legal protection** in the Contract Act, allowing, in the case of fundamental changes in the contract's conditions, the **restitution of advance payments and cessation of further due payments** (IFRC 2014). These provisions could apply in the event of structural damage or destruction of the rented building.

3.5 Informal settlement issues

SUKUMBASI AND SQUATTERS

Sukumbasi refers to both squatters and the informal settlements they occupy. This generally pejorative but popular term is not self-assigned and is associated with heated political debates. ***Sukumbasi* refers to totally landless people**, so does not cover urban squatters who own a small plot of land in their district of origin or rightful owners who live in slum-like conditions with no access to basic services.

The 1996–2006 conflict displaced 70,000 people (USAID 2010) and contributed to the **rapid growth of informal settlements in urban areas**. Different legal options to regularise informal settlements exist. The Land Measurement Act (1962) mentions a **possibility of acquisitive prescription**, i.e. a way for someone who has occupied land as landlord for a long time to become its rightful owner. This provision has **never been implemented** (FAO 2010). Informal settlements can be formalised as a whole through a complex procedure initiated by the Government. It requires the formation of *ad hoc* commissions, cadastral surveying, land registration and development of infrastructure (USAID 2010). Again, there is no evidence of implementation (Alden Wily et al. 2008).

All practical improvements of squatters' rights come from the fieldwork of the Nepali squatter movement. Grassroots organisations such as NBBSS, NMES or SPOSH-Nepal provide slum dwellers a “**family ID card**” through a **community enumeration process**. Then, they build strong links with local authorities to have these family ID cards recognised as a valid document to obtain basic services delivery (water or electricity from the grid) and protection against evictions (Tanaka 2006, Ninglekhu 2012).

INTERNALLY DISPLACED PEOPLE (IDPS) AND EVICTIONS

At the time of writing, the latest data indicates that 58,589 people displaced by the earthquake still lived in temporary settlements of more than 20 households (IOM 2015). Out of the 120 sites assessed by IOM in September 2015, **66 were located on private land** and 52 on public/government land. Most of the agreements between camp

management agencies or camp leaders and landowners mentioned a **6-month occupancy to cover the monsoon season**. As October came and went, some IDPs were asked to leave. No forced eviction has been reported yet but the absence of a medium-term agreement for IDP sites is a concern. Some camp dwellers, especially in Kathmandu, live in fear of eviction from their temporary shelter (CSLM 2015).

4. RECOMMENDATIONS

4.1 Ensure transparency of grant disbursement

In order to improve the transparency and equity of grant disbursement to earthquake-affected populations, the following actions are recommended:

GUIDELINES TO INCLUDE UNDOCUMENTED PEOPLE IN THE PROCESS

The possibility for undocumented people to receive grants is a very encouraging measure, but the conditions of their inclusion must be objective to avoid nepotism. A process based on community testimonies from direct neighbours is preferred to a system of recommendation from elected officials. The community identification procedure described in the 2006 Citizenship Act (see section 5) could provide a basis for such guidelines.

COMPLAINT MECHANISM

The disbursement of government grants will create frustrations and potential injustices based on honest mistakes or political motives. It is necessary for the Government to create a harmonised complaints mechanism across districts involving civil society leaders. Investigation bodies should have sufficient funds, staff and technical knowledge to carry out verification visits.

CIVIL SOCIETY MONITORING

Nepali NGOs such as CSRC have experience in land reform monitoring. A similar national-level independent monitoring mechanism would help to hold the Government, donors and implementation agencies accountable for the reconstruction policy's progress.

4.2 Address the gaps of the reconstruction policy

Although ambitious, the reconstruction policy might leave some people in need behind. In order to respond to the needs of the most vulnerable earthquake-affected households, the following measures are recommended:

GRANTS AND LOANS FOR MULTI-OCCUPANCY AND LARGE HOUSEHOLDS

Existing procedures do not take into account the situation of larger buildings hosting several families (or large families) if the property has not been legally divided before the earthquake. A mechanism to identify such cases is necessary in upcoming surveys, and financial solutions (grants and loans) must be proposed to ensure a minimum amount of reconstruction funds *per capita*.

LEGAL ASSISTANCE AND SUBSIDIES FOR TENANTS AND REFUGEES

Existing procedures are directed to homeowners only. Tenants may also face difficult situations, especially considering the sharp increase in rent costs after the earthquake. A special assistance mechanism to enable them to get their advance rent payments back is necessary. A more ambitious rent subsidy programme could also address specific vulnerability situations among tenants (such as Tibetan refugees) and help them leave temporary shelters.

RENT SUBSIDIES FOR SQUATTERS TO AVOID NEW SLUMS

It is unrealistic to expect the Government to find land for all earthquake-affected squatters to rebuild permanent

Ensure transparency of grant disbursement: Roles of stakeholders

Recommendations	INGOs	NGOs	Donors	Central Government	Local Government	Private Sector
Guidelines to include undocumented people	Document international examples	Propose draft; Advertise in the field	Advocate	Adopt guidelines; Train staff	Implement guidelines	
Complaint mechanism	Promote best practices and harmonisation	Participate in investigations; Advertise in the field	Finance investigations	Adopt guidelines; Train staff	Collect complaints; Run investigations	
Civil society monitoring	Technical support; Advocate	Collect and analyse data; Run media campaigns	Advocate	Collect and share data	Collect and share data	Collect and share data

Address the gaps of the reconstruction policy: Roles of stakeholders

Recommendations	INGOs	NGOs	Donors	Central Government	Local Government	Private Sector
Grants and loans for large households	Collect data; Advocate	Advocate	Finance	Issue directives	Implement	
Legal assistance and subsidies for tenants and refugees	Technical support; Study feasibility	Advocate; Implement legal assistance	Debate possibility of rent subsidies; Finance	Debate possibility of rent subsidies; Issue directives	Implement	Advocate (Lawyers)
Rent subsidies for squatters to avoid new slums	Study feasibility; Advocate	Advocate	Debate possibility of rent subsidies; Finance	Debate possibility of rent subsidies; Issue directives	Implement	Advocate (Land owners)
Loans for partially damaged houses	Study feasibility; Advocate	Advocate	Debate possibility of rent subsidies; Subsidise interests	Debate possibility of rent subsidies; Issue directives	Implement	Implement (banks)

homes. The attribution of plots to the landless and land poor is a long and uncertain process in Nepal. A rent subsidy could help these families to find a medium-term solution while their applications for land redistribution are processed. There is a high chance that the absence of an appropriate mechanism for tenants' and squatters' recovery would lead to the creation of more informal settlements and increased vulnerability in urban areas.

LOANS FOR PARTIALLY DAMAGED HOUSES

The absence of measures for partially damaged houses might encourage home owners to demolish parts of their property that are still standing. This would represent an enormous waste of capital for the housing sector. Extending the subsidised loan policy to repairs and retrofits could help avoid the problem.

4.3 Seize the opportunity for land use planning

Post-earthquake reconstruction represents a significant opportunity to improve the safety of the Nepali population, especially through the following recommendations:

RISK MAPPING

Although the level of awareness for disaster risk is very high at the moment, there is not enough reliable data for communities and local bodies to make informed decisions about relocations. Both existing settlements and potential relocation sites must be properly assessed for all applicable hazards. The international community should promote low-cost, low-tech risk assessment methods used

in other post-disaster situations to provide a first line solution for worried IDPs. These methods are based on community observation walkabouts and local memory of past disasters.

INFORMED CONSENT FOR RELOCATION

Based on risk maps, threats should be explained to communities clearly and honestly, in order to empower residents to make informed decisions about a possible relocation. The debate on relocation must include an assessment of livelihood opportunities and the possibility to continue indigenous practices in both pre and post relocation sites. IDPs must also understand the tenure status of the land identified for their permanent relocation and their ability to cultivate it, sell it and pass it on to future generations.

COMMUNITY-LEVEL LAND USE PLANNING

It is unrealistic to expect comprehensive land use plans from the Government of Nepal before permanent reconstruction operations start. However, the Reconstruction Authority could issue simple guidelines for participatory land use planning to address pressing issues such as the safeguarding of agricultural land, the extension of community-managed land, the rights of indigenous people and the basic definition of risk zones.

DATA PRODUCTION AND EXCHANGE

Every organisation taking part in reconstruction must take into consideration the poor amount of baseline data on land use at local and central level. Preliminary contacts with Land Survey departments both in districts and in the

Seize the opportunity for land use planning: Roles of stakeholders

Recommendations	INGOs	NGOs	Donors	Central Government	Local Government	Private Sector
Risk mapping	Technical support	Advocate	Advocate; Finance	Issue guidelines	Implement	Advocate
Informed consent for relocation	Promote best practices	Advocate	Advocate	Issue guidelines	Implement	
Community-level land use planning	Promote best practices; Technical support	Advocate; Implement	Advocate	Issue guidelines	Implement	
Data production and exchange	Adopt national data formats; Share data	Share data	Share data	Collect and share data	Collect and share data	Share data

Ministry of Land Reform and Management are necessary to define a data exchange protocol and ensure new data sets created for implementation purposes are compatible with existing data management systems and handed over to relevant government offices.

4.4 Make vulnerable groups' rights effective in practice

In order to reduce the gap between theoretical rights and the actual situation of the most vulnerable Nepalis, the following actions are recommended:

CAPACITY BUILDING

Progressive rights incrementally included in Nepali legislation in favour of women, Dalits, the landless or tenants are not generally enforced at local level. One of

the reasons is the lack of training and accountability of district and VDC-level staff. Any organisation working on reconstruction should organise training sessions on applicable housing, land and property laws for civil servants as well as civil society organisations to hold them accountable.

INFORMATION CAMPAIGNS AND INCENTIVES

Another reason why laws are not enforced is that many remote communities are not properly informed of their rights. Information campaigns are necessary but their effectiveness might be enhanced by an incentive system for people to claim their rights. The example of rebates on women's land registration fees showed that financial incentives are very effective. Further tax incentives should be implemented to encourage joint men-women ownership and registration of undocumented or squatted land.

Make vulnerable groups' rights effective in practice: Roles of stakeholders

Recommendations	INGOs	NGOs	Donors	Central Government	Local Government	Private Sector
Capacity building	Organise trainings on HLP laws	Deliver and attend trainings; Monitor law enforcement		Deliver trainings on HLP laws; Issue reference documents	Attend trainings; Adapt services to training contents	Issue reference documents (Lawyers and Notaries); Deliver trainings
Information campaigns and incentives	Design and run campaigns; Suggest incentives	Design and run campaigns; Suggest incentives	Advocate incentives	Design incentive system	Implement incentive system; Run information campaigns	
Legal assistance mobile teams	Form partnerships; Implement	Form partnerships; Implement	Finance	Issue guidelines	Form partnerships	

LEGAL ASSISTANCE MOBILE TEAMS

Another hurdle isolated people, and especially women, face when claiming their rights is the burden of traveling to the District Office to obtain documentation and recommendations. Mobile teams for information and administrative work could help overcome this difficulty by helping residents of remote villages to obtain application forms, get assistance with filling them in, submit their claims and obtain documentation without traveling to the district's capital. With strong partnerships between NGOs and local authorities, these mobile teams could even issue documentation on the spot.

4.5 Support civil society's causes

Some of the areas of concern highlighted by this report are already addressed by advocacy campaigns from the Nepali civil society. In order to support the ongoing efforts and achieve effective progress in new areas, the following actions are recommended:

STRONG ADVOCACY CAMPAIGNS

Advocacy organisations at grassroots and national level often deliver high-level campaigns thanks to the financial and technical support of the international community. INGOs must support the Nepali civil society to create new high-quality campaigns to address remaining legal gaps (matrilineal citizenship, women's inheritance rights, etc.). It is recommended that national NGOs keep the lead on

those themes to ensure a continuous engagement and regular participation in Government working groups and consultation mechanisms. INGOs should complement the work of national partners by convincing donors and other international bodies to support them.

LAW ENFORCEMENT MONITORING

The international community should also encourage civil society organisations to regroup and create an independent monitoring body observing the effective implementation of housing, land and property laws. Such a mechanism can only strengthen Nepal's burgeoning democracy and reduce immobility, corruption and nepotism.

LONG-TERM PROGRAMMING FOR CITIZENSHIP AND TENURE

Although the post-disaster period represents an opportunity to make property rights progress in Nepal, most of the current issues need *ad hoc* long-term programming. Successful past projects such as FWLD's citizenship certificates delivery project or Lumanti affiliates' community enumerations must be replicated and extended over the next few years, thanks to the new awareness created by the April and May 2015 earthquakes. In order to ensure such projects' long-term benefits at scale, partnerships with central and local governments is a must.

Support civil society's causes: Roles of stakeholders

Recommendations	INGOs	NGOs	Donors	Central Government	Local Government	Private Sector
Strong advocacy campaigns	Technical support	Run campaigns	Finance	Dialogue with NGOs		
Law enforcement monitoring	Technical support	Create and run monitoring mechanism	Finance	Share data	Share data	
Long-term programming for citizenship and tenure	Design and implement projects	Design and implement projects	Finance	Form partnerships with NGOs	Form partnerships with NGOs	Form partnerships with NGOs

5. HOW-TO GUIDES

Citizenship certificate – regular procedure

Stage	What	Who/where
0	Conditions: <ul style="list-style-type: none"> • Being older than 16 • Reside permanently in Nepal 	
1	Get recommendation from the VDC Secretary mentioning: <ul style="list-style-type: none"> • Place of birth • Place of permanent residence • Relationship to the relative who owns a certificate 	VDC office of the place of birth or place where relatives were registered.
2	Apply with the following documents: <ul style="list-style-type: none"> • Application form • Citizenship certificate of relative (within 3 generations) or Land certificate (in own name or relative) or Certificate of Land Tilling Right or Voter's ID (in own name or parents) • VDC Secretary recommendation 	District Administration Office (DAO)
3	Application is reviewed Applicant is notified of the decision	Chief District Officer (CDO)
4	Applicant has to get the certificate from the DAO	DAO

Citizenship certificate – exceptional procedure (2006 Citizenship Act)*

Stage	What	Who/where
0	Conditions: <ul style="list-style-type: none"> • Being older than 16 • Reside permanently in Nepal 	
1	Get recommendations of 3 people who possess a citizenship certificate and live in the same ward as the applicant.	Ward of residence
2	Get recommendation from the VDC Secretary mentioning: <ul style="list-style-type: none"> • Place of birth • Place of permanent residence • Certification that the applicant has lived in Nepal all his/her lifen 	VDC office of the place of birth or place where relatives were registered.
3	Application is reviewed/spot investigation Applicant is notified of the decision	Chief District Officer (CDO)
4	Applicant has to get the certificate from the DAO	DAO

* This procedure is not commonly applied in practice.

Land registration certificate

Stage	What	Who/where
1	Get letter stating that the plot of land has road access	VDC Secretary
2	Get a tax clearance certificate and proof that the land is not under tenancy or mortgaged	District Land Revenue Office
3	Draft the deed	Hired lawyer (<i>lekhandas</i>)
4	Submit the deed with supporting documents: <ul style="list-style-type: none"> • Citizenship certificate • Applicant's picture 	District Land Registration Office
5	Pay registration fees	District Land Registration Office
6	Collect the land registration certificate	District Land Registration Office

Family ID for squatters (delivered by local organisations – NOT the authorities)

Stage	What	Who/where
1	Door-to-door survey to collect the following information: <ul style="list-style-type: none"> • Number of family members • Name, gender and age of members • Date of arrival in the settlement • Condition of the house • Possession of citizenship certificate • Possession of voter ID • Photo of all family members in front of the house 	NGO staff
2	Card is issued mentioning: <ul style="list-style-type: none"> • Survey information • Photo • House number (attributed by NGO staff) 	NGO staff
3	House number is painted on the house	NGO staff
4	If possible, an elected representative signs the card to certify the information is correct	Elected Ward, VDC or Municipality representative

6. RESOURCES

Field visits

- Dubachaur VDC, Sindhupalchok district, July 2015.
- Baruwa VDC, Sindhupalchok district, July 2015.
- Saurpani VDC, Gorkha district, July 2015.
- Gankhu VDC, Gorkha district, July 2015.
- Laprak VDC, Gorkha district, September 2015.

Focus group discussions

- Dubachaur and Baruwa VDC, Sindhupalchok district, 2 sessions (11 women and 27 men), July 2015.
- Saurpani and Gankhu VDC, Gorkha district, 2 sessions (15 women and 35 men), July 2015.
- Laprak VDC, Gorkha district, 2 sessions (17 women, 21 men), September 2015.

Key informants

- CARE Nepal Shelter Team (Kathmandu, Sindhupalchok, Gorkha and Dhading): Alexandre Koclejda, Federica Lisa, Bandana Sharma, Bibek Shrestha, Jenyfer Pradhan, Jivan KC, Pavan Nizamkar.
- CARE Nepal Gender Team: Urmila Simkhada, Laurisa Osti, Lucila Carbonell.
- Jagad Deuja, CSRC, November 2015.
- Lily Thapa, WHR, November 2015.
- Luma Singh Bishowkarma, UNHCR, December 2015.
- Tom Bamforth, Shelter Cluster, December 2015.

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