

FIG

Kathmandu, Nepal 14–16 November

REGIONAL CONFERENCE 2024

Climate Responsive Land Governance and Disaster Resilience: Safeguarding Land Rights



**Presented at the FIG Regional Conference 2024,
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Balancing Access to Land for the Landless and Protection of Government and Public Land: The case of Sustainable Land Management in Nepal

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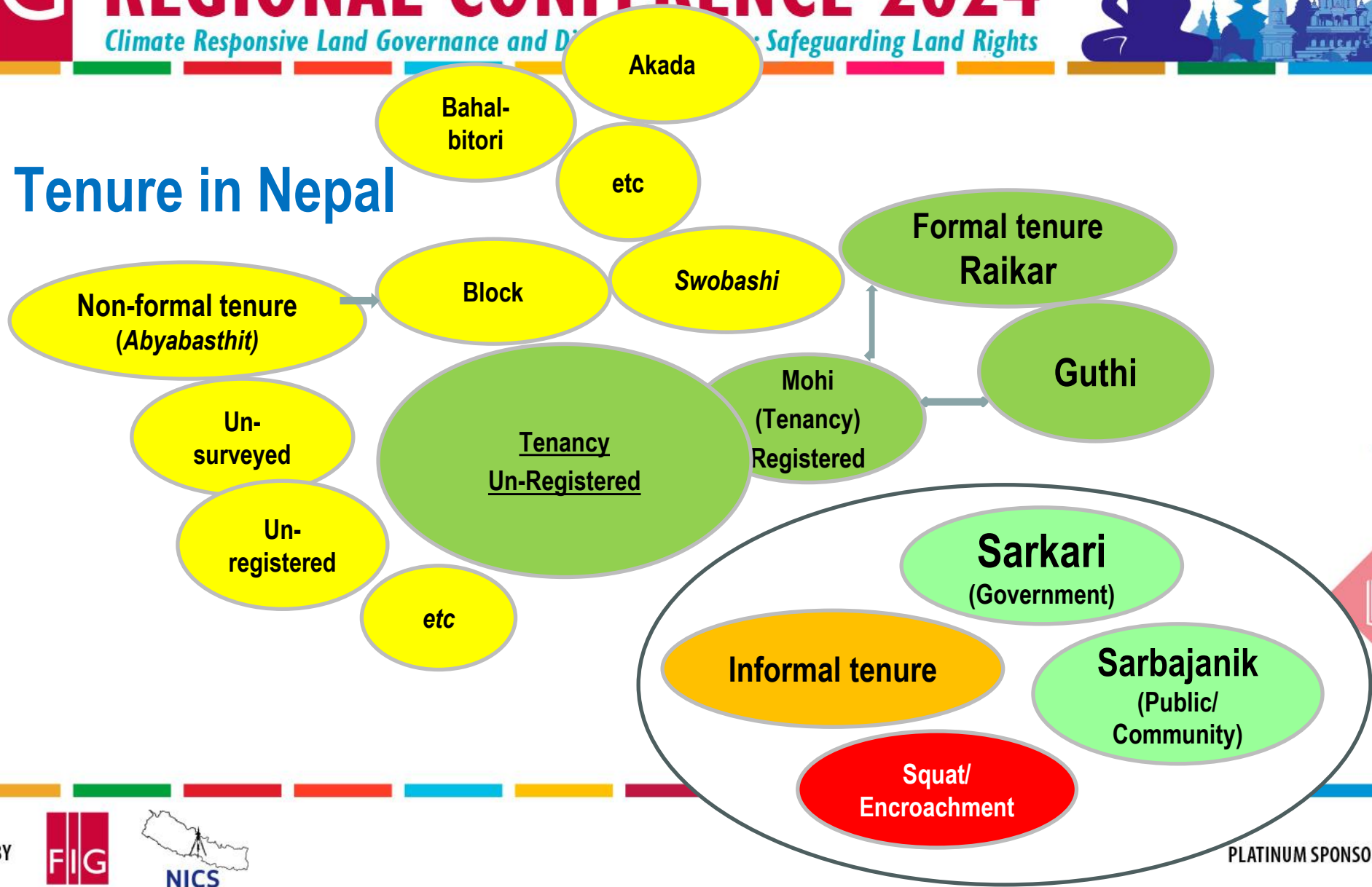
Country Context



- Landlessness and informal tenure due to history of discrimination to land rights and natural hazard risks
- Forest Area 42%
- Cultivable land area 28.75% (4.23 million hectare)
- 25% cultivable land under informal tenure (1.06 million hectare)
- Urban area 27.07%
- Rural (33.19 %) and Peri-urban area (39.74 %) Total 72.93%
- 1.34 million HHs are landless or under informal tenure (20% of total HHs)- LIRC estimates
- Headcount rate without landholdings 20%- NLSS 2023
- 57.3% population engaged in agriculture for a living
- 47.3% are near-landless operating less than 0.5 hectare of land
- 74.7% are operating less than 1 hectare of land



Land Tenure in Nepal



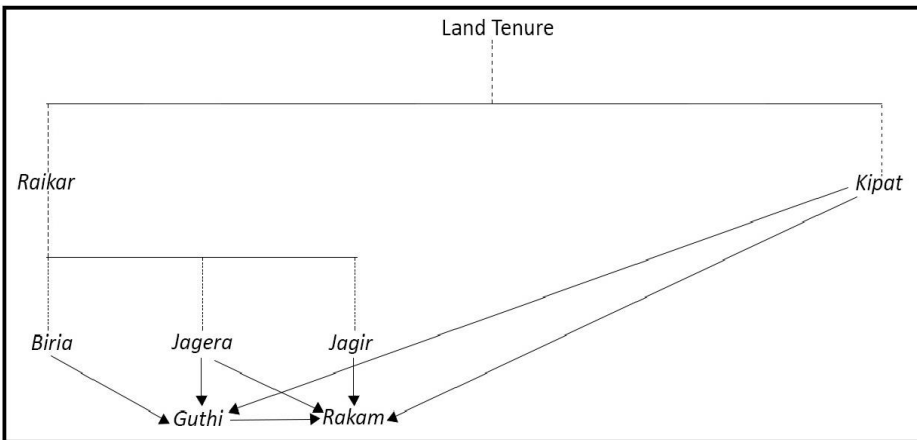


History of Intrusion into Public and Government land

Till 1951: Land endowment as Birta, Jagir etc

Land Tenure till 1951 (Source: Regmi, 1977)

- Birta 36.3%, Jagir 7.7% (44%)
- Kipta 4%
- Guthi 2%



Sl. No	Land distribution programme	Date	No of beneficiary HHs	Land distributed in Hectares	Average land area distributed per HH in Hectares
1.	Rapti Valley Development Programme (Chitwan)	1956 - --	5,233	27,786	5.31
2.	Nepal Resettlement Company	1963-1989	19,292	26,458	1.37
3.	Resettlement Department	1968-1988	73,435	39,909	0.54
4.	Landless Issues Resolution Commissions	1990–2011	154,856	31,624	0.20
	TOTAL	1956-2011	252,796	125,777	



Key policy, legislative and institutional provisions

Constitution of Nepal (2015)

- Article 36: Right to food
- Article 37: Right to Housing
- Article 40(5): Right to land to the landless
- Article 42(4): Right to land to the farmers
- Article 51(e): Agriculture and land reform (land use and land management)
- Article 51(g): Conservation, Management and use of natural resources

Land Use Policy (2015)

National Land Policy (2019)

Land Use Act (2019)

8th Amendment to Land Act 1964 (2020)

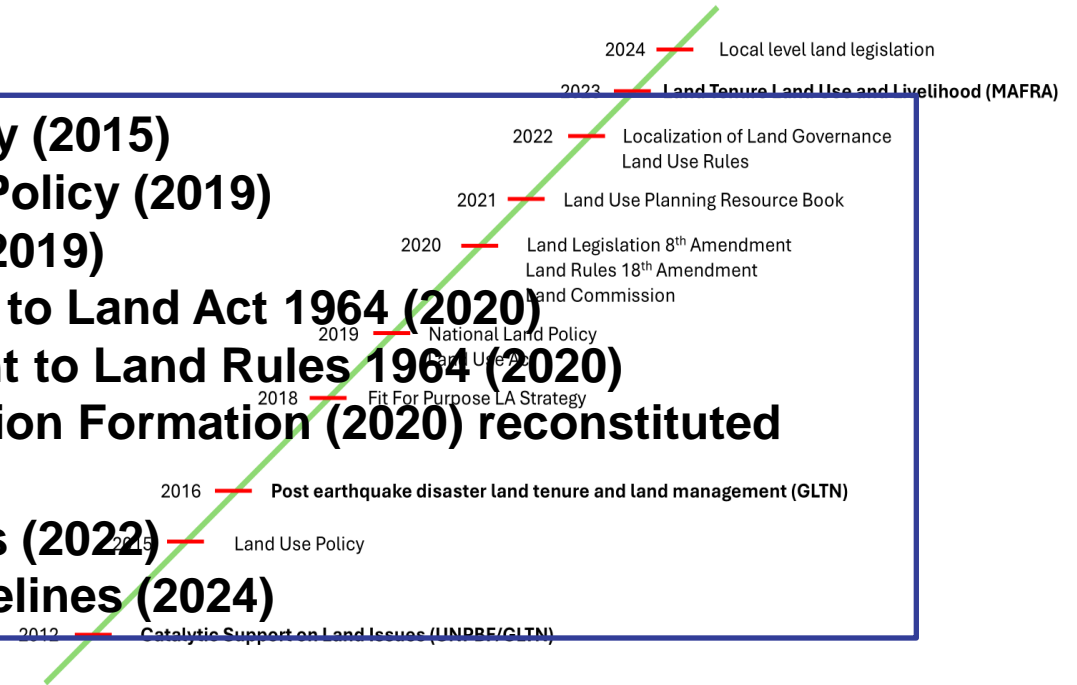
18th Amendment to Land Rules 1964 (2020)

Land Commission Formation (2020) reconstituted

2021, and 2024

Land Use Rules (2022)

Land Use Guidelines (2024)





Provisions for Protection of Public and Government Land

- Different legislation provide duty and responsibility of authorities to protect public and Government land
 - Land Survey Act (2019) and Land Survey Rules 2058
 - Local Administration Act (2028)
 - Land Revenue Act (2034)
 - Local Administration Operation Act (2074)
 - Civil Code Act, 2074
 - Forest Act, 2076
- Constitution of Nepal
 - Local Government has the responsibility of providing access to landless and managing squatter problem
 - Local Government has the responsibility to protect public and Government land





Provisions for Access to land via 8th Amendment to Land Act

Policy Goal:
Sustainable Land Management, Prosperous Life and Development



Ceiling of land to the landless

Region	Area of Land for Housing purpose	Area of Land for Agriculture purpose	Remarks
Kathmandu Valley and any urban municipalities	130 sq.m.	Not Available	May provide alternate provisions for housing.
Rural areas in Terai and Inner Terai	340 sq.m.	2,000 sq.m.	May be provided either of the two.
Rural areas in mountainous regions	340 sq.m.	3,000 sq.m.	May be provided either of the two.

Ceiling of land to the informal settlers

Region	Area of Land for Housing purpose	Area of Land for Agriculture purpose	Remarks
Kathmandu Valley and any urban municipalities	130 sq.m.	Not Available	May be displaced if land falling on e list given in Section 3 below.
Other rural areas	1,000 sq.m.	10,000 sq.m.	May be provided either of the two. May be displaced if land falling on list given in Section 3 below.



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Protection through Utilization (Case of Gadhawa RM)

The federal Fiscal Bill 2024-25:

- Provide land and issue LOC to hundred thousand landless *Dalit*, landless *Sukumbasi* and informal settlers.
- Provide government, public, riverbed and private land left vacant for agriculture use with recordation at the local levels.

The Lumbini provincial Fiscal Bill 2024-25:

- Promote use of vacant land and land banking concept brought into operation; riverbed agriculture promoted in cooperation and coordination with local levels.
- Support in survey and issuance of land ownership certificates to the landless and informal tenure holders

Gadhwa RM progress status :

- IVR of 7,447 landless and informal settler families and Temporary Cards provided to 7,394 HHs
- Adopted local legislation to encourage utilization of private, public and government land through contract farming
- Identifies 78 Hectares of unutilized public and Government for potential contract farming lease



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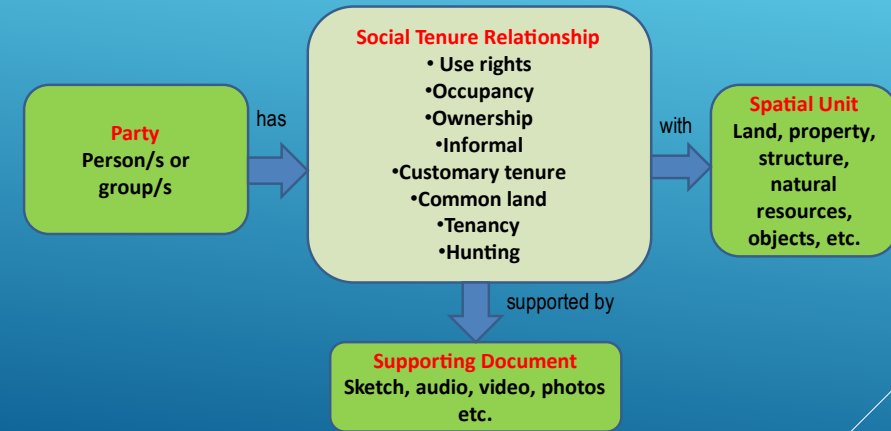




Discussions (1)

- National policies and legislation provide for access to the land to the landless Dalits and farmers, right to food and housing and equity of land rights with duty and responsibility of federal, provincial and local governments (Source: Constitution Schedules)
- National policies and legislation insist on protection of public and government land with the duty and responsibility of different Government entities and local governments
- Providing land to the landless and regularization of informal tenure of estimated 1.34 million HH will put pressure on Public and Government land
- Key issue is filtering out *Hukumbasi* and identification, verification and recordation (IVR) of genuine *Sukumbasi* and informal settlers
- Social Terrain Domain Model (STDM) concept provides scientific approach in the IVR process customized and adapted in Nepal

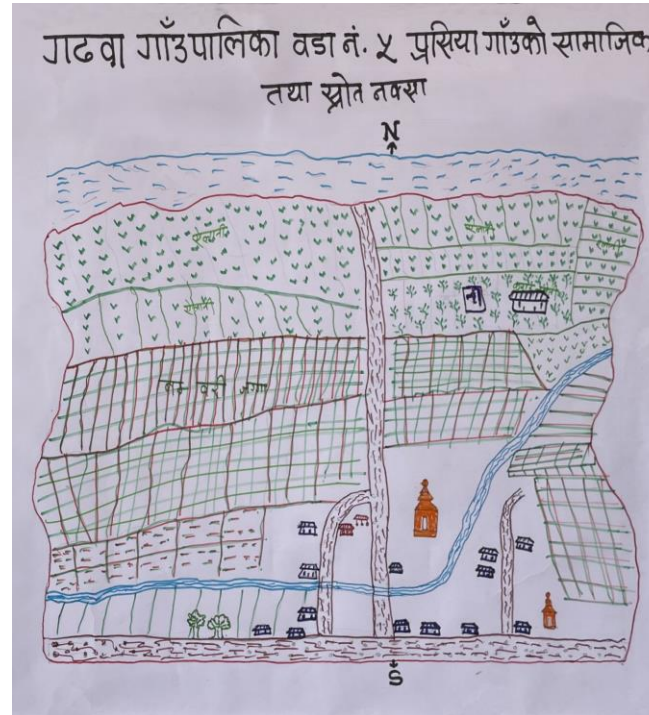
CONCEPTUAL MODEL





Discussions (2)

- Security of tenure of sharecroppers, contract farmers (Land banking under Willing Lessor Willing Lessee concept)
- Utilization of disused/ riverbank land (federal, provincial policy and local legislation/ guidelines)
- Relocation/ displacement of HHs operating land prone to natural disasters and other listings
- Limitation of parcel size, Issues of land readjustment
- Structured institutional framework and Multi-tier verification process
- Stakeholders Commitment





Conclusions

- Protection through utilization. Promotion of contract farming/ Land Banking/ lease of unutilized land with recordation at local levels
- More than 1 million hectare of land for estimated 1.34m HHs may be sufficient for one time land endowment.
- With growing population, and limited land the process of access to land for all and protection of public and government land may be challenging
- Robust IVR process for filtering out *Hukumbasi*
- Promotion of alternate means of livelihood
- Need for stronger governance to restrict further encroachment on public and government land



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Thank you!!



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