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Understanding the Land Issues and Agrarian Reform in Post Conflict Nepal

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PROSPECTS OF PUBLIC LAND MANAGEMENT AND ISSUES OF TENURE SECURITY IN SOUTHERN TARAI OF NEPAL

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ABSTRACT

Public land management (PLM), a community based common property land management approach, was initiated since 2003 in the southern Tarai of Nepal to generate agro-forestry resources and support the livelihoods of local people. Contemporary researches demonstrate that PLM practice has been able to bring positive changes at local level but also warn that issues related to tenure security are challenging to sustain the current practice. In this context, this paper explores the prospects of public land and then critically examines issues related to tenure security. From an in-depth case study in the five purposively selected PLM groups of Nawalparasi and Rupandehi districts, we concluded that PLM has been instrumental in promoting the livelihood of poor, women and religious minorities including environment conservation and safeguarding the common-property land . Similarly, the tenure related issues we examined are: loose contractual arrangement among government authority and local people, imposition of land tax, issue of timber harvest permit and no overarching government authority to take judicial action. We argue that though community based PLM practices have been able to create additional assets and provide benefit to local people, tenure related issues are so critical that if we fail to respond on time, it could end up with the tragedy of ruining the agro-forestry resources established in public land.

Key words: public land; southern tarai; tenure issues; common property

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INTRODUCTION

It has been argued that most of the rural people depend upon common property resources (CPRs) for their livelihoods (Schlager and Ostrom, 1992). But critical questions remain about their equitable 'access to' and 'control over' the management of CPRs that serve their basic livelihoods (IFAD, 2012). This paper situates this paradox as its conceptual entry point. Indeed, access to land provides opportunities for improving the livelihoods of poor and vulnerable in rural communities of Nepal. But its distribution is so inequitable that this has exacerbated poverty and widened the gap between poor and non-poor (Dhungana et al, 2011). Upreti (2008) pointed out that only six percent of the richest households occupy one third of total agricultural land where as 24.44 percent of total population are completely landless (see also Willy et al., 2009). Such inequity in land distribution is historically structured with the traditional land grant systems-*Zamindar*[1], *Kipat*[2], *Birta*[3] and *Jagir*[4] (Regmi, 1978).

The government's effort to land reform and redistribution under a broader vision of agrarian reform has been largely shadowed by the ongoing political issues and debates (Dhungana et al., 2011). Many people specially in the southern Tarai are living under extreme poverty and vulnerability with limited access to land and forest resources. Having said that, nearly half a million hectare of common property land, locally termed as public land[5], is available in the same region (DOLRM, 2010-11) and management of such land could provide ample opportunities for the people to carry-out livelihood support activities (Kunwar et al., 2008; Jamarkattel et al., 2009; Dhungana et al., 2011).

Though the national interest in the management of public land has always remained low , local stakeholders-local people, mostly poor and landless, local agencies like Village Development Committees (VDC), District Forest Offices (DFOs) and non-government organizations (NGOs) have initiated PLM practice in nine districts of central Tarai and western Tarai. PLM practice was taking a momentum i.e. bringing public land into group ownership, carrying out plantation, vegetable farming, fishery among others, and the local influential people who were non-contended the practice giving rise to social conflict and destruction of plantation (Kunwar, et al., 2008).

This paper with in-depth case study of five PLM groups aims to explore the prospects

1 A class of landowners in the Terai region who were responsible for the collection of revenue from peasants living in the villages under their jurisdiction (Regmi, 1978)

2 A system of communal land ownership prevalent among the Limbus and other Mongoloid communities in the hill region (Regmi, 1978)

3 It refers to the land owned by the government or its institutions. This kind of land may be village land, barren land, public grazing land, river banks, canal banks, schools or lands located under such institutions

4 Lands assigned to government employees and functionaries in lieu of their emoluments (Regmi, 1978)

5 It refers to the land owned by the government or its institutions. This kind of land may be village land, barren land, public grazing land, river banks, canal banks, schools or lands located under such institutions

of public land-availability of public land, contribution to people's livelihood, changes in resource productivity and engagement of stakeholders. This paper also examines the root causes of conflict among local actors surrounding the issues of tenure, PLM group recognition, contractual arrangements and operational issues related to policy.

LITERATURE REVIEW

Common property resource (CPR) theory provides the analytical framework for this research. The CPR theory emphasizes on the ability of local people to organize and share common resource ultimately leading to improvement in livelihood by restoring degrading resources (Ostrom, 2002). CPR theory counter argues the theory of tragedy of commons (Hardin, 1968) which define rights and duties of group members, membership criteria, participatory decision making and demarcation of resource boundaries that can reverse resource tragedy. Agrawal and Ostrom (2001) strengthen this argument by saying that rules for resource management should be enforceable, environment friendly and amendable.

However, empirical evidences in developing countries demonstrate that communities who are managing CPRs are suffering from poor tenure security.[6] Poor tenure security of any resource base increases vulnerability and they could lose their access to resources or resource based assets. This not only exacerbates poverty but also increases social instability and conflict (IFAD, 2012). Bob (2011) asserts that land tenure has been at the center of conflicts among ethnic groups across east African countries-Kenya, Uganda, Tanzania and Rwanda.

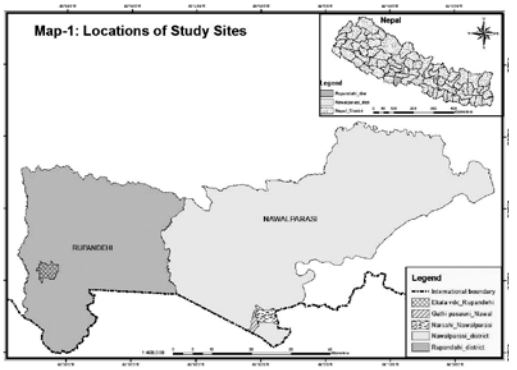
Anderson (2011) has discussed two types of CPR management models: the permanent entitlement model, where state handovers the legal ownership to the community; and the sthe delegated management model, where land ownership remains with the state and product ownership is given to local communities. The second type of model is popular in practice for the management of CPRs in many countries. For example, land management in Mali (Larson and Soto, 2008). The same model is applied in community based forest management in Nepal. The existing forest policies of government of Nepal (Forest Act, 1993 and Forest Regulation, 1995; Collaborative Forest Management Guideline, 2003; Buffer Zone Forest Management Guideline, 1999) have recognised local communities as autonomous entities and ensured rights of local people to protect, manage and utilize the goods and services generated from there.

The PLM practice, though it is community managed, has not yet been recognised by Nepal's policy regime. There are multiple government organisations associated with public land performing different role. The VDC/municipality, under the Ministry of Federal Affairs and Local Development, is land owner organization. The DFO, under Ministry of Forests and Soil Conservation, has legal authority to approve forest

6 Tenure security refers to rules, norms and institutions that govern access to and control over resource (IFAD, 2012).

management plans and give permit to harvest timber in the district. The District Administration Office (DAO), under Home Ministry is responsible for the protection; and District Land Measurement Office, under Ministry of Land Reform and Management, keeps records of public and private lands (Acharya, 2008).

DATA COLLECTION AND ANALYSIS



The study has followed qualitative approach. Case study research design (Yin, 1994) was used for data collection and interpretation. Altogether five PLM groups were selected purposively from Nawalparasi and Rupandehi districts (See Table 1). Primary data were collected using semi-structured interview, focus group discussion and field observation. The purposive sampling procedure was adopted in close consultation with district stakeholders associated with PLM and familiar with the issues of public land tenure. Research participants represented the executive members and general members of PLM groups and their federation at VDC and district level including government and non-government authorities.

The collected data were interpreted using qualitative techniques as stated by Miles and Huberman (1994)-data reduction, data display, drawing conclusion and verification. Data were collected in the form of audio records and field notes. The audio data was transcribed into text data. The data was then grouped according to research objectives. Similar data were put together generating themes and unnecessary data were removed carefully. Themes were then interpreted. During data interpretation, dialogue was made with relevant theories, policies and previous research findings. The findings of the research were presented and discussed to draw conclusion.

Overview of five PLM groups

Five PLM groups were selected purposively for the in-depth case study. The selected PLM groups: *Saraswati*, *Dibya Jyoti* and *Jayma Baishno* fall in Guthi Prasauni VDC and *Narayani* PLM group falls in Narsahi VDC of Nawalparasi; and *Tiger Tops Karbala* PLM group falls in then Ekala VDC (now Lumbini Sanskritic municipality) of Rupandehi district (See Map:1). In all the PLM groups where the research was conducted, plantation was the main activity and the fishery, vegetable farming and other cash crops plantation were subsidiary crops. The major tenure related issues observed in the studied PLM groups were timber harvest permit, taxation from VDC on public land, grazing and uprooting of seedlings in plantation. The findings suggest that PLM groups have

conflict with PLM group non-members of the surrounding area and VDC and municipality with whom PLM groups did lease contract. Table 1 gives an overview of the PLM groups and their major agricultural practices and issues.

Table 1: Overview of the studied PLM groups and major issues

PLM group Name	Address	Formation	area (ha)	HHs	Major practice	Major issues
Saraswati	Guthiprasauni, Nawalparasi	2004	4.92	44	plantation and agri-crops	uprooting seedlings, land taxation and court case; lease contract termination
DibyaJyoti	Guthiprasauni, Nawalparasi	2004	3.28	34	plantation and fishery	grazing on plantation, land tax, lease contract termination
Jayma Baishno	Guthiprasauni, Nawalparasi	2009	4.21	20	plantation and fishery	land taxation
Narayani	Narsahi, Nawalparasi	2004	9.84	159	plantation and agri-crops	Timber harvest permit
Tigertops Karbala	Ekala, Rupandehi	2004	3.67	63	plantation and fishery	Tender notice by municipality Timber harvest permit

Source: Field Survey (2013/2014)

DATA INTERPRETATION

Prospect of public land management

Though public land covers wide range of land and land based resources, this paper considers *Parti Ailani* land as public land which falls under the jurisdiction of local government: VDC/ municipality and other public institutions. The availability of such land in the twenty Tarai districts comprises more than 423,725.01 hectare (ha), Three top most districts possessing such land are Morang, Jhapa and Nawalparasi which hold 66843.86 ha, 54930.32 ha,48074.00 ha respectively (DoLRM, 2010-2011). Mostly, these lands have witnessed degradation due to over grazing, encroachment and remained unused for a long time (Kunwar et al., 2008).

Inspite of the fact that there were some informal tenure practices in public land, its management was formally started only in early 2000s. The District Forest Offices of Nepal government initiated PLM in six central Tarai districts (Dhanusa, Mahottari, Sarlahi, Rautahat, Bara, Parsa, Makawanpur and Chitwan) and three western Tarai districts (Nawalparasi, Rupandehi and Kapilbastu) together with NGOs with financial support from the donors. This initiative involved poor and landless people, organising them in the PLM groups. As of 2014, 559 such groups are managing 1921.93 ha public land in three western Tarai districts (MSFP, 2015). Table 2 shows that large portion of public land is available for management providing an opportunity to engage thousand of people.

Table 2: District wise distribution and management status of public land

District	LFGs	Total No	Total Area (Ha)	Total HHs Covered	Total Public Land (Ha)
Nawalparasi	PLM group	194	566.45	10813	34235
Rupandehi	PLM group	197	448.48	15472	10261
Kapilvastu	PLM group	168	907	40489	12038
Total		559	1921.93	66774	56534

Source:(MSFP, 2015; Kunwar et al., 2008)

CASE STUDY FINDINGS

Contribution to livelihoods

In the five PLM groups chosen for the case study, local people are utilizing the public land to its maximum potential. They have done plantation in the *parti ailani* land along river beds around public ponds and farming vegetables, cereals and fishery as intercrops. *Dibya Jyoti,* made net income of NRs 40,000 by selling fish and were planning to extend fish pond. Similarly, *Jayma Baishno* was harvesting 100 kg fish worth NRs 20,000 annually. *Narayani* has generated forest resource worth more than five million. *Tiger Tops Karbala* PLM group has leveraged more than half-million rupees from service providers and has made net profit of more than 0.6 million in a year just from selling fish. The detail is mentioned in the Box 1.

Collective involvement of poor people, women, *Dalits*[7] and religious minorities in PLM has created platform for participation, representation and decision making. In *Dibya Jyoti* PLM group, the position of secretary was occupied by female and in Jayma Baishno, more than 33 per cent members were women. Likewise, *Saraswati* PLM group was led and managed solely by women members and the Tiger Tops PLM group was controlled by religious minority- the Muslims. This has increased their confidence to voice their concerns in community forums including different groups.

However, in the hitherto cultural context of inner Tarai, coming out of home for females is still taken as a disobedience to social system and loose of character. Executive members of *Saraswati* PLM group shared that male members of the community used to blame her as woman of bad character because she goes outside of home for work and talks frankly with men.

On a positive note, this situation is changing gradually. The PLM programme has empowered people to leverage resources from government and NGOs. *Dibyajyoti* and *Jayma Baishno* got financial support of NRs 230,000 from Agriculture Office and also received fund from VDC for construction of fish pond .

Supply of forest products and protection from encroachment

PLM programme has motivated local people to plant trees in public and private lands. Each PLM group has planted more than 5000 seedlings of multi-purpose trees. Plantation in *Narayani* PLM group

7 The caste group which fall at the bottom in the Hindu hierarchical casteof system

and *Tiger Tops Karbala* PLM group done in 2003-2004 now supplies firewood, fodder and thatch grass. The forest has reached the stage of supplying timber. Forest watcher of *Narayani* PLM group recalls the past condition of public land which was lying as a desert on the banks of *Narayani* river. PLM groups invested their time and labor to convert these 'desert' lands into 'green patches of forest'.

In addition to that PLM groups have protected public land from encroachment. During interaction with PLM group's district federation members, they shared the case of *Nadiyatola* PLM group of Sukrauli VDC of Nawalparasi in which the PLM group had taken back the public land captured and cultivated by a local elite and police staff for more than six years. *Nadiyatola* PLM group registered case against encroachers at District Administration Office (DAO). The DAO investigated the case and found that land was public. DAO later thanked the PLM group for such bold initiation. (Field study, 2013).

Role of local actors

The role of government and non-government actors was that of a facilitator to bring PLM at a recognized level. The DFO provided seedlings, recorded PLM groups and assured PLM groups that this organization would ensure tenure rights. Then Livelihoods and Forestry Programme and now with Multi Stakeholder Forestry Programme and it's non-government organizations have strongly supported PLM groups formation, strengthening take plantation, monetary support for income generation, small infrastructure: improved cook stoves, biogas, public ponds renovation and the like. The agriculture office has supported vegetable cultivation and fishery. They believe that management of more than 500 wetlands in Nawalparasi could support to enhance food security among the poor section of the community.

Issues of tenure security

PLM group lease contract and conflict with VDC/municipality

"Jayma Baishno PLM group is recorded at District Forest Office and given code: NAW/40/PLMG/05".

-Executive chair, *Jayma Baishno* PLM group

The above statement of executive chair asserts that that PLM group is recorded at DFO Nawalparasi but not registered because District Forest Officer has no authority to register the PLM. DFOs have recorded PLM groups being optimistic that once government formulates policy, the status of PLM groups will be transformed from that of a 'recorded' to a 'registered' institution. The code NAW is given to district, 40 is given to VDC. PLMG refers group type and 05 is the number given to particular PLM group. Thus, the explanation of code is: *Jayma Baishno* PLMG is fifth group of Guthi Prasauni VDC recorded at DFO of Nawalparasi district.

PLM groups have prepared operational procedures and land management plans. The forestry technicians and social mobilizers helped them in boundary surveying and plan preparation. PLM groups then applied those plans in respective VDCs for lease contract. After lease contract with PLM group, VDC gave

recommendation letter to record PLM group at DFO.

The lease contract document of *Jayma Baishno* and *Dibya Jyoti* shows that PLM groups are given the use right whereby they can cultivate the agriculture crops and conduct plantation activities. But they should take permit from concerned authorities for timber harvest. VDC has set 20 percent tax on income from the sale of timber. Despite this, PLM *group* should pay tax at the rate NRs 5000 per *bigha*[8] per year and renew their contract on an annual basis.

For the initial few years, PLM groups of Guthi Prasauni paid tax to VDC. After paying tax for few years from their own resource, they realized that they could not pay tax from the income of public land. Then all 14 PLM groups of Guthi Prasauni made collective request to VDC office to review the tax. On the contrary, VDC secretary wrote letter to PLM groups urging to pay tax on time and also warned that failing to do so would lead to automatic termination of the contract. This created conflict among VDC office and the PLM group members.

Feeling humiliated and discriminated by this move, PLM groups called a mass meeting at VDC office premises. More than 200 PLM group members of 14 PMGs attended the meeting. Local political party leaders who were backing VDC to take such actions received a serious setback. Then VDC was compelled to review its tax charged to PLM groups and stepped back. However in a meeting with the author, the present VDC secretary pointed to the past two secretaries for making his terms illegal with PLM groups. A similar but more complicated case was observed in *Tiger Tops Karbala* PLM group of Rupandehi district. The newly declared municipality called for tender of fish pond in 2015 June which was itself a violation of its own contract with PLM group. The case is described in more detail in Box 1.

Box 1: Case-study: Ups and downs in*Tiger Top Karbala* PLM group,

Tiger Top Karbala PLM group falls in Ekala VDC of Rupandehi district. Since 2004, 63 households (HHs), are managing 3.67 ha of public land and a public pond. According to wel-being record group member's of this PLMG, 48 HHs are extremely poor, *Dalits* and religious minorities - Muslims. The DFO, then Livelihoods and Forestry Programme and NECOS, a local NGO, have facilitated the PLM group in plantation, fishery, to carryout income generation activities through developing a livelihood improvement plan, and also in awareness raising and strengthening group governance.

Before that, land was used for grazing and pond water was used to irrigate Rabi crops. The land was used to celebrate famous religious function of Muslims - Moharram. But this was under heavy encroachment from surrounding land owners. In a period of 12 years, the same land was developed as beautiful agro-forestry patch. More

8 Conversion of 1 bigha is equal to 1.64 hectare

than 5,000 seedlings of multi-purpose and fast growing tree species planted in 2004-2005, have now reached to the harvestable size. The degraded pond is renovated and water supplied through the installation of water pump. PLM group is making an annual transaction of more than 1.8 million Nepalese Rupees from two consecutive harvesting of fish in a year and making net profit of over NPR 613,000 thousands. This profit is distributed equally to all PLM group members. In addition fish farming is creating seasonal employment to 7 persons. In addition, fifteen poorest HHs are cultivating vegetables as intercrops and making income of around NRs 5000 per HH. The fish pond is also used for irrigating surrounding farmland of about 13 ha.

As the business is going as usual, a tender notice from Lumbini Shanskritic Municipality, then Ekala VDC, for lease contract for fish pond tensed PLM group, DFOand NGO workers. This tender notice has not only ignored the decade long management of public land by PLM group questioned over the support from the government and NGOs, but also discarded its own recommendation to DFO to transform public land agro-forestry into community forestry. The strong opposition from PLM group, PLM group's federation and a request letter from District Forest Office to municipality to withdraw tender notice, compelled municipal authority to step-back. However, issue is not addressed and this will be not surprising that any PLM groups can face the similar problem at any point of time in future.

In the early days, past VDC secretaries had facilitated local poor people to form PLM groups and to practice agro-forestry in public land but later secretaries stood against this. The programme officer of District Development Committee, a higher authority of VDC, defended that secretaries could not take risk in the area where their role is not defined. But the forest officer counter argues that the role of VDC is to monitor and intervene only when things are going wrong.

Issue of timber harvest

PLM groups successfully carried out plantation, took proper care and developed a desert like land into a very good patch of forest. Although they have forest management plans, they are facing the problem in tree harvesting. The *Narayani* PLM group and *Tiger Tops* PLM group had requested to DFO for harvest permit but DFO denied arguing that DFO has no authority to issue harvest permit for trees grown in public lands. According to PLM group federation members, this was the common problem for all PLM groups. VDC who owned the land as well as claimed 20-30 percent royalty from sale of trees also escaped to recommend DFO for harvest order. PLM group members were uncertain whether they could harvest trees or not. Consequently, this has discouraged the PLM groups and also provided enough space to PLM group non-members to claim their right over the public land.

Conflict among PLM group with non-members

People, who were not interested to join the PLM group earlier, later claimed their stake on public land. PLM groups were not ready to accept them as new members. They demanded compensation as condition to join group because they have made lot of investments in terms of labour and money over years. The conflict escalated gradually and PLM group non-member started uprooting seedlings, damaging crops, picking fish and even grazed their cattle inside plantation. In addition to this, they even came into physical and legal fight.

During field visit, secretary of *Dibya Jyoti* PLM group shared that PLM group non-members entered cattle in the plantation site very early at around 4:00 am. Cattle grazed and destroyed all seedlings. In the case of *Saraswati*, seedlings and crops were destroyed at night. As *Saraswati* PLM group is managed by women, the destruction of plantation site made their males feel insulted . One aggressive male member then physically attacked the suspected one. That person filed a case against key PLM group members and field facilitator of local NGO working in the VDC. District police could not settle the case as there was political backing for PLM group non-members. However, the district court and then appellate court gave their decision in favour of PLM group and the case was settled.

One of the PLM group non-member said:

"VDC has leased public land for plantation. Anyone can plant seedlings in public land but all the members in the community have equal right to use that resource ".

In the current policy context, there is no policy to counter the above statement. In case of *Dibya Jyoti*, PLM group members reached to DFO with a written application to take judicial action against those involved in grazing. DFO wrote letter to accused PLM group non-members and inquired only after a strong pressure from PLM groups. PLM group non-members committed their mistake and assured re-plantation. But they neither replanted nor did DFO take action against them. However, DFO was found worried on how to ensure legal base for current PLM groups and brought the concept of transforming groups from the status of PLM groups to Community Forest User Groups (CFUGs).

Efforts to legalize PLM groups

In the field study, it was observed that the *Tiger Tops* PLM group applied at DFO, Rupandehi seeking the status of community forestry user group. Along with application, they have submitted a recommendation letter for the same from respective VDC and later from municipality. However,the DFO remained unresponsive to their demand. DFO only handed over the forest land under his jurisdiction to community as community forests. In case of public land, land ownership remains with VDC. DFO argued that only the cabinet decision can transfer ownership of land from one authority to another authority within government institutions.

But, this can bring other policy complications in the current practices. PLM groups who are cultivating agro-

crops and engaged in fishery in public land are not allowed to operate like this under community forestry regime. PLM has focused on uplifting the poor, landless and religious minorities but in community forestry, there is no such provision. The current practice of PLM shows that there are small patches of public lands managed by small group of people. However, for community forestry, the size of forest area and number of households managing it is pretty open. During field discussion, it was noted that PLM groups of Kushma VDC of Nawalparasi rejected the idea of PLM groups conversion into CFUGs. The PLM group regional federation of western Tarai districts has urged for PLM as separate agro-forestry regime like community forestry regime.

FINDINGS

This study found that community based approach was adopted in PLM and only a small portion of public land was brought under community management. PLM group members are getting goods and services like firewood, fodder, thatch grass, vegetables and fishes and making good income from animal husbandry . With external support from government and NGOs, the poor, women, Muslims and *Dalits* people are actively participating in PLM process. This has resulted in protection of public property from encroachment, creating additional assets and positive contribution in the livelihoods of member households.

The cases of studied PLM groups reveal that the legal base for PLM programme is very weak. PLM groups have done lease contract with VDC and are recorded at DFO. Seeing the good results coming, PLM group non-members started to claim their rights and get involved in destruction of crops**.** The Guthi Prasauni VDC and Lumbini Sanskrit municipality stood against the lease contract with an interest to take back the land. The VDC has imposed heavy land tax to PLM groups and existing policy has not defined DFO as the main authority to issue timber harvest permit. The DFO, NGOs and PLM group federation are advocating for such policy but not succeeded so far.

DISCUSSION

PLM practice in southern Tarai districts revealed that it is the CPR that provides livelihood opportunities to the poor and landless people (IFAD, 2012) and enable them to diversify opportunities for better livelihoods (Dhungana et al., 2011). PLM practice in southern Tarai has also provided enough evidence that poor and socially marginalized groups i.e. to *Dalit* and *janajatis*[9] are getting high portion of benefits (Neupane, 2012; Pokharel, Bhatta and Karna, 2010). This condition is met when local people are involved in CPR management, have right to access and control over the resource (Ostrom, 2002; Otsuka, n.d.).

Communities have not only reversed the degradation of public land but also safeguarded resource from further degradation and encroachment. Schlager

9 Ethnic communities who are under-represented in the state's political, economic and social sphere

and Ostrom (1992) argue that this practice is successful in many developing countries in restoration of degraded resource. Most of the provisions comply with the property rights in common property regimes (Agrawal and Ostrom, 2001).

However, the existing policies: Nepal Land Use Policy (2012) and Local Self-Governance Act (1999) in Nepal have given right to VDC/municipality for the protection and management of public land with an aim to promote greenery and improve the condition of poor people. But the document is silent on tenure related issues such as legal base for lease contract, clear membership criteria, land use conditions, taxation, lease period, resource harvesting and benefit sharing mechanisms. In such conditions, contestation related to access to and control over CPR is growing in Nepalese context.

DFO use to provide seedlings but could not issue timber harvest permit and/or could not take judicial action against those involved in destruction of plantation. VDC/ municipality performs lease contract with community and again writes letter to them subject to termination of contract. They even call tender notice for the management of CPR that was already contracted with and being managed by local community for more than a decade. Imposing heavy tax to the poor who cannot really afford can be considered as an attempt to boycott them from CPR management.

Anderson (2011) argues that devolution of management responsibility to community increases resource productivity and this is fundamental for the sustainable management of CPRs (Geiser and Rist, 2009). On the same ground, IFAD (2012) urges to address the tenure related issues to avoid injustice and warns of social instability and conflict, making poor people highly vulnerable if not addressed on time.

WRFD (2011) has already recorded large number of conflicts and there was already noted physical violence and legal fight (Paudyal and Ebgret, 2007). This indicates that there are chances of reoccurrence of violence and/or reclaim of public land by VDC/municipality can not be ignored. The Multi Stakeholder Forestry Programme cancelled the tender of its huge programme on public land as per the strong recommendation of mid-term review that recommends the policy instruments to be settled first before the project intervention (MSFP, 2015). The efforts to give PLM groups a status of community forestry is not backed by Forest Act (1993) though some PLM groups have shown their willingness. Thus, the broader landscape of PLM management practice in southern Tarai signals at the chances of destruction of additional assets created in CPR and cautions the actors involved to think and act against the reoccurrence of tragedy of commons (Hardins,1968).

CONCLUSION

This study demonstrates that community based PLM practice in southern Tarai has generated additional social, economical and environmental assets that have contributed in promoting the living standard of poor, women, *Dalits* and other socially marginalized people in the

region. The findings also points that there is a huge lapse in PLM practice and tenure security. Current policy instruments fail to adequately address issues like weak contractual arrangements where non-members and stakeholders can contest over group managed public land and claim their right, taxation on public land, product harvesting and benefit sharing mechanism. The cases of PLM groups analysed during this study have proved that if PLM groups did not have a federation to advocate for their rights , respective VDC and municipality would have already engulfed PLM groups.

This study has theoretical and policy implications. First, we argue for the adoption of PLM policy that accommodates the existing tenure issues and provides legal base for PLM groups with ample space to bring remaining large portion of public land under community management. Second, we assert that weak tenure working conditions is detrimental to the poor and socially marginalized people as well as for the sustainability of CPR management. In fact, this would be an injustice to these groups who have voluntarily invested time and considerable resources. Third, this study believes that CPR theory providees ground for the progress made in PLM, however, the perceived conflicts and violence warns the possibility of reoccurrence of degradation of CPR leading towards tragedy.

REFERENCES

Acharya, B.R., 2008. Government and public land management in Nepal. A paper presented at FIG/FAO/CNG *International Seminar on State and Public Land Management.* 9-10 September: Verona, Italy.

Agrawal, A. and Ostrom, E., 2001. Collective action, property rights and decentralization in resource use in India and Nepal. *Politics and Society*, Vol. 29(4), pp.485-514.

Andersen, K.E., 2011. *Communal tenure and the governance of common-property resources in Asia: Lessons from experiences in selected countries*. FAO: Land Tenure Working Paper 20.

Bob, U., 2011. *Land related conflicts in sub saharan Africa.* Available at: www.ajol.info/index.php/ajcr/article/download/63310/51193.

Department of Land Reform and Management (DoLRM), 2010-2011. *Report on Government and public land*. Kathmandu Nepal: DoLRM.

Dhungana, S.P., Ragan, H., Shrestha, V. and Jha, P., 2011. *Creating agro-forestry commons for the landless and socially marginalized: A case Study from Nepal's Tarai Region*. Available at: http://dlc.dlib.indiana.edu/dlc/bitstream/

handle/10535/7390/456. pdf?sequence=1.

Geiser, U. and Rist, S., 2009. Decentralization meets local complexity: Conceptual entry points, field-level findings and insights gained. In: U. Geiser, S. Rist, eds. *Decentralisation meets local complexity: Local struggles, state decentralisation and access to natural resources in South Asia and Latin America.* Bern: NCCR North-South. Vol. (4), pp.15-55.

Hardin, G., 1968. Tragedy of commons. *Science*, Vol. 162, pp.1243-1248.

International Fund for Agriculture Development (IFAD), 2012. *Land tenure security and poverty reduction*. Rome: IFAD.

Jammarkattel, B.K., Dhungana, S.P., Srijana, B. and Dhunagana, R.B., 2009. Democratizing Tarai forestry governance: Emerging innovations in the western Tarai region of Nepal. *Journal of Forest and Livelihood*, Vol. 8(2). Forest Action: Lalitpur, Nepal.

Kunwar, M., Neil, P., Paudyal, B. and Subedi, R., 2008. Securing rights to livelihoods through public land management: Opportunities and challenges. *Journal of Forest and Livelihood,* Vol. 7(1). Forest Action: Lalitpur Nepal.

Larson, A.M. and Soto, F., 2008. Decentralization of natural resource governance regimes. In *Annual Review of Environment and Resources*. Available at: www. environ. annualreviews.org.

Miles, M.B. and Huberman, A.M., 1994. *Qualitative data analysis* (2nd Ed.). Newbury Park. CA: Sage Publication.

Ministry of Forests and Soil Conservation (MoFSC), 2006. *Public land management guideline for BISEP-ST.* Kathmandu Nepal: MoFSC.

Ministry of Forests and Soil Conservation (MoFSC), 1993 and 1995. *Forest act 1993 and regulation 1995*. Kathmandu: MoFSC.

Ministry of Land Reform and Management (MoLRM), 2012. *National land use policy*. Government of Nepal, Kathmandu: MoLRM.

Ministry of Local Development (MoLD), 1999. *Local self governance act and regulation*. Government of Nepal, Kathmandu: MoLD

Neupane, K.R.,2012. *Public land management: Issues and livelihood contribution: A case study of Nawalparasi District, Nepal.* Unpublished Master's Dissertation. Institute of Forestry, Pokhara, Tribhuvan University, Nepal.

Ostrom, E., 2002. Common pool resources and institutions: Towards a revised theory. In: B. Gardner and G. Rausser, eds. *Handbook of agricultural economics.* Elsevier, *Science.* Vol. 2*,* pp.1316-1336.

Otsuka, K., n.d. *Enhancing land rights and improving land use efficiency in marginal areas of Asia.* Available at: http://www.landcoalition.org/sites/default/files/legacy/legacypdf/wbmargas.pdf?q=sites/default/files/legacy/pdf/wbmargas.pdf.

Paudyal, D. and Ebregt, A., 2007. *Pro-poor leasehold forestry in Nepal*. Bio-diversity sector programme for Siwaliks and Tarai. Kathmandu, Nepal: Bio-diversity Sector Programme for Siwaliks and Tarai.

Pokharel, S.B. Bhatta, & Karna, A.L., 2010. *Impact of pro poor public land forestry in livelihood promotion of marginalized groups and linking with a possible policy intervention to secure land tenure*. A paper presented in Tree-People Interaction National Seminar. Institute of Forestry: Pokhara, Nepal.

Regmi, M.C., 1978, reprinted 1999. *Thatched huts and stucco palaces*. New Delhi: Adroit Publishers.

Schlager, E. and Ostrom, E., 1992. Property-rights regimes and natural resources: A conceptual analysis. *Land Economics,* Vol. 68(3). pp.249-262.

Steimann, B. and Geiser, U., 2012. Ensuring land rights benefit the poor. *Evidence for Policy Series.* Global Edition, No. 7, Bern, Switzerland: NCCR: North-South.

Western Regional Forest Directorate (WRFD), 2011. *Study of public land management in Nawalparasi, Rupendehi and Kapilbastu Districts*. Pokhara: WRFD.

Willy, A.L., Chapagain, D. and Sharma, S., 2009. *Land reform in Nepal: Where it is coming from and where is it going?* Department of International Development: Kathmandu.

Yin, R.K., 1994. *Case study research design and methods.* London: Sage Publication.

Zimmermann, W., 2008. *Effective and transparent management of public land experiences, guiding principles and tools for implementation*. A Paper (updated version) Presented at FIG/FAO/CNG International Seminar on State and Public Land Management. 9-10 September, 2008, Verona, Italy.