

# Mechanisms of Landlessness in Nepal

TULSI RAM PANDEY\*

## INTRODUCTION

In Nepal 91.3 percent of the economically active population is engaged in agriculture; 66.4 percent of the GDP comes from this sector; and privatization of agricultural land is its economic rule. Productivity of land and its size are the determinants of economic prosperity of both the country and its people. But in Nepal 63.07 percent of the working days per rural households are underemployed; 42.2 percent of the rural population is below poverty line; and there are incidences of frequent conflict between the landless and the government for land.

Struggle for land and underemployment in an agrarian society suggests either the scarcity of land or inequality of its distribution. The policy 'to determine land above ceiling' is indicative of the disparity of landholdings. The very low average size of landholding is indicative also of the scarcity of the land itself.<sup>1</sup> This paper seeks to explore the role of the bewildering multiplicity of land tenure systems of the economic history of modern Nepal to such a disparity in-land holding. It seeks also to explore the 'effect of those land tenure systems, oppressive agrarian relations, unavailability of non agricultural employment and present state of under employment upon the marginalization of average peasants leading to the status of landlessness.

This paper has five sections. The first above is introductory. Section second deals with various land tenure systems before 1950's and their role on the creation of inequality in land distribution. The third section analyses how the nature of land distribution and agrarian relation of the economic history have been the causes of marginalization and landlessness of peasants. The fourth section explains the failure of land reform and resettlement programmes to solve the problem of landlessness. The fifth section concludes this article,

## LAND TENURE SYSTEMS AND THE DISPARITY IN LAND DISTRIBUTION

The political, administrative, economic, religious, military and personal needs of Gorkhali rulers during the period of political unification as well as the Rana rule gave rise to bewildering multiplicity of land tenure systems in Nepal. Principle forms of these systems were

---

\*Mr. Pandey is an Assistant Lecturer in the Department of Sociology/Anthropology, at Tribhuvan University, Kirtipur. The author would like to express gratitude to Dr. Chattanya Mishra for his comments on the earlier version of this paper.

raikar, birta, guthi, kipat, rajya, jagir, rakam and jimidari. Zaman has noted that before 1950, of the total cultivated land of the country, the former four types consisted of 50, 36.3, 2 and 4 percents respectively, where as the latter four consisted of a total of 7.7 percent.<sup>2</sup>

#### Raikar System

Traditionally raikar is a form of land tenure system over which the state retains a direct control. It may, therefore, be said as a "system of state landlordism". Until the enactment of order Regarding Registration of Land Transaction in 1921, peasants cultivated such lands in the capacity of insecure state tenants and "made payment directly to the state". This order registered all the raikar land under the name of cultivators making them landowners with rights to alienate their lands. To maintain the raikar nature of land they, however, were required to pay rent to the state.<sup>3</sup> Except some guthi lands, all lands in Nepal today are of this nature. Recently law is being enacted for the abolition also of the guthi land (see the budget speech for the fiscal year 1984/85).

#### Birta System

Birta emerged through the practice of originally raikar land grants made by rulers to individuals. Birtas were given as ritual gifts or as a mark of patronage to priests, religious teachers, soldiers, members of nobility and royal family with religious, political and economic considerations. It was, therefore a form of privileged land ownership which was abolished in 1959.<sup>4</sup>

#### Guthi System

Guthi land emerged from the alienation of jagir, birta or kipat lands by the state or individuals for religious and charitable purposes. Institutional ownership is the basic characteristic of guthi land. During the period of political unification the pious and philanthropic purpose of guthi grant degenerated to hiding those birtas, which were likely to be confiscated by rulers. This had been because of the unalienable nature of guthi lands. Guthi lands are still in Nepal under the jurisdiction of Guthi Corporation.

#### Kipat System

Kipat is a communal form of land tenure. In it an owner "derives right by virtue of his membership in a particular ethnic group and/or the location in a particular area. Rais and Limbus of Majh-Kirat and some other ethnic groups of eastern and western midland of Nepal had Kipat holdings before its alienation. After 1961, the government of Nepal gradually eliminated the kipat system as a distinct form of land tenure; and it was only in 1968 that kipat from all communities were finally eliminated.

## Rajya System

During the process of political unification Gorkhali rulers, to appease some of the powerful rajas of vanquished principalities, allowed them to appropriate revenue in their traditional territories for their own use. These rajas were provided also with some measures of autonomy in internal administration under the suzerainty of Kathmandu. Such lands were known as rajyas. This system flourished more during the Rana rule. In the list of 7 rajas in Nepal before 1846, were added at least 13 more rajas by the end of 19th century. This system was abolished in 1961.

## Jagir System

Before 1951, government's functionaries were provided with some amount of land to appropriate revenue as emolument for their service. This system was known as 'jagir'. A notification of Finance Ministry abolished this system in 1951.<sup>5</sup>

## Jimidari System

In 1861-62, the revenue administration system in Tarai was reorganized to extend its base to the village. The responsibility of tax collection was assigned to some village based functionaries. They were known as jimidars. Jimidars were allowed to use their entrepreneurial ability to reclaim vergin, waste and forest lands. A part of such land was provided to them in a form of birta. They also were provided with waste land for personal cultivation where resettlers were not available. Such lands under the private control of jimidars were known as Jimidari system. This system was abolished only in 1964.

The opportunity to be influential priests, members of royal family, nobility, jagirdars, rajas, jimidars and brave soldiers was available only to a handful elites. This nature of land tenure systems suggest, therefore, a disparity in the process of land distribution. In particular, birta, jagir, Jimidari and rajya systems helped to create a landowning group at the deprivation of others. It does not mean that raikar was free of this charge. However, before its registration to cultivator's name, the practice of raibandhi system, that is the redistribution of raikar among cultivators according to family size, prohibited a permanent concentration of large land holdings. After the beginning of its registration, raikar became alienable through monetary transaction. This alienability, because of the lack of land ceiling system, helped to emerge landed interest through the purchase of such land. Even in the kipat system, penetration of feudal interest reduced the land size transferring it gradually into personal and big landholdings.<sup>6</sup>

## NATURE OF LAND DISTRIBUTION AND AGRARIAN RELATION: FACTORS FOR MARGINALIZATION AND LANDLESSNESS OF THE PEASANTS

Concentration of large landholding inevitably suggested the existence of tenancy relation, as official measures did not restrict such relation. Tenancy relation, although, being itself a feature of feudalism is not positive to the tenant, it would be less severe had it been

implemented on a legal basis. But on the contrary birta owners and jagirdars retained a legal right to evict tenants in case they wanted to cultivate themselves. Lease of land to the tenants was valid for only one year and had to be renewed every year on payment of a fee. Izardars had absolute right to evict their tenants in favour of highest bid. Such conditions created the problem of landlessness even in the 19th century Nepal, though there was no lack of cultivable land. Even after the emergence of property right in raikar land this problem could not be resolved. Recent development plans have to adopt therefore some economic policies emphasizing the security of tenants.<sup>7</sup>

The system of registration of raikar land to its cultivators can be credited not only because it contributed to make them independent peasants. Rather, it opened also a prospect to be independent peasants to those tenants who could purchase some land for their own. But because of the following fundamental reasons neither the tenants of big landholders could accumulate income for land purchase nor the independent peasants could remain without being marginalized or landless.

The first of these reasons was the exploitative nature of the system of taxation, tax, collection and unpaid labour obligation. Until the late 18th century eastern and mid-land hills and Kathmandu Valley had andhiya system of taxation on khet (wet) land. This system had prohibited the prospect to increase rent in farms and obliged also the landowner (both state and individual) to adjust the rate of rent with crop failure. But gradually after this period andhiya system was replaced by kut system of taxation bringing two negative effects in the economic living of peasantry.

Firstly, cultivators were obliged to pay the stipulated amount of tax even during the bad harvest. Secondly, this system made farmers willing to pay higher rent and tax for a particular plot of land to the disadvantage of one who already farmed it under tenure.

Replacement of andhiya system by kut system of taxation was followed also by collection of rents in cash in hill Nepal. In the non-monetized and non market economy of hills it further increased a problem of raising money to meet rent and tax obligation. This led tenants and small landowners to sell their grain to middlemen who could make monetary transfer of grain to the market or borrow cash to meet tax requirement. "In either case the net effect of introducing this cash requirement was to reduce the farmer's already meager resources and at times, to drive him into bondage and slavery." Further, their obligation to provide loan to the landlord jagirdar if he so desired, even before harvesting the crops, to be adjusted with the growing crops in the field, kept peasants always in the clutch of indebtedness to local money lenders.

Rent and tax from peasants were collected through various tax collection systems, viz. amanat, thekbandi, thekthiti, mukhiyabhar, lokabhar, ijara and rajya, etc. In all these systems, except ijara, rent and tax collection functionaries of various types were required to

collect rent and tax at a fixed price. But how fairly they discharged their duty was questionable at the lack of administrative mechanism to examine their performance. Moreover, peasants were sharply exploited under ijara system of tax collection. Since an ijaradar, who was insecure of his position had uncontrolled power in matters like defense administration, justice and appointment and dismissal of government functionaries in areas under his jurisdiction, and since he was empowered to appropriate any amount he could with only obligation to pay stipulated amount of tax to the government, over oppression of peasants was inevitable. There would be no better example than the emigration of people and even government functionaries to escape from such exploitation. Government policies towards Ijaradar further led to the emergence of sub-ijaradars to increase the economic burden of the peasants.

The introduction of tirja system of tax collection in jagir land, sale of tirjas<sup>8</sup> by jagirdar to dhokres at higher bids, and rent collection by dhokres at off season and higher bid added another brick in the wall of economic hardship of the peasants. The peasants of the 19th century Nepal had to pay also some other taxes, e.g. walak, gadimubarak, godan, chumawan to the Royal Palace to meet requirements on national celebration, mourning, festivals and ceremonial occasions. They were, further, obliged to pay some levies e.g., ghiukhane, chardamtheke, also to their landlords, local headmen, government functionaries and the state. Similarly they had to pay some unpaid labour services either to transport military equipments of the government, to supply fresh mangoes, ice, grass etc. to the royal palace or to meet the personal needs of village headmen and local functionaries.

These forms of agrarian relations remained unchanged until the end of Rana rule. Attempts made thereafter for their gradual elimination have still not been completed. Here it may be argued that the commutation of inkind collection into cash together with the long-term settlement of tax and rent could have made cultivators more profitable as the price of crop increased. But because birta owners and jagirdars had legal right to appropriate in kind if they so desired and as there were some raikar lands paying tax in kind until the application of Panchayat Development and Land Tax from 1960s, peasants had no prospect to benefit from price rise. To exemplify the persistence of other evils--landowners, including birta owners, were prohibited from exacting unpaid labour and payments other than agricultural rent from their tenants only in 1957.<sup>9</sup> Legislation to abolish all special privileges relating to the use of forced and unpaid labour was enacted only in 1959,<sup>10</sup> for which the New Civil Code had also a provision. Rakam system of unpaid labour obligation was abolished only in 1961.<sup>11</sup> Similarly, the Lands Act of 1964 abolished jimidari system of tax collection. But to the oppression of peasants, other local tax collecting functionaries e.g. mukhiya, jimmawal, patwar, etc. remained intact even after the introduction of Panchayat system in the hills and Tarai regions.

These extraction could contribute to mass benefit, had they been utilized towards employment generating activities. Nepal would get some

degree of self sufficiency through the development of its economy. But Nepal always, remained a tributary state supporting a small aristocracy situated in Kathmandu. No effort were made to generate employment opportunity outside the agriculture. The predominance of agricultural employment with negligible scope from other sectors can be referred to its example. Further, the industrial employment, whatever negligible it may have been, is possible to a handful of urban workers (and some Indian labourers<sup>12</sup>) by their location in urban areas. The vast rural population has to remain in agricultural field.

The "feudal, anachronistic and chaotic state" of administration of Rana rule required no qualification on jagirdar's employment. Only the devouts of Ranas were the beneficiaries of administrative positions. Even after the enactment of Civil Service Act in 1956, administrative, clerical technical and professional jobs have been out of dream for general masses. It is not because, the law, which has established an academic criteria for qualification is not impartial. Rather, it is because of the concentration of almost all the higher level educational institutions at urban centres consisting insignificant portion of national population. The small, marginal and landless peasants with subsistence income cannot support their children to towns and abroad for higher level education and technical training.

The massive inflow of manufactured goods from foreign countries have degenerated the traditional occupations and industries of poor peasants. Similarly, the lucrative income from foreign aid has been spent to extend the power structure. The result, as mentioned above, is that 40.30 percent households in the country fell below poverty line with their significant portion of under-employed or unemployed working days.

Thus, the heavy concentration of land to a small section of feudal elites, lack of employment opportunity outside agriculture and the degeneration of traditional industries and occupations of the rural households have been the traditional features of Nepal's political economy. This, together with population growth and the increase in food demand and regular and contingent expenditure without any increase in their land compelled even the independent peasants to sell or mortgage their land leading to the state of marginalization and landlessness.<sup>13</sup> Presently 10.35 percent of the rural households have no land at all. Similarly 63.61 percent of the total farm households have only a small and marginal landholding.

#### LAND REFORM AND RESETTLEMENT PROGRAMMES: STRATEGIES INADEQUATE TO SOLVE THE PROBLEM OF MARGINALIZATION AND LANDLESSNESS OF THE PEASANTS

However, political leaders and planners of post Rana Nepal recognized all agrarian problems faced by the country. This motivated them to launch various land reform programmes and resettlement programmes from the decade of 1950s. The provisions about security of tenants, regulation of rent rate, redistribution of land, abolition of birtas, prohibition of unpaid labour etc. of the land reform programmes were progressive in their nature. There was, however, a problem of their implementation. In the absence of effective administrative machinery these programmes of the 1950s were to be

implemented by the existing feudal classes, e.g., jimidars, patuwars, mukhiyas and talukdars. Its effect was that none of the programmes could transform the basic agrarian structure except converting birtas into raikar.

A destruction of the forest was not to disturb any interest of the feudal class. On the contrary, it had power to appease the landless of the country through a process of resettlement. Accordingly, Rapti Valley Development Project was opened in the Chitwan Valley. Its objectives were to resettle victims of natural disaster, to bring forest and shrub land under cultivation and to make equitable distribution of population with natural resource. Although nepotism, favouritism and corruption in land distribution in the project did not benefit the genuine peasants and flood victims, this official initiative towards land resettlement and Malaria Eradication in the Tarai opened up a prospect for the people of other regions to migrate to Tarai in ensuing years.

Also the panchayat system devised a land reform programme for the 'establishment of an exploitation-less society.' Its ideology of class coordination however made possible for only the feudal section to have its role in decision making. Consequently, the programme legalized inequality in the ceiling of landholding. Land areas assumed before the programme to be resumed for redistribution were sharply reduced in size after the programme.<sup>14</sup> Any minimum reform possible through the programme remained insignificant by administrative indifference. Landless and marginal nature of the peasants resulted from lopsided distribution of the land could not be effectively resolved.

Furthermore, there remained an imbalance in the proportion of man land ratio in different parts of the country. The hills and mountain with a total of 62.39 percent of the population consisted only a total of 35.22 percent of the cultivated land. The agricultural density in these regions was 1035 and 1244 persons per square km. respectively. But the Tarai with the rest of cultivated land and population had this density by 341 persons. On the result average cultivated land per household in mountain and hills remain 0.45 and 0.55 hectare whereas it was 1.62 in the Tarai.<sup>15</sup>

All these situations led the inflow of marginalized and landless peasants from hills to Tarai from 1960s. For those capable to purchase land had no problem of settlement. others had to wait their roll in resettlement programmes. Resettlement programmes were not, however, in position to accommodate all land hungry peasants. Until 1977 Resettlement Company could resettle only 7691 families. A few others had been resettled by other ad hoc Committees, Commissions and Resettlement Department. The remaining others developed a number of spontaneous settlements in the forests of Tarai. It is an official estimate that 56,000 hectares of forest lands were encroached upon by spontaneous resettlers from 1964 to 1972.

Certainly forest encroachment brings negative consequences to the national interest of protecting the natural resources. Its destruction

is the destruction also of a valuable source of the income of the nation. Therefore any transfer of such resettlers to extra-agricultural activities (e.g., in industrial employment) would be a wiser policy for both the protection of forest and secured economic livelihood of the people. From the early 1970s some sporadic attempts were made by the government to evict spontaneous resettlers for forest protection. Since such attempts were made without economic alternatives they brought only a conflict between people and government. During 1979 Panchayat political system felt a problem of legitimacy of popular support. It came under trial at which it had equiprobability of defeat or victory. Its defeat, however, would have a negative result for the interest of Panchayat elites. Therefore, any of the possible measures were to be adopted from their part to make referendum result in their favour. For this purpose a number of unorganized and haphazard settlements were encouraged for the landless in Tarai forests by various commissions, on a lure to make them obliged to cost their votes on Panchayat's favour. However after the solution of this crisis such resettlers were evicted again by another types of commissions. Such a political manipulation of the economic life of the people further contributed to enhance the number of landless people by making their economic life always insecure.

#### CONCLUSION

Landlessness of peasants in Nepal is an integrated function of a number of related factors rooted in the very history of its political economy. Various land tenure systems creating inequality in land distribution, exploitative agrarian relations, lack of effective implementation of existing land reform programme, population growth, lack of non agricultural employment opportunities to the people and political manipulation of the economic life of peasants can be regarded as some of the major factors of landlessness of peasants in Nepal.

#### FOOTNOTES

1. The average size of cultivated land per household was 0.56 hectare in the hills as earlier in 1962 (CBS; 1962), whereas it was only 1.62 hectares even in the Tarai in 1971 (Dhital, 1974: 99).
2. Zaman does not mention jimidari as a separate form of land tenure. But it can be assumed that he may have included it under the form 'others'.
3. However, even before the unification of Nepal cultivators of raikar land in Dullu, Dailekh and Himalayan regions, had property right in land to which Gorkhali rulers did not interfere (Regmi, 1976: 175).
4. See Birta Unmulan Ain (Birta Abolition Act), Nepal Gazette, Vol. 9, No. 19 (extraordinary) Poush 1, 2016 (December 15, 1959).
5. Nepal Gazette, Vol. 1, No. 12, 12, Kartik, 2008 (October 28, 1952).

6. For example, the Gorkhali conquest encouraged most of the non-Limbus to migrate into kipat territory of Limbus. Limbus were also not reluctant to this process, since there was a short supply of labour to land resource. But from 1805 onward the virgin land reclaimed by non-Limbus were converted into raikar (Regmi, 1971: 49-53) and made alienable. Similarly, upto 1883 Limbus could alienate their land to non-Limbus. Although permanent alienation of Limbus kipat was restricted from 1883 and more strictly from 1901, lands alienated so far were converted into raikar (Regmi, 1965: 97). Kipat without documentary evidences were also converted into raikar. Conversion into raikar meant making them alienable permanently into the hand of non-Limbus. This created the situation of concentration of former kipat land to those who could purchase the land (Caplan, 1970).
7. The Tenancy Right Security Act of 1951 was the first attempt in Nepal towards agrarian reform and security of tenants (K.C., 1979: 52).
8. Tirja was a kind of certificate issued by the government to jagirdars in which the amount and form of rent to be exacted were determined.
9. Bhumi Sambandhi Ain 2014 (Lands Act 1957), Nepal Gazette, Vol. 7, No. 5 (extraordinary); 22, Shrawan 2014 (18 August 1957).
10. Mulki Ain, "Jhara Khetala Ko Mahal (Samsodhan) Ain 2015" (Legal Code, Law an unpaid labour (Amendment) Act, 1958.
11. "Rakam Abolition Order" in Nepal Gazette, 1, Chaitra 2017 (14 March 1961).
12. According to 1972/73 census of industrial establishment in Nepal, a total of 47,683 persons were engaged in industries, of which 26.26 percent were non-Nepalese (Shakya (ed.), 1976: 72/73).
13. Caplan's study of Limbu community of east Nepal has vividly explored how penetration of feudal interest allowed by the government policies to kipat land of Limbus, specially after the political unification, compelled the smaller Limbu peasants to sell or mortgage their land to meet food requirement of increased population and other regular and contingent expenditures (Caplan, 1970: Chapter 4 and 5). The process of marginalization and landlessness of peasants in raikar land may also be regarded as the same. What differs between kipat owning Limbus and peasants in raikar land is that the process of marginalization and landlessness of the former appeared some what later gradually after the intervention of state authority to reduce the size of kipat holding and to induce landholding interest into Limbuwan from outside, whereas feudal interest in raikar land existed even before the emergence of property right of cultivators in it.
14. 600,000 hectares of land estimated to be resumed by their being above ceiling for redistribution by the planners of Nepal before the enactment of the Act was reduced to the size of 66,380 hectares after the Act was enacted (K.C. 1979: 54).

15. The National Planning Commission's survey of 1977, on Employment, Income Distribution and Consumption Pattern in Nepal noted that the average farm holding per household for Mountain Hills and Tarai is 0.56, 0.72 and 1.62 hectares, respectively. But in comparison to the size of farm holding per household in different regions in 1961 and 1971 as noted in <sup>nn</sup><sup>2,26</sup> it is an increase in the Hills and Mountain. But because the population in Nepal is ever increasing the logical conclusion would be a reduction in land size per household. This suggests, therefore, that there has been the encroachment of forest land at a massive scale or the methodological error in atleast one of the periods of data collection: