

NES

**NATIONAL
ENGAGEMENT
STRATEGY**



**LEARNING
FROM NES
NEPAL**

**GOOD PRACTICES FROM A
MULTI-STAKEHOLDER PLATFORM**

**INTERNATIONAL
LAND
COALITION**



SUMMARY

Since 2011, the National Engagement Strategy (**NES**) **NEPAL** has been active in protecting land rights and promoting access to and use of land for landless and land-poor people. The platform was initially composed of six ILC members.

A new and progressive Constitution was promulgated in Nepal in 2015, but people-centred land policies that would ensure its actual implementation are still lacking. NES Nepal was the initiator and a crucial part of a larger platform called the Land Governance Working Group (LGWG), which was formalised under the leadership of the Ministry of Land Management, Cooperatives and Poverty Alleviation (MOLMCPA) in 2018 and which currently brings together government agencies and civil society organisations (CSOs) working on land governance. Through the LGWG, the NES promotes policy dialogue among diverse stakeholders working on land issues at community, provincial, national and international levels.

Additionally, through its members, the NES fosters people-centred land governance at the local level. For instance, by using action research NES Nepal members have developed model land laws, which have been discussed and then adopted by local governments.

The participatory process that was put in place was key to effectively implementing laws and relevant action plans in three municipalities. NES members also support Land Rights Forums, which bring together people without land rights and give them a stronger voice. These forums, together with the 21-day Tenancy Land Rights Campaign, were instrumental in the filing of 25,000 new Tenant Rights Claim applications in 2018.

Finally, the NES supports higher-level forums, such as the High-Level Policy Dialogue on the Rights of Indigenous Peoples, co-organised with the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP). This was a unique multi-stakeholder meeting at which the policy changes needed to recognise, respect and protect the land rights of indigenous peoples in Nepal were discussed.

Although it remains difficult to translate people-centred land policies into reality, in Nepal the multi-stakeholder processes facilitated and supported by the NES are currently the main tools being used to create consensus on controversial land issues.

NES NEPAL

GOOD PRACTICES

TOWARDS MAKING LAND GOVERNANCE MORE PEOPLE-CENTRED

ILC's Database of Good Practices is an initiative that documents and systematises the experiences of ILC members and partners in promoting people-centred land governance, as defined in the Antigua Declaration of the ILC Assembly of Members. Further information is available at

<https://www.landcoalition.org/en/explore/our-work/>

The activity of **NES Nepal** supports people-centred land governance, as it contributes to:



COMMITMENT 1
Secure tenure rights



COMMITMENT 3
Diverse tenure systems



COMMITMENT 4
Equal land rights for women



COMMITMENT 5
Secure territorial rights for indigenous peoples



COMMITMENT 7
Inclusive decision-making



COMMITMENT 8
Transparent and accessible information



COMMITMENT 9
Effective actions against land grabbing.

STRATEGIC PARTERS AND CORE DONORS



THE ORIGIN OF NES NEPAL

The work of NES Nepal began in 2011 when ILC member organisations Abhiyan Nepal, CDS, COLARP, CSRC, MODE and NLRf initiated the process of developing a scoping document on land governance in the country. The first draft was based on a roundtable discussion between ILC members, CSO partners and academics and other experts working on land issues in Nepal. A revised document was validated via a two-day workshop held in April 2012 in Kathmandu, with over 50 participants representing government, civil society and academia. This event laid the foundations for a multi-stakeholder platform working on people-centred land governance in Nepal.

Currently six ILC member organisations, together with the Ministry of Land Management, Cooperatives and Poverty Alleviation (MOLMCPA), UN-Habitat and four local government administrations – Bhajani Municipality of Kailali district; Dangisharan Rural Municipality of Dang district; Belaka Municipality of Udayapur and Ramdhuni Municipality of Sunsari – are collaborating in the implementation of the NES, as part of the LGWG.

In 2015 a new Constitution was promulgated in Nepal. It includes provisions such as property rights (Article 25), the right to food (Article 36), the right to decent housing, with no evictions of people from their residences (Article 37.1, 2); and land

and housing rights for Dalits (Article 40.5, 6). Additionally, according to Article 42 (4), every farmer in Nepal should have access to land for agricultural purposes.

Despite these quite progressive elements, establishing access to and use of land for the landless and land-poor, small farmers, tenants and informal and non-formal settlers remains challenging in practice. CSOs have worked hard to motivate the Government of Nepal to incorporate people-centred agendas into policy documents, in line with the Constitution, given the urgency of implementing people-centred policy provisions and of amending those that are detrimental.

The overarching objectives of NES Nepal are to motivate policy-makers to formulate people-centred land policies and ensure their implementation; to enhance the socio-economic conditions of landless people, tenants and smallholders through improved land governance; and to facilitate increased investments in land governance through a multi-stakeholder partnership.



MAIN GOOD PRACTICES

CREATION OF A MULTI-STAKEHOLDER LAND GOVERNANCE WORKING GROUP

To promote and strengthen people-centred land governance, a multi-stakeholder Land Governance Working Group (LGWG) was created. NES Nepal has played a crucial role in bringing together diverse stakeholders working on land at community, provincial, national and international levels. The LGWG is in charge of formulating a joint action plan to ensure and secure land rights for land-poor women and men, tenants, Dalits, informal settlers, indigenous communities and smallholder agricultural families.

Although it is uncommon for a government to chair a CSO platform, the LGWG is led by the Government of Nepal through the MOLMCPA. Because both the government and a number of CSOs are part of the same platform, it has become easier for civil society to know the government's position and priorities on each of the issues under consideration. Because of the close professional relationship with the government, the number of NES members signing Memoranda of Understanding with local governments is on the rise.

DECENTRALISING THE MULTI-STAKEHOLDER APPROACH: PROVINCIAL-LEVEL LAND POLICY DIALOGUE

After formalising the LGWG at national level, ILC members in Nepal, in collaboration with other members of the group, have extended the multi-stakeholder approach from the national to the provincial and local levels. Members strongly believe that multi-stakeholder dialogue more effectively brings together people from different domains to discuss land governance challenges facing specific local governments and that it helps to identify feasible solutions.

More specifically, in 2019 NES Nepal supported four provincial-level Multi-Stakeholder Land Dialogues with an overarching focus on land policy-related problems and possible solutions, in Sudurpaschim Province in the Far-Western region; Karnali Province in the Mid-Western region; Province 1 in Eastern region; and Province 2 in Central Terai.

The idea behind organising these dialogue events was to facilitate provincial and local governments in policy-making on land issues. Meetings took place at provincial headquarters in close coordination with the MOLMCPA in each province.

Through these Land Dialogues, it was possible to collect information on people's needs at the grassroots level and from stakeholders and political parties at all levels and to use this information at the central policy-making level.

MODEL LAND LAWS BASED ON ACTION RESEARCH

A key focus for NES Nepal members is the generation of evidence to inform policy decisions and to support policy formulation and change relating to the rights of land-deprived communities and women farmers.

CDS, COLARP and CSRC have engaged in action research activities involving not only communities but also policy-makers. Action research has allowed them to reduce the gap between policy and practice; it has generated evidence that has been used to build a common position on land issues, to recommend policy solutions and to support advocacy and campaigning. Using the data that have been produced, NES members, particularly CSRC and NLRF, were able to convince the government to accept provisions regarding Joint Land Ownership and financial concessions for women registering land in their own names. Similarly, NES members recommended that the government should regulate the phenomenon of land being left fallow and provide security of land tenure for landless communities.

NES members have also drawn up model land laws for local governments. The information collected during the Land Dialogues was used to draft



model land laws for local, provincial and federal governments. Under the NES, CDS took the lead in supporting two local governments (Bhajani municipality of Kailali and Dangisharan Rural Municipality of Dang) in the preparation of a model local land act and action plan. These were developed by using the data generated through action research, in partnership with academic institutions.

Following requests from the municipalities themselves, discussions took place on each of the sections and clauses formulated before they were endorsed. First, the acts were developed, and then draft copies

were distributed among the municipal representatives. Throughout the process, the ILC members were in regular communication with the authorities and carried out regular monitoring visits. The authorities thoroughly reviewed and commented on the action plans developed by CDS and CSRC on the basis of the proposed acts. Discussion sessions were led by the chairpersons of the respective municipalities, and model laws and action plans were eventually approved.

This participatory process was instrumental in the effective implementation of the approved action plans. Additionally, it provided a model for the preparation of acts in other sectors. The process was particularly appreciated for being low-cost, time-saving and clear.

GIVING LANDLESS PEOPLE A STRONGER VOICE THROUGH LAND RIGHTS FORUMS AND A TENANCY LAND RIGHTS CAMPAIGN

NES Nepal is supporting Land Rights Forums, in particular through its members NLRF and Abhiyan Nepal. Land Rights Forums unite landless people without land certificates to give them a stronger voice against forced evictions and land grabs without free prior informed consent (FPIC).

Both NLRF and Abhiyan Nepal have organised a number of local-level consultations with communities whose land tenure is insecure. These have included tenants, informal settlers, Ailani settlers¹ and people residing in village blocks in the districts of Nawalpur, Parasi, Rupandehi, Kapilpastu, Sunsari, Morang and Jhapa. They have mobilised frontline land activists, who had been working with Village Land Rights Forums

(VLRFs) and District Land Rights Forums (DLARFs), to support households in filing tenant rights claim applications in district Land Reform Offices and to monitor the progress of tenancy separation requested in the previous application phase. Land activists also collected the stories of tenants who were unable to legally register as such.

Of the 50,000 new applications filed in 2018, around 25,000 were from the districts in which the work of NES members was focused. This was a result of the 21-day Tenancy Land Rights Campaign organised by NES members to support farmers in filing tenancy claims, and to lobby the government authorities to speed up decision making on the filed applications.

¹ In Nepal "Ailani land" refers to unregistered land that is, however, used. The people who live on and use such land are known as Ailani settlers.

SUPPORT FOR HIGH-LEVEL POLICY DIALOGUE ON INDIGENOUS PEOPLES

In 2018 the Lawyers' Association for Human Rights of Nepalese Indigenous Peoples (LAHURNIP), ILC and NES Nepal jointly organised a High-Level Policy Dialogue on the Rights of Indigenous Peoples in Kathmandu, as a follow-up to a similar multi-stakeholder meeting held in 2017.

This policy dialogue focused on the lands rights of indigenous peoples as one of the most pertinent and burning issues in the context of the institutionalisation of federalism in Nepal. Indigenous peoples have long demanded recognition of their customary land and territories, but the government has always been reluctant to openly address these issues. Consequently, the acquisition by private sector actors and government agencies of indigenous peoples' land for development interventions has been widespread across the country, with implementation of the FPIC principle still being an exception and with indigenous peoples not receiving any meaningful compensation.

The meeting was organised to discuss policy changes that recognise, respect and protect the land rights of indigenous peoples, based on an indigenous perspective. A number of participants, including representatives of indigenous peoples' organisations and lands rights movements, human rights defenders, technical experts, lawyers and members of parliament, acknowledged that there is a huge gap to be filled if indigenous peoples' lands rights are to be secured. The NES played a key role in bringing together stakeholders from within and outside indigenous communities on land issues. The meeting was attended by representatives from a number of ministries and the National Human Rights Commission, as well as by members of the Dalit land movement and indigenous people themselves.

CHALLENGES



Despite the progressive new Constitution, it remains difficult in Nepal to translate people-centred land policies into reality. The 761 newly established government units suffer from a shortage of qualified employees and a lack of financial resources that would allow practical improvement of the land management system. This is undermining the potential of constitutional provisions such as the recognition of land rights for informal settlers and indigenous communities; the categorisation of land according to the Land Use Policy 2015, the National Land Policy 2019 and the Land Use Act 2019; the distribution of land to the landless, as per Article 40 (5, 6) of the Constitution; and the provision of secure and adequate housing for homeless people, as per Article 37.

Multi-stakeholder dialogue is currently the main tool being used to create consensus on controversial policy issues. While the government has endorsed certain policy provisions relating to land and natural resources, key ministries (for example, the Ministry of Forests and Soil Conservation, the Ministry of Energy, Water Resources and Irrigation, the Ministry of Urban Development, the Ministry of Agricultural Development and the MOLMCPA) continue to adopt conflicting approaches. The implementation of people-centred provisions, however, depends on strict inter- and intra-ministerial coordination and collaboration, and this can only be achieved through the establishment of a common understanding of the role of land, its use and its governance. Given the critical role of the NES platform, strengthening it and generating resources to support it are currently crucial issues.

LESSONS LEARNED

FINDING COMMON GROUND THROUGH DIALOGUE

The LGWG has brought together a number of people and institutions with diverging views on land. In order to make this diversity a strength, it is important that members discuss and agree on common priorities. When a first draft strategy was presented in the LGWG after consultations had taken place, members expressed the need for an additional round of discussions. In the end, they came up with a parallel document to the draft that was initially presented, which adopted the government's perspective. Having two separate strategy papers that needed to be merged into a single document presented a challenge, but it encouraged active participation in the negotiation by all stakeholders, even those who had originally been more passive. Through a cross-cutting reading of the two documents, the platform was able to identify a set of common priorities, which laid the foundation for a shared strategy. It should be underlined that the role of the NES facilitator is key to gathering members' suggestions and providing guidance to identify common points.

NES RECOGNISED AS A LEADING PLAYER IN THE LAND SECTOR

The Government of Nepal, local communities and civil society all acknowledge that the NES is a leading player in the promotion of people-centred land governance in Nepal. The MOLMCPA has agreed to chair the LGWG, and local and provincial governments are increasingly willing to work with the platform. Political parties are also aligning themselves with NES members and advocating for people-centred land governance. This role and this recognition are key for the success of the work done by the NES.

FOSTERING TRUST AND A SENSE OF OWNERSHIP BY GOVERNMENT AGENCIES

A healthy and professional relationship of trust between government and civil society helps to support the work of the NES. In both planning and practice, NES Nepal has offered an important role for government agencies, which has increased their level of ownership.

WHAT IS NES?

In recent years, equitable access to land, particularly in rural areas, has been high on the international policy agenda and is recognised as a crucial element attributing to sustainable development and poverty reduction. Innovative and progressive land policies and laws, particularly at the national level, are key to determining equitable access to, use of, and control over land and other natural resources. The National Engagement Strategy (NES) is the first step of an approach being promoted by the International Land Coalition at country level, in order to create conditions for inclusive and people-centred land-related policy change. Jointly formulated and co-owned by ILC members and other relevant actors at national level, the NES itself is a framework for identifying key priority areas on which land-concerned actors see opportunities for catalysing change, either at the level of policy formulation or at the level of implementing existing progressive policies. The NES process also involves the establishment of a multi-stakeholder platform that accompanies the implementation of the

NES, and makes necessary adjustments on the basis of lessons learned. A NES process is therefore aimed at facilitating collaborative and coordinated action amongst different stakeholders involved with land at the national level to promote people-centred land governance. Through these NES processes, opportunities are increasingly made available to national civil society actors to collaborate among themselves and with international actors, both governmental and non-governmental, and to engage with local and national governments.

Currently, NES exist in **AFRICA** (Cameroon, DRC, Kenya, Madagascar, Malawi, Senegal, South Africa, South Sudan, Tanzania, Togo, Uganda), **ASIA** (Bangladesh, Cambodia, India, Indonesia, Kyrgyzstan, Nepal, The Philippines) **EUROPE** (Albania) and **LATIN AMERICA** (Argentina, Bolivia, Colombia, Ecuador, Guatemala, Nicaragua, Peru).

NES are under formulation in Honduras, Jordan, Moldova, Mongolia.

This paper is based on the NES Country Strategy 2015, the NES reports to ILC of 2018 and 2019 and an interview with the NES facilitator in Nepal, *Dharm Raj Joshi*.

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Last update: February 4, 2020.



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