



Gita returns to her house for the first time after the earthquake (photo taken May 2015). The mother of two lived alone in Sanagaun village of Kathmandu while her husband was looking for a job in Dubai. After the earthquake, she lived nearby in a tent built with plastic sheets. Photo: Pablo Tosco/Oxfam

# BUILDING BACK RIGHT

Ensuring equality in land rights and reconstruction in Nepal

**EMBARGOED UNTIL 00:01 HRS GMT THURSDAY 21 APRIL 2016**

As recovery in Nepal begins after the 7.6 magnitude earthquake that struck in April 2015, there is an opportunity to ensure that reconstruction and resettlement policies and programmes are inclusive of women and those who are landless—some of the poorest and most marginalized people in the country. This will help address historic social inequalities and rebuild a stronger more equal Nepal. This briefing paper reviews the current situation and presents recommendations to help achieve this.



# SUMMARY

*'We need a sustainable way of living, with documented houses and land. [Somewhere there are] no landslides or floods, [there are] schools for children, health centres nearby, drinking water facilities, and space for farms. How can we return to the place where so many people were killed? We want to, but we cannot. I don't think we can make the village safe [...] instead, the Government could provide us with a better alternative.'*

Focus group participant, IDP camp in Haku VDC, Rasuwa

On 25 April 2015, Nepal suffered an earthquake of magnitude 7.6, followed by hundreds of aftershocks, the largest of which struck on 12 May 2015 and was of magnitude 6.8. Over this period, more than 8,700 people died and over 23,500 were injured. In addition to this, over 850,000 houses were destroyed or damaged.<sup>1</sup> More than 117,000 people were displaced, of whom 26,000 are still displaced a year later.<sup>2</sup> In total, over 8 million people across 31 districts were affected by the earthquake.<sup>3</sup> As reconstruction begins, this paper looks at land rights and resettlement, and considers Nepal's opportunity to 'build back better' and ensure greater land equality, especially for marginalized people, such as the *Dalit* caste, indigenous groups (*Janajatis*), many of whom are also landless, and women.

Experience from other disasters shows that women and those who are landless are often excluded from reconstruction and recovery policies and plans, largely due to a lack of documentation proving eligibility for support. When this happens, recovery takes longer, with people still in temporary shelter many years later. Conversely, the World Bank has found that when women have land entitlements, poverty is reduced and equality increased. Women and girls face reduced risks of domestic violence and forced marriage, and children's health and education improve.

Women in Nepal traditionally have limited land rights and access to entitlements. Recent legislation and policies have started to change this; however, entrenched cultural norms mean that whilst the policies may be in place, people chose not to take them up. This has exacerbated the impact of the earthquake on women, as their lack of rights and access to land—particularly due to a lack of documentation or being named on documentation—means that they need to rely upon local advocates to put their case forward for support to the authorities. For reconstruction to be inclusive and ensure that Nepal builds back better, women need to be central to the programmes and policies and their rights need to be fully recognized.

Squatters and those who are landless tend to be the most marginalized people in Nepal, living on hazard prone and poor quality land even prior to the earthquake. The earthquake has exacerbated their existing vulnerability and they are now at risk of being excluded from

reconstruction efforts due to a lack of land ownership and documentation. If reconstruction efforts exclude them, they will continue to be marginalized and live on unsafe land, and the opportunity to build back better will have been missed.

Reconstruction and recovery provide an opportunity to build back better and more equitably, ensuring resilience and reducing landlessness. The National Reconstruction Authority (NRA) has been set up and is developing policies and plans. The Government, supported by the World Bank, is developing a Post Disaster Reconstruction Framework (PDRF) which includes gender equity as a focus. This provides an excellent opportunity to recognize women's land rights in reconstruction and rebuild more equitably. Furthermore, the Government is developing a procedure to provide people with land registration, even for those who are living on land where ownership is undefined. This procedure will also prioritize Joint Land Ownership (JLO) to improve women's land rights. If the procedure also considers the needs of landless people this then too would help to ensure more equitable and resilient reconstruction.

For some communities, resettlement will be necessary if they are on hazard prone (unsafe) land. Communities that we spoke to welcome resettlement if their land is deemed unsafe. Resettlement sites, however, should not be too far from their original community so that people can access their agricultural land, or if this is not possible, new agricultural land should be provided alongside the land for housing, and all necessary facilities supplied. Resettlement needs to be community led with free, informed and prior consent.



Bidur IDP camp, Nuwakot, Nepal, January 2016. Photo: Ruth Jackson/Oxfam

Oxfam has responded to many disasters globally and has learned lessons from these disasters which could support Nepal in reconstruction and resettlement. However, recovery should not only be considered to be the responsibility of the Government, it is also the responsibility of the people to create the communities they want through good community governance. Oxfam and CSRC have experience of community land rights projects in Nepal, and principles from this can be applied to earthquake-affected areas.

As reconstruction commences, we recommend the following to ensure that reconstruction is fair and equitable and rebuilds a stronger and more resilient Nepal:

## Recommendations

### Reconstruction and resettlement policies and plans

1. **Additional financial support is needed** from the Government and INGOs for reconstruction for the poorest and most vulnerable, especially female-headed families, single women, landless people and squatters. The existing NPR200,000 (approximately \$2,000) support grant to rebuild is insufficient.
2. **Government policies and plans, particularly the Land Use Bill, must include provisions for women and landless people.** They should provide for people regardless of their tenure status or documentation, particularly if the land or house where they were living was destroyed.
3. The Government of Nepal and its development partners should **undertake geological surveys immediately** to identify safe resettlement sites. At the same time, suitable agricultural land should be identified.
4. The Government of Nepal and its development partners, including the World Bank, should **ensure that resettlement policies and plans are integrated with agricultural land plans, including in the Land Use Bill.** Resettlement sites should be co-located with suitable agricultural land. Existing mechanisms in districts and Village Development Committees (VDCs) for supporting earthquake-affected communities should be strengthened and supported.
5. The Government and its development partners, including the World Bank, should **ensure that reconstruction and resettlement is community-led** with their full participation and free, informed and prior consent. Existing mechanisms at the district and VDC level should be strengthened and supported to deliver this.

## Rights of women and marginalized people

6. The Government and development partners should **ensure that women are named on victim ID cards and all landless people are provided** with one. Everyone in a household should be listed on a victim ID card, even if there is only one card per household. Steps should be taken to ensure that documentation requirements do not unduly delay reconstruction and resettlement.
7. National and district authorities should **devolve power to determine victimhood to Ward Citizen Forums or VDC Secretaries**. This is intended to result in timely decisions, and ensure that those who understand and represent their communities are involved.
8. The Government of Nepal with development partners, including the World Bank, should ensure that **JLO registration is mandatory for all new integrated settlement sites**, and should strongly encourage duplicate documentation.
9. District Disaster Recovery Committees and other district actors should ensure that **land documentation processes include female facilitators, separate meetings for women, and awareness-raising programmes**. A national NGO should also be commissioned to undertake gender monitoring of land documentation programmes.

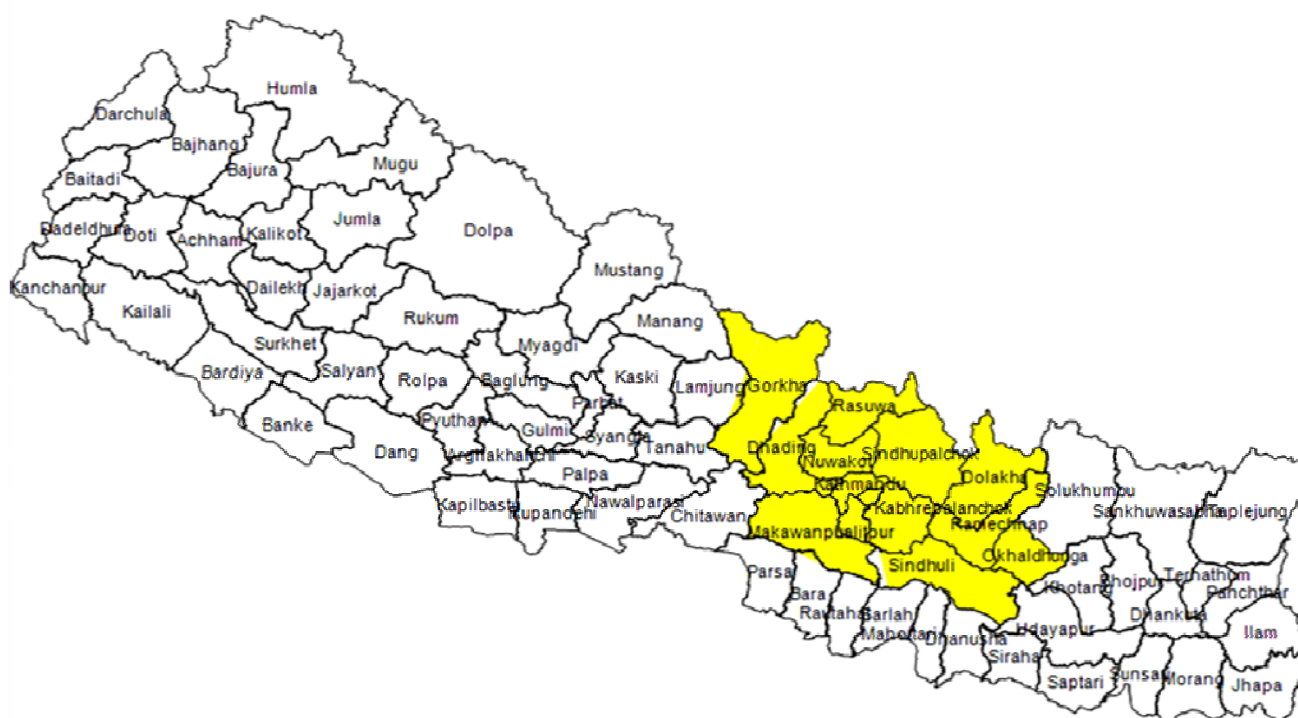
# 1 INTRODUCTION

Nepal experienced an earthquake of magnitude 7.6 in April 2015 followed by hundreds of aftershocks, including a significant one in May 2015. The earthquakes killed more than 8,500 people, and damaged or destroyed over 850,000 houses—in total, the disaster has affected almost 8 million people.<sup>4</sup> The Government of Nepal classified 14 out of 75 districts as severely affected, including the Kathmandu Valley. All other affected districts are rural and highly dependent on agriculture.

*‘Before April 25, life was all good, but [our] dreams were shattered after that.’*

Male focus group participant, Haku VDC, Rasuwa

**Figure 1: Districts severely affected by the earthquake and aftershocks**



Source: Oxfam GB

Nepal rates highly on disaster vulnerability indices as a result of its climate, geology and topography.<sup>5</sup> The earthquake and aftershocks triggered a number of landslides, particularly during the monsoon season.<sup>6</sup> As is common in disaster contexts, this physical vulnerability to hazards interacts with social vulnerability—i.e. the failure of human systems to cope with the impacts of disaster. The earthquake in Nepal was disastrous not only because of its physical impact, but also due to long-standing issues of poverty, inequality and discrimination.

Social vulnerability in Nepal has a number of land-related elements. Women are less likely to inherit land, have land registered in their name, or obtain documentation to prove their entitlement. Landless households

are more likely to be poor, live on hazardous land, and to lose livelihoods or shelter as a result of forcible eviction. The lowest caste, *Dalit*, and indigenous groups (*Janajatis*), are more likely to be poor, landless or lack citizenship documentation and/or land rights.<sup>7</sup> Vicious cycles may develop in which those most affected by a disaster become even more vulnerable to future disasters.

Effective disaster risk management systems would give Nepal greater resilience to future disasters, ensuring that they do not set development progress back in the same way that this earthquake has.

#### **Box 1: Research methodology and limitations**

This is a qualitative research study supplemented with a comprehensive literature review of existing data and research. Qualitative data was collected in January 2016 through focus groups and individual interviews with people in four of the most earthquake-affected districts in Nepal (Kathmandu Valley, Nuwakot, Sindhupalchowk, and Rasuwa) and with national-level actors. (See the **Appendices** for lists of participants and questions.) Although it is difficult to generalize, because VDCs and districts are highly heterogeneous, some broad trends did emerge. This briefing also notes geographically, socially, culturally and topographically specific issues, where appropriate.

## **Land tenure in Nepal**

There are three types of legal land tenure status in Nepal. These are Raikar (private land), government land and Guthi (trust land). Within Raikar, there are three sub-classes:

- land that is cultivated (or left fallow) at the owner's discretion;
- land that is contracted or leased to another party; and
- land that is tenanted and tilled by tenant farmers.<sup>8</sup>

However, other forms of land tenure, particularly *Birta* (grantee land), continue to exist informally, despite being officially abolished. Birta land is land which was given by the state to individuals and helped to establish feudalism in Nepal by conferring power from the state on individuals, particularly at a time before cash was prevalent.<sup>9</sup>

Land distribution in Nepal is highly skewed: only four percent of landowners own 40 percent of the land, whereas 65 percent of farmers own just 15 percent of the land.<sup>10</sup> Before the earthquake, over 25 percent of Nepal's population was landless or land poor, the majority of whom were *Dalits*, *Janajatis*, and women.<sup>11</sup> Since the earthquake, this figure has increased.

Land ownership remains the main source of wealth, social status and political power in Nepal.<sup>12</sup> Access to land is essential for food and nutritional security of rural households.<sup>13</sup>

There are two government land allocation programmes for the resettlement of landless households: the Free *Kamaiya* (bonded labour) and Free *Haliya* (agricultural workers) programmes. The Free *Kamaiya* programme has provided plots of land to around 26,000 formerly bonded labour households identified as landless.<sup>14</sup> A further 10 percent of eligible households have received cash assistance to purchase land, where government land is not available.



Temporary shelters in Kirtipur, Nepal, January 2016. Photo: Ruth Jackson/Oxfam

## Landlessness and disaster recovery

Landlessness is a complex category that encompasses:

1. People without legal ownership of land and/or documentary proof of entitlement to land (i.e. recognized by law or state agencies);
2. People with land that is not suitable to live on, either because it was damaged or destroyed in a disaster, or is vulnerable to future disasters; and
3. People who own an area of land that is not large enough for sustainable livelihoods.

Experiences from other disasters identify landlessness as a major cause of failures to build back better. For example, after the 2004 Indian Ocean tsunami, landless people in Indonesia had nowhere to go, so stayed in temporary shelters long after others had moved to new homes. These circumstances arose because housing programmes had focused on land ownership.<sup>15</sup> After the 2005 earthquake and 2011 floods in Pakistan, Oxfam identified landless households that remained in temporary settlements or rebuilt homes in informal settlements due to the lack of



effective housing programmes for the urban landless.<sup>16</sup> In Haiti, the vast majority of earthquake victims were landless. Two years after the disaster, Oxfam identified almost 120,000 people at risk of forced evictions because complex land problems had delayed housing provision.<sup>17</sup>

**Box 2: Excluding landless people after Typhoon Haiyan in the Philippines**

Typhoon Haiyan, which hit the central Philippines in 2013, is the strongest storm ever to make landfall. The Philippines has a considerable number of people categorized as 'landless'—generally agrarian tenants or residents of urban informal settlements. Landless people are disproportionately affected by typhoons, because of both their locations and also their vulnerability to forced evictions and exclusion from recovery programmes. Landless people constituted around a third of the approximately four million people made homeless by Typhoon Haiyan. Many lived close to the sea in urban informal settlements. Others were fisherfolk living on land classified as public foreshore, or agrarian tenants living on coconut and sugarcane plantations. All faced significant risks of exclusion from housing programmes because they were unable to prove lawful or secure rights to residential land. The Government was committed to building back better after the typhoon; however, they continued to focus on resettlement on safe land without considering the needs of landless people and failed to learn related lessons from Typhoons Ketsana and Botha. As a result, many landless people rebuilt on their original and insecure lands.

Source: D. Fitzpatrick and C. Compton. (2014). *Beyond Safe Land: Why Security of Land Tenure is Crucial for the Philippines' post-Haiyan Recovery*. Oxfam joint agency briefing paper, August 2014.

# 2 LAND RIGHTS AND INEQUALITY

## Reconstruction

At the time of this research (January 2016), reconstruction had largely not begun. The NRA had only just been reinstated and a CEO appointed,<sup>18</sup> and the Government was working hard on drafting reconstruction and land policies. All research subjects raised the lack of reconstruction, and frustration at the lack of progress was palpable—among local and national government officials, and earthquake victims alike.

During the research, people were clear and consistent on two points:

1. **NPR200,000 (approximately \$2,000) grants are insufficient** to build even the smallest of houses, let alone any of the Government's earthquake-resistant designs. It is even insufficient for clearing the debris of damaged homes in some places. Given this, additional financial provision needs to be made for the poorest people and those unable to obtain loans due to insecure work, poor crop yields or a lack of land for collateral. Many people we spoke to felt that community-guaranteed loans (loans provided by the Government at low interest rates and secured by community liability rather than collateral) were too risky. This was heightened among those who were unsure about the ownership of the land on which their house was built. Such a lack of support means that many people could remain in temporary and insufficient housing for years. This will hold Nepal back in its reconstruction efforts, increase inequality and lead to greater discrimination against the country's poor and marginalized people.
2. **Geological land surveys need to be conducted for all affected land and houses immediately.** Uncertainty about safety is a significant factor preventing rebuilding, even among those who are financially able. A number of people continue to live away from their land—often in camps for internally displaced people (IDPs)—because they believe the land is unsafe, but need this to be confirmed before they will rebuild. If their land is deemed unsafe then they will need to be resettled; people are generally willing to resettle if an alternative is provided. These need to be provided regardless of land ownership status, and should be based on different types of tenure or proof of living on the land (for example, bills or based on community testimony).

At the time of writing, the NRA is developing the PDRF with the support of the World Bank, which will set out how reconstruction and recovery will operate, including how reconstruction actors will collaborate. Gender equity is a focus of the framework. Its creation is a great opportunity to ensure that women and landless people are included in reconstruction and land access, and that any agricultural needs are considered in

*'I am alone, no husband no children, so I'm worried about where will I live. I am wondering how much will it cost me to bring down my half-damaged house, and then what will I build the new house with. Inside the [temporary] shelter, it is difficult, because we have water leaking inside. There's no place to light fires inside. [The floor] is very cold as well.'*

Female focus group participant, Samari, Nuwakot

resettlement decisions. Initial consultations with affected communities were undertaken and are crucial to ensuring recovery meets their needs. To ensure that it properly represents women's needs, women's groups should be included in the consultation of the draft, and all actors should have sufficient time to properly input into the draft document.



Clearing rubble in Kirtipur, Nepal, January 2016. Photo: Ruth Jackson/Oxfam

## **Pre-earthquake landlessness in marginalized and indigenous groups**

Land tenure is largely undocumented in Nepal, and rural landlessness remains embedded in feudal patterns of social organization. Large landowners are often absentee landlords. Those who work the land are sharecroppers, tenants or bonded labourers—typically from marginalized groups. In urban areas, the majority of landless people are living in informal settlements on public land. A 2010 UN-HABITAT report estimates that up to seven percent of all urban households live without legal rights on government or public land.<sup>19</sup> In Kathmandu city, the report estimated that as many as 20,000 residents are living in informal settlements.

There is limited data on the extent of landlessness. The latest census in 2011 did not ask questions relating to land rights. However, a 2010 Land Reform Commission report stated that up to 480,000 families (or 9 percent of the population) did not have access to land,<sup>20</sup> and an INGO survey from 2003–04 suggested that 31 percent of farmers are tenants, with figures as high as 80 percent in some districts.<sup>21</sup> However, in post-earthquake surveys, 92 percent of individuals reported owning their own land pre-earthquake.<sup>22</sup> Thus the data is inconsistent. The Government is undertaking a further survey of earthquake victims to assess needs, and Oxfam expects that this will also provide data on landlessness.

Landlessness perpetuates inequality, particularly by increasing poverty and marginalization. *Dalits* and *Janajatis* are disproportionately landless:

- 80 percent of *Dalits* and indigenous farming households own less than one hectare of land, despite being disproportionately engaged in agricultural labour.
- Almost 50 percent of households owning less than one hectare of land are living in poverty (increasing to two thirds, if urban households are excluded).<sup>23</sup>
- *Dalits* make up around 17 percent of the population in the 14 districts most affected by the 2015 earthquake.<sup>24</sup>

The Government of Nepal's June 2015 Post-Disaster Needs Assessment (PDNA) identified correlations between poverty and disaster impacts in disaster-affected districts. In particular, there were relatively greater financial impacts in districts with lower Human Development Index ratings.<sup>25</sup>

Long-term land insecurity is now manifesting itself in the post-earthquake context, as landless people are uncertain about rebuilding and whether any provisions will be made for them.

Government policies on reconstruction and land largely focus on those with documentation. For example, the working procedure for distributing the NPR200,000 for house rebuilding requires land ownership documents. Emergency relief has been distributed to those without documentation, including landless people, by both district governments and INGOs/NGOs, largely through informal identification processes and networks. While this seems to be working in most places in which we undertook research, it was reliant upon the abilities and skills of local representatives to advocate for victims' inclusion on the list without documentation. This has led to varied and patchy implementation, and perceptions of unfairness among victims.

This lack of clarity on the guidelines, which results in varied implementation, and a focus on those with documentation, means that inequality is being exacerbated by relief and reconstruction efforts.

*'Reconstruction is a matter of uncertainty. If we rebuild in our place, then it is risky [...] It is not possible for us to relocate. We cannot sell [because we don't own it], and those who can may not get enough money to purchase a housing plot elsewhere.'*

Ward Citizen Forum Coordinator, Chandragiri, Kathmandu Valley

At the time of writing, the Ministry of Land Reform and Management (MoLRM) was developing procedures to provide registration certificates for people who are living on unclaimed land that is not registered in their name. This would be an excellent policy if it can be delivered, as it would greatly reduce fear and uncertainty for those with unclear tenure.

## Squatters: the most marginalized

### Box 3: Case study of squatters on Nepal Electricity Authority land

In Pangretar, Sindhupalchowk, a group of people from another district have worked on the roads for generations, living on land owned by the Nepal Electricity Authority (NEA). Since the earthquake, some have had to move due to concerns over the safety of the land they were on, to even more precarious locations: by the river, which is prone to flooding, or the roadside.

*'We are discriminated against, they pelt stones at us and call us names. We try to maintain sanitation, but there is a lack of security and a risk of floods from the river, and now there are no standing houses where we could take shelter during floods. If we could have our own land, then we could make some huts. But now, we cannot build a house on the NEA land, because we are constantly being told that we will be removed. Should we continue staying here or leave for other places? We also have problems arranging food; we are always worried about the next meal. There is no work now.'* Female focus group participant, Pangretar, Sindhupalchowk

*'The relief support is being provided only to the rich and not to the poor. We just hear that the relief, [such as] warm clothes, has arrived but we do not get it. But then the authorities here say that "you are not entitled to the support, your name is not in the list", so we have to return empty handed.'* Female focus group participant, Pangretar, Sindhupalchowk

Members of this group are not recognized as being residents of the district, and are considered to be living illegally on the land by the authorities. No support is provided to them, because it is felt that they should return to 'where they came from', even though it has been several generations since they lived elsewhere. However, they have no voting rights, so are excluded from advocacy by political representatives, and are unable to access support.

*'This problem in Pangretar dates back to when the road was being constructed. Some people from the nearby district came to work on the road, and, after the road was opened, they set up huts on the roadside and started running tea shops and hotels. They did not return to their village, and, as the highway was expanded, they were pushed back. Hence they were rendered landless. These people became landless out of their own choice.'* Local authority official, Sindhupalchowk

This group is discriminated against and marginalized; even their basic rights are not recognized. Post-earthquake reconstruction must focus on the poorest and most marginalized people, who might have no recourse in the existing system, to ensure that they are supported in living somewhere safe, where they can find livelihoods.

*'We have tried our best. We went to the Chief District Officer, but they pointed out the rules, and they said that [squatters] have no house and they are landless, so they are not entitled to the support.'*

Political representatives, Samari, Nuwakot



Women outside temporary shelters on NEA land, Pangretar, Sindhupalchowk, Nepal, January 2016. Photo: Ruth Jackson/Oxfam

While other examples emerged through the research, the case in Box 3 was the most stark demonstration of how marginalized some groups can become and how even the authorities fail to recognize their rights. Local political representatives in Nuwakot mentioned another case:

*'The Sukumbasi, or landless squatters, they suffered the most. They don't have land, and then the Government did not give them the NPR7,000, NPR15,000 or the NPR10,000 grant support.*

*[INGOs] prioritize such people, but our Government says that "since they did not own a house, they did not suffer any damage, hence no support is required for them". That is the most challenging issue at the moment. They actually got nothing. And some of them do not even have a citizenship certificate. Others, who are ID card holders, own land [...] they have no house, and don't have official landless status, so they are not entitled to the support.'*

In contrast to the representatives in Sindhupalchowk, the political representatives and others tried to advocate for squatters in Nuwakot, but could not change the minds of local officials who had interpreted the government directive on relief to be for those who owned land only. Other districts generally accepted the efforts of local advocates to identify victims without documentation or land ownership status. This demonstrates how informal processes and local interpretation can leave people without support or access.

# 3 WOMEN AND LAND

According to the 2011 census, there are 796,422 more females than males in Nepal. Around 25 percent of households report that one household member (usually male) is either absent or overseas. Economic migration among men has substantially increased the number of women involved in agriculture, and has contributed to an increase in female-headed households from 15 percent in 2001 to 26 percent in 2011.<sup>26</sup> From our research, we understand that migration has increased since the earthquake as a coping strategy.

These circumstances cause significant impacts on income for women. For example, an Oxfam Rapid Household Economy Approach assessment in October 2015 found that women in households classified as poor or very poor had increased levels of debt after the earthquake, with some of their loans being used for basic needs.<sup>27</sup> Women without their husbands told us about some of the hardships they have faced:

*'I had no idea what to do after the earthquake, as my husband was abroad, and I have five children. So I managed to make a [temporary] shelter only after a month [...] We slept on the streets with our kids for one month. Weeping and sleeping in the streets. For three to four nights, we could not sleep at all.'*

Female focus group participant, Samari, Nuwakot

An Oxfam report, *Rebuilding a More Resilient Nepal*, provides further examples of women who depend on a deceased or absent husband for access to land, or who are facing recovery challenges as a result of conflicts with relatives of their husband.<sup>28</sup>

## Box 4: Chan Maya's story

Chan Maya, from Kirtipur, Kathmandu Valley, lost her husband several years ago. His family lived in a multi-family household (where members of an extended family live together). She received some money through inheritance, with which she bought land. However, due to Chan Maya's problems with credit, her sister-in-law allegedly suggested putting the land in the latter's name. Now her sister-in-law is claiming that the land is hers, and Chan Maya has been unable to obtain any rights or access, and has received no support from her husband's family. She is now forced to live on the edge of someone else's land with her children in a temporary shelter and doesn't know what she will do without any land to rebuild on. However, if her family's land and house had been transferred into her husband's name (and his brothers), rather than remaining in her father-in-law's, she would have automatically inherited her husband's part of the house.

*'This is our rebirth, and all our ancestral property has been damaged [...] I feel it would be appropriate to have joint ownership between husband and wife'*

Male focus group participant, Bidur IDP camp, Nuwakot



Chan Maya outside her temporary shelter in Kirtipur, Kathmandu Valley, Nepal in January 2016.  
Photo: Ruth Jackson/Oxfam

## Women’s rights and access to land

The 2011 census identified disparities between men and women in relation to income, literacy and land ownership. Only around 20 percent of households had a female land owner. The 2015 Constitution establishes a right to equality, prohibits discrimination on the application of general laws on the basis of gender,<sup>29</sup> and establishes equal property rights for spouses.<sup>30</sup> However, the Civil Code of Nepal (the *Muluki Ain*—the first unified law enacted in the 20th Century with the objective of maintaining peace and fostering good relations among people irrespective of class, caste or region) limits the inheritance rights of daughters to those who are unmarried—the assumption being that married daughters will obtain access to property through their husband.<sup>31</sup> The latter reflects patriarchal norms that discriminate against single women and female-headed households, in particular by associating female property ownership with marital status.

Even though there are legal provisions for women to obtain land ownership through inheritance or joint ownership with their husbands, these are rarely taken up. People told us it wasn’t the social norm, and that land is passed on from father to son. However, we were informed that some people have started to register land either jointly or under wives’ names, due to tax breaks on registration for women. Indeed, people seemed quite open to newly allocated land in integrated settlements being held jointly. A number of women said that men tend to register land in their name because it is the men who visit the office, but that having their names on documentation as well would help because of the frequency of men migrating.

*‘If we get [documentation] then we should have it under the wife’s name also. As men do not usually stay home [because they migrate for work], it would be easier if it is under the wife’s name.’*

Female focus group participant,  
Bidur IDP camp, Nuwakot



If a land ownership certificate or victim ID card is in the name of a man who has migrated, his wife must prove her marriage, usually through a marriage certificate, in order to access support. However, some women lost their marriage certificates in the earthquake or had never registered their marriage, which is fairly common, and meant that identification has often had to take place through informal means such as community verification, which can be open to abuse, and is down to the skills and abilities of local representatives.

#### **Box 5: Citizenship registration programmes**

We spoke to some communities in which almost everyone had citizenship certificates, including women, regardless of land ownership or other documentation. They informed us that this was due to a government education and registration drive from a few years previously. The Government should consider a similar initiative when providing land ownership documentation, including waiving or discounting the registration fee, or other such incentive in order to encourage further registration of JLO.

Promoting women's registration on land ownership certificates, other forms of land tenure documentation, and victim ID cards, especially in the case of female-headed households would help to remove reliance on local representatives' abilities.



Kanchi's house was completely demolished following the earthquake and her daughter was killed. She still lives in temporary accommodation, February 2016. Photo: Kieran Doherty/ Oxfam

*'[We had a case of] a woman whose husband is abroad, but she had not registered her marriage, and also did not have a citizenship certificate. The husband was here when the NPR15,000 was distributed, so he got it with no problems. He then went abroad, and when the NPR10,000 was distributed, the woman could not get it. But then we all advocated for her, and finally she got the NPR10,000 yesterday.'*

Political representative, Jalbire, Sindhupalchowk

## Increasing women's land rights

As noted, the 2015 Constitution established equal property rights for spouses and prohibited discrimination on the basis of gender. Nepal has also ratified the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 1966 International Covenant on Civil and Political Rights (ICCPR), and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).

According to the 2011 census, the proportion of all land titles in the name of women has increased from a national average of around 14 percent in 2001 to around 19 percent in 2011. This coincides with the introduction of a tax break for JLO registration. Experiences from other disasters highlight further ways to improve rights and access to land for women:

- Targeted information campaigns on the importance and significance of documenting women's rights to land (including rights that do not amount to ownership).
- Development of gender-sensitive land document databases that include details about women's rights to land (including rights other than ownership).
- Scheduling of public meetings and site adjudications that take into account household duties and transportation costs (including the possibility of holding separate women-only meetings).
- Monitoring of tenure documentation programmes by local women's NGOs and grassroots organizations.<sup>32</sup>

In tsunami-affected Indonesia, the International Development Law Organisation implemented a rights-awareness programme focusing on the land rights of women, which leveraged radio and newspapers in the local languages.<sup>33</sup> The Reconstruction Agency and the National Land Agency jointly developed mandatory requirements that land titles for marital land in relocation areas be issued in the name of both spouses.<sup>34</sup>

Women For Human Rights in Nepal makes further recommendations for increasing women's land rights, based on their research on the status of single women after the earthquake.<sup>35</sup> These include:

- Ensuring that female-headed households and single women are prioritized in reconstruction and resettlement efforts.

- Ensuring that women are active participants, not just beneficiaries, in reconstruction and recovery by ensuring women's participation in planning and implementing recovery programmes, resettlement plans, and disaster preparedness efforts. Make female representation in district disaster response committees and the central reconstruction committee mandatory.
- Applying, monitoring, and making public gender-responsive budgeting for reconstruction and resettlement land plans and policies so that adequate resources are allocated to meet the needs of women, as identified in existing policies and funded by the Government.

# 4 GOVERNMENT POLICIES AND PLANS FOR RECONSTRUCTION

The Government has put in place legislation and policies relating to reconstruction and land, and is developing plans and procedures to enact these policies. The NRA and MoLRM have developed a procedure to provide land ownership certificates even to those without formal land entitlements. The procedure is currently with the cabinet for approval. This procedure will simplify the process for providing certificates and resettling people, where needed. The PDNA and Reconstruction Act suspend seven Acts related to reconstruction in order to speed up processes, including the Land Registration Act. This procedure sets out how the process will work with this suspension. The draft process includes the following steps:

1. Obtain applications for land registration from people.
2. Verify that the land is theirs or that they are living on it.
3. Take recommendations from the local authorities.
4. The Land Rights and Recommendations Committee, which is newly created, decide on the application and provide new land and/or certificates.

For families who have been living on unclaimed land for generations, the land will be registered in their name even if there has been no formal ownership. However, other national stakeholders raised concerns about how landless people will be provided with ownership certificates. In particular, our research highlighted a problem with government land, in cases when the Government is evicting people. People in these situations, often considered squatters, would not be included in the above procedure since their right to the land is disputed by the Government, and so will continue to be excluded from reconstruction and become even further marginalized.

The Land Use Policy includes minimizing disaster risks from hazards as an objective of land-use planning, which may include the relocation of settlements (Strategy 9). The policy further states that relocation should take place as close as possible to original locations (Strategy 5). A Landless Problem Solving Commission has been in existence for more than 20 years to resettle squatters. However, UN-HABITAT told us that, in recent years, they have started to run out of suitable land on which to resettle people. This Commission needs to work coherently with the NRA to ensure that squatters are included in reconstruction and resettlement plans and existing knowledge of available land is shared across reconstruction partners.

There are laws and policies in Nepal that support the rights of landless people, including their access to land. The 2015 Constitution establishes a right to housing for all citizens, and requires the state to make one-off grants of land to landless *Dalits*.<sup>36</sup> The 2015 Land Use Policy includes a strategy to develop low-cost settlements for landless citizens and those with minimal access to land.<sup>37</sup> The 2012 National Shelter Policy included plans to allocate small plots of land or low-cost housing to vulnerable households.<sup>38</sup> The PDNA commits to special housing and recovery measures for landless people and other vulnerable groups. However, the changes to legislation enshrined in the constitution have yet to take place, reconstruction policies have yet to be implemented and other policies are not sufficiently co-ordinated to ensure successful implementation.

## **Exclusions in government housing and recovery policies**

In January 2016, the Government issued a working procedure to distribute NPR200,000 in grant assistance for the reconstruction of houses destroyed by the earthquake.<sup>39</sup> However, it requires that beneficiaries provide photocopies of their citizenship certificate, voter ID card, victim ID card, or land ownership certificate. Furthermore, the guidelines state that such procedures apply to assistance from both national and international organizations.

Government policies are yet to make adequate provision for housing or resettlement assistance to those without land ownership certificates. Guidelines issued by the Ministry of Federal Affairs and Local Development on community settlement, urban planning and housing make no specific provision for renters, squatters or undocumented landholders. The 2015 Guidelines on the Resettlement of Disaster Victims mandates minimum amounts of land for the resettlement of families (0.025ha in mountain and hill districts, and 0.033ha on the plains [*terai*]). However, these guidelines also require beneficiaries to transfer ownership of housing and land to the Government prior to resettlement—which appears to limit eligibility to land and house owners—and otherwise make no specific provision for the resettlement of landless families. There is an urgent need for:

- a comprehensive beneficiary identification policy based on community participation and consensus so that all affected households have access to shelter assistance;
- measures to replace lost ownership certificates, or to allow alternative documentation as proof of eligibility for housing or resettlement assistance; and
- housing and resettlement policies that establish eligibility criteria for residents of informal settlements.

The Government of Nepal needs to consider an integrated approach to addressing landlessness and resettlement that incorporates squatters and those living on land where claims are disputed, as well as considering urban and rural contexts.

# 5 RESETTLEMENT AND REBUILDING MORE EQUITABLY

Resettlement can be an inevitable consequence of disaster, and an important measure to mitigate against future disasters. Yet, experiences from other disasters strongly suggest that resettlement can have disproportionate impacts on women and vulnerable groups. Groups with location-dependent livelihoods, such as farming, face the potential loss of income and food if they are relocated. This is often the case for women who rely on access to common land for livelihoods and food security.

After a disaster, attempts to engage in disaster risk reduction through resettlement may create excessive delays in shelter and reconstruction programmes. Eligible beneficiaries are difficult to identify and verify. Land prices increase in suitable locations. Compulsory land acquisition by the Government will be slow, and may not meet the needs of all those that require resettlement.

For example, in the Philippines after Typhoon Haiyan, Government proposals for creating ‘no-build zones’ for hazard prone land meant that some poor households—who were disproportionately represented in these areas—were prevented from returning to their original locations because of confusion over the status of their land.<sup>40</sup> In tsunami-affected Sri Lanka and Thailand, coastal buffer zones led to land grabs: valuable beach-front land was cleared of residential settlements under the guise of safety, however governments were complicit in or stood by as coastal communities were pushed aside for commercial interests.<sup>41</sup>

## Resettlement after the earthquake

Post-disaster surveys back up the qualitative data, which indicate that some people may prefer resettlement to nearby land rather than staying in their original locations, particularly where the original land is considered unsafe. For example, in November 2015, the Institute of Migration Displacement Tracking survey found that 20 percent of households in temporary sites of displacement intended to relocate to a nearby village.<sup>42</sup> Another study of female-headed households found that 21.4 percent wanted to settle in a nearby location, and a further 22.4 percent planned to settle in a totally different location.<sup>43</sup>

To ensure that resettlement develops resilience and reduces poverty and inequality, communities must be consulted as part of resettlement plans. The needs of women and landless people must be taken into consideration—given their social marginalization, it might be necessary even to have exclusive consultation sessions.

*‘No house is standing, a landslide [caused by the earthquake] buried everything. [There are] no roads, no farms. That is why we have not been able to stay there.’*

Focus group participant in IDP camp, Rasuwa

## Lessons from other disasters

Other disasters provide examples of measures aimed at issuing documentation to the landless that could be adapted for Nepal's post-earthquake context:

- After the 2008 Koshi floods in Nepal, a system of identity documentation was set up that started with a green card, which included basic details such as all family members and original address, followed by a yellow card that included photos and verification supporting documentation. The staged nature of the process responded to the risk that households without identity documentation could have been excluded from recovery assistance.<sup>44</sup>
- In tsunami-affected Indonesia, Oxfam developed an evidence-based advocacy programme to secure the land rights of renters and informal settlers. The programme led to the Government requesting that Oxfam draft a new policy on access to land and housing for renters.<sup>45</sup>

When considering landless people in urban contexts, the following measures have been taken in different disaster contexts to provide housing to renters or informal settlers:

- Direct grants or subsidized loans to landlords for the reconstruction of rental housing (e.g. the 2004 tsunami in Indonesia).<sup>46</sup>
- Direct grants to tenants tied to the reconstruction of their rental housing (e.g. Pakistan earthquake).<sup>47</sup>
- Direct grants or subsidized loans to private developers for the construction of multi-family housing to serve people with lower incomes and/or special needs (e.g. US state of Louisiana after Hurricane Katrina).<sup>48</sup>

## Criteria for resettlement

### Safety

Different groups prioritized different criteria for resettlement, but the primary concern for all of the people involved in the research was safety. This includes both resettlement to safer places and the importance of safety assessments of land. The second concern tended to be resettling close to current communities and livelihoods. There is a need for resettlement programmes to consider a wide variety of factors, but especially that resettlement be voluntary and involve local communities in developing plans.

*'[Approximately] 75 percent of the residents in wards 8 and 9 do not own land, and the houses are not suitable for habitation. There is also a risk of landslides [...] We should not invest there for settlement, it would be good to resettle them. The Government should come up with a policy to move such a vulnerable population into an integrated settlement elsewhere.'*

Ward Citizen Forum representative, Chandragiri, Kathmandu Valley

Resettlement, as mentioned previously, also needs to apply to people who do not own land or hold documentation. Resettlement provides an opportunity to relocate communities living on unsafe land, and support them in their livelihoods. If this opportunity is ignored, there is a risk that these communities will become even more marginalized.

*'[It is] good if [the relocation site] is within the VDC, if there is a safe place where there is no risk of landslides and floods. They need water, power, land, everything. If it is near their existing land then they can continue to cultivate their fields too. And people would not want to leave the village, instead they would take the risk and stay there. First it should be within the VDC, but, if it's outside, then there should be enough means of livelihood for the families.'*

Political representative Samari, Nuwakot

Everyone we spoke to in the research raised the need for geological surveys to assess the safety of land before reconstruction can begin. However, there were significant concerns about capacity within districts to provide sufficient qualified engineers for the surveys—instead, it was frequently suggested that this should be a national resource. What capacity may be available for surveys should be investigated to avoid further delays to reconstruction. Until the Government finalizes and communicates plans for resettlement, there remains a great deal of uncertainty among victims about whether to relocate or to rebuild on their current land.



*'When a monitoring team came, they suggested to us that we should not live here. But since they did not come back to us again, we have set up [temporary] shelters and are continuing to live here.'*

Villager, Kadambas,  
Sindhupalchowk

Temporary shelters on steep, unsafe land, Kadambas, Sindhupalchowk, Nepal in January 2016. Photo: Ruth Jackson/Oxfam



## Connected to livelihoods

People need to give their consent to relocate, and this consent will only be given if the reasons and incentives for relocating are convincing. Incentives should include provision of all the facilities people need in new sites: electricity, water, health posts and schools etc. However, current draft policies suggest resettlement land is only being provided for houses. Indeed, it does not even include consideration of agricultural land, which risks making people less inclined to resettle due to being separated from their livelihoods.

It is clear that national government departments need to develop more integrated land use and resettlement policies that consider all aspects of a person's life. This will ensure that the opportunity to build back better is fully realized. Land for housing cannot be considered separately to agriculture, given the high prevalence of agriculture for livelihoods.

*'When relocating, you have to relocate the whole village. [You have to work out] where to relocate, how to relocate, and how to find safe land—just deciding to relocate is not adequate. A geological investigation has to be done to make sure that [the land] is stable. So there are lots of issues. And there are physical and social issues also. [The latter] may be much stronger, the social issues of moving.'*

Mr. Prafulla Man Singh Pradhan, UN-HABITAT

Land for agriculture should be identified and retained exclusively for agriculture, not used for resettlement purposes. Some research participants in Masine and Kadambas said that they had low crop yields because the land they were cultivating was of poor quality. They welcomed the opportunity to relocate to better agricultural land to boost their productivity. If good quality agricultural land is present in an area, it should be identified and prioritized for farming.

Water supplies were frequently cited as a factor in the need to relocate for agriculture. In Sindhupalchowk in particular, the earthquake had disrupted or completely cut off water supplies, so previously fertile land was rendered useless. People were leaving affected wards and becoming sharecroppers elsewhere. Thus, resettlement plans need cross-departmental coordination so that that new fertile land is identified for agriculture and resettlement for housing is located nearby. For example, people whose land for housing is safe to rebuild on may have no means for livelihood if water has dried up, and so may need to be relocated or have water sources created (if possible) so that they can continue to farm.

In order to coordinate land needs for both housing and agriculture, all resettlement plans must be developed in consultation with the affected communities, with their full engagement.

## Mandatory JLO registration

Every research participant thought that making JLO registration mandatory for resettlement sites was a good idea. Women in particular felt it was necessary, but that it wouldn't happen unless it was mandatory because men would register land in their names only. This was in spite of assurances from the men present to the contrary.

Moving existing landholdings into a JLO system through mandatory duplicate certificates, or new certificates where none were previously issued, was considered more problematic as ancestral land is traditionally only inherited by men. Men in particular felt that such a change would be contrary to their culture.

*'I consulted with the people here and suggested that they have the land registered in the name of women, and if not then let's have joint ownership [...] so that women are not deprived of their rights and are not neglected or abused by their husbands. But the Newars [ethnic group prominent in the area]...asked why they would register land that they have been using since their ancestors' time under the names of [their wives], rather than [their own] names.'*

Ward secretary, Kirtipur

It is therefore clear that legal changes are not sufficient to achieve equality for women in land rights. There is a need for widespread education and awareness-raising programmes on the benefits to women and the wider community of such a change.

*'Only a few women—[those] whose husbands have died—have land ownership certificates under their name, otherwise, as ancestral property, it has been transferred from father to son [...] If somebody is buying a new housing plot/land then they register it under women's names. It is good that it is being done, as the Government has provided a 20 percent discount [tax relief] [...] Awareness needs to be raised, including of the discount provided by the Government. If [women] are entrusted with responsibility, then they can run families better.'*

Ward Citizen Forum representative, Kirtipur, Kathmandu Valley

When interviewed, UN-HABITAT went further and suggested that JLOs should not only apply to husbands and wives but also brothers and sisters, as a mechanism for unmarried, widowed or divorced women to also own property. They also stressed the need for awareness-raising and education programmes in order to change perceptions. While the new constitution states that all children can inherit, laws need to be changed to reflect the new constitution. Mechanisms need to be developed to support constitutional changes; awareness-raising is one such mechanism. This should become part of NGO and INGO programmes in Nepal.

# 6 COMMUNITY LAND RIGHTS PROJECT

Since 2013, Oxfam and its partner the Community Self Reliance Centre (CSRC) have undertaken the Community Land Rights (CLR) project in the plains of Nepal (Bardiya and Kailali districts). CSRC has a long history of improving the rights of tenant farmers through partnerships with community-based organizations.

‘Community land’ is an undefined term in Nepal. For the purposes of the CLR project, it is considered to mean any common land used by a community regardless of ownership, for example, grazing lands, forests, or playgrounds. The project seeks to develop local governance structures to manage such community accessed land that represent local people. Meanwhile, Oxfam is seeking to define ‘community land’ over the coming months alongside other CSOs and national NGOs in Nepal.

The CLR project aims to develop community-led byelaws to manage community land and other natural resources. It is based on the principle of participatory law making, involving the community itself alongside partnerships with local authorities and political parties. Its aim is to find participatory solutions to problems relating to land—including forestry and water resources—and agricultural reform.



Focus group under a tree in front of temporary school in Kadambas, Sindhpalchowk, January 2016.  
Photo: Ruth Jackson/Oxfam

Specific activities include securing the rights of tenants, making fallow land available for landless families, and facilitating the issue of JLO certificates. Basic strategies include addressing potential conflict and risks at the local level, resource validation through resource mapping, and legal strengthening through the creation of local byelaws—ensuring equal participation for women and marginalized people in all aspects.

Target communities are expected to gain more equitable and secure tenure over community land and resources during the project. Oxfam and CSRC anticipate that this project will result in the development of an effective methodology that can be replicated easily in other areas of Nepal, including those affected by the earthquake.

The project potentially provides a mechanism and governance structures for community-led resettlement in rural districts. The aim is to ensure that, while land may be used for resettlement, there remains sufficient community land to support a whole community's activities—not just resettlement. The CLR project includes mechanisms for community agreement on the allocation of community land to households requiring new land for shelter or livelihoods.

CLR challenges assumptions that responsibility for land reform lies solely with the Government. This contradicts most of the national-level interviewees involved in this research, who were of the opinion that land reform must be led by the Government. CLR suggests that local people have the responsibility and right to create the community they want, including any necessary land reform. The Government could adopt a similar methodology for reconstruction which better acknowledges community knowledge and ensures community voices in the development of district and community level plans. In reality, both approaches are needed. It is typical for the Government to lead such processes, especially in reconstruction after a disaster, however, the community is not passive in this process, and effective plans would include development by the community themselves. The Government, development actors and the community should have clear, active and defined roles in the process, and all voices should be acknowledged.

#### **Box 6: Resettlement on community land in Mozambique**

After the floods in Mozambique in 2000, most people were resettled on community land in rural areas. Community land rights are recognized by the Land Law, which establishes community consultation mechanisms for outsiders to obtain access to community land. The community, represented by a local land management body, agrees or disagrees with the request for access to land and the use of this land under certain conditions. Resettlement locations on community land are identified by local government authorities or district administrations with input from local community representatives.

Source: D. Fitzpatrick et al. (2009) *Addressing Land Issues after Natural Disasters. Scoping Report*. Nairobi: UN-HABITAT. <http://www.alnap.org/resource/7454>

A Member of Parliament for an earthquake-affected district suggested that, to build back better, consideration needs to be paid beyond individuals' houses or community buildings (e.g. schools). Instead, it requires the whole community to commit to rebuilding in a sustainable and earthquake-resistant way. The challenge will be raising awareness of the benefits, making clear that these outweigh any personal sacrifice with regards to individual land ownership.

If the community itself is engaged in designing its development, with technical support, then ownership is shared among its people. If the community manages its school, health post and other facilities, this can foster strong local relationships, and bring groups united by resettlements together, rather than creating tensions between new and existing communities. A community-led approach to land reform can also help to resolve problems of tenure by creating spaces for those who have a right to live on land that they do not own, while still providing space for those who do own it.

# 7 CONCLUSIONS

This paper has sought to demonstrate how women and landless people are being marginalized and excluded from relief efforts and will likely be excluded from reconstruction and resettlement programmes if specific provisions are not made to address their needs.

Lessons from other disasters around the world demonstrate that this exacerbates long-term inequality and poverty, with affected countries struggling to fully recover after many years. Conversely, the World Bank has found that, when women own land, poverty is reduced and equality increased. Women and girls face reduced risks of domestic violence and forced marriage, and children's health and education improve. Reconstruction and recovery provide an opportunity to build back better and more equitably, ensuring resilience and reducing the number of people made landless as a result of disasters.

The Government of Nepal, international and national development partners, and civil society groups must ensure that reconstruction and resettlement includes women and landless people, especially those considered squatters.

There is a long history of landlessness caused by disasters in Nepal. The earthquake has compounded existing social inequalities along wealth and gender lines. Reconstruction now presents an opportunity to reduce this, and to rebuild a more equal and fairer Nepal. Recommendations for addressing land issues within reconstruction and resettlement are set out below.

## Recommendations

### Reconstruction and resettlement policies and plans

1. **Additional financial support is needed** from the Government and INGOs for reconstruction for the poorest and most vulnerable, especially female-headed families, single women, landless people and squatters. The existing NPR200,000 (approximately USD \$2000) support grant to rebuild is insufficient.
2. **Government policies and plans, particularly the Land Use Bill, must include provisions for women and landless people.** They should provide for people regardless of their tenure status or documentation, particularly if the land or house where they were living was destroyed.
3. The Government of Nepal and its development partners should **undertake geological surveys immediately** to identify safe resettlement sites. At the same time, suitable agricultural land should be identified.
4. The Government of Nepal and its development partners, including the World Bank, should **ensure that resettlement policies and**

**plans are integrated with agricultural land plans, including in the Land Use Bill.** Resettlement sites should be co-located with suitable agricultural land. Existing mechanisms in districts and VDCs for supporting earthquake-affected communities should be strengthened and supported.

5. The Government and its development partners including the World Bank should **ensure that reconstruction and resettlement is community-led** with their full participation and free, informed and prior consent. Existing mechanisms at the district and VDC level should be strengthened and supported to deliver this.

### **Rights of women and marginalized people**

6. The Government and development partners should **ensure that women are named on victim ID cards and all landless people are provided** with one. Everyone in a household should be listed on a victim ID card, even if there is only one card per household. Steps should be taken to ensure that documentation requirements do not unduly delay reconstruction and resettlement.
7. National and district authorities should **devolve power to determine victimhood to Ward Citizen Forums or VDC Secretaries.** This is intended to result in timely decisions, and ensure that those who understand and represent their communities are involved.
8. The Government of Nepal with development partners, including the World Bank, should ensure that **JLO registration is mandatory for all new integrated settlement sites**, and should strongly encourage duplicate documentation.
9. District Disaster Recovery Committees and other district actors should ensure that **land documentation processes include female facilitators, separate meetings for women, and awareness-raising programmes.** A national NGO should also be commissioned to undertake gender monitoring of land documentation programmes.

# APPENDIX A

## INTERVIEWS AND FOCUS GROUPS, JANUARY 2016

### National-level

1. Rt. Hon. Mr Gangalal Tuladhar, MP for Dhading District, CPN-UML
2. Mr. Prafulla Man Singh Pradhan, Government Liaison Advisor, UN-HABITAT
3. Mr. Raja Ram Chatkuli, Project Co-ordinator of Catalytic Support of Land Issues, UN-HABITAT
4. Joint interview: Mr. Tikaram Ghimire, Joint Secretary and Mr. Gopal Giri, Under Secretary at Ministry of Land Reform and Management
5. Mr. Krishna Raj B.C., Director General for Department of Surveys

### Kathmandu Valley

1. Joint interview: Ward Citizen Forum Co-ordinator and Farmers Co-op Group Chair, Chandragiri
2. Women-only focus group, Masine
3. Joint interview: Political representatives, Masine
4. Chan Maya Khadji, personal story, Kirtipur
5. Ward Secretary, Kirtipur
6. Women-only focus group, Kirtipur
7. Ward Citizen Forum co-ordinator, Kirtipur

### Sindhupalchowk

1. Joint interview: Ward Citizen Forum representatives (for five wards), Jalbire
2. Joint interview: Political party representatives (four, from different parties), Jalbire
3. Women-only focus group, Pangretar
4. Local Development Officer, Chautara
5. Mixed gender focus group, Kadambas
6. Mr. Dhira Phadra, Senior Engineer, Department for Urban Development and Building Construction, Chautara
7. Mr. Dikamat Kumar Shrestha, Chief District Officer, District Agriculture Development Office, Chautara



## **Nuwakot**

1. Joint interview: Political representatives (three, from different parties), Samari
2. Women-only focus group, Samari
3. Mr. Umesh Kumar Dhakal, Chief District Officer, Bidur
4. Internally Displaced Persons (mixed gender) focus group, Bidur

## **Rasuwa**

1. Focus group with IDPs (mixed gender), Laharepauwa
2. Men-only focus group with IDPs, Laharepauwa
3. Brinda Pariyar, IDP, Laharepauwa
4. Mindo Tamang, IDP from Haku VDC
5. DawaKimo Ghale, IDP from Haku VDC
6. Shiva Ram Gelal, Chief District Officer, Rasuwa District
7. Focus group with District Land Rights Forum, Rasuwa

# APPENDIX B

## INTERVIEW QUESTIONS

A selection was asked, depending on each interviewee's focus and role.

### For all interviewees

1. What is your title and role?
2. How is your role involved in reconstruction?
3. In your opinion, what are the key land issues for reconstruction and why?
4. What do you consider to be the key land issues in existing policies or acts on reconstruction? Why do you think this?
5. What can you do in your role to address some of the land issues in reconstruction?
6. What land issues are beyond your ability to influence? Who can influence these?

### For national- and district-level interviewees

1. Do you know what the plans are for ensuring rights and access to land, especially for poor and marginalized people (including women and landless) in reconstruction? What are these plans? Are they sufficient?
2. Are you aware of any government plans to provide for renters, 'squatters' or undocumented landholders? If so, what are these plans? Do you think that they are sufficient?
3. If there are no plans, do you think there should be some, and what is it essential to include in them?
4. Are you aware of any government plans to provide duplicate documentation for land or houses for those who lost documentation before the earthquake or never had documentation for their land or house? If so, what are these plans? Do you think that they are sufficient?
5. Would any duplicate documentation include safeguards to ensure that women receive adequate documentation for land or houses?
6. Do you think that JLO registration should be promoted for reconstructed houses or new land for resettlement, even if land or houses were not jointly registered before the earthquake? Are you aware of any plans for joint land registration promotion post-earthquake? If so, what are these?
7. Are you aware of any government plans to protect rights and access to land for women affected by the disaster, particularly widows and female heads of households? What are these plans? Do you think that they are sufficient?

8. Do you know what the plans are for permanent resettlements and the criteria for identifying eligibility for resettlement assistance? What are they? Do you think that resettlement should be limited to those able to prove legal rights to land (i.e. landowners, not renters, 'squatters' or undocumented landholders)?
9. Do you know the criteria for identifying new sites for resettlement? Are there community-based options for resettlement (e.g. involvement in selection of sites by those requiring resettlement, or selection of sites close to their original locations and sources of livelihoods)?
10. (*Govt. interviewees only*) Can development agencies directly assist beneficiaries to acquire land for resettlement, or will resettlement be directed through government acquisition of land?
11. (*Govt. interviewees only*) Do you intend to set up a system similar to the humanitarian cluster system (e.g. for housing, agriculture)? If so, what will this look like, and will there be a separate cluster or working group to consider the cross-cutting issue of rights and access to land?
12. What provisions are you aware of to provide housing and livelihoods for landless people—i.e. renters, land-poor people, sharecroppers, those on trust land or public land, migrants, undocumented landholders etc.? Are these sufficient?
13. Can you identify how unintended potential discrimination against landless people (e.g. requiring documentation) will be safeguarded against?
14. What do you think can be done to reduce the number of landless people, given that the majority of landless were made landless by disasters?

## **For VDC and ward-level interviewees**

1. What do you consider to be the key land issues in your district for reconstruction?
2. How many IDP sites are there in the area for which you have responsibility? Roughly how many households are living in them? In your opinion, how many of these households could be categorized as 'landless'—renters, land poor, sharecroppers, those on trust land or public land, migrants, undocumented landholders etc.?
3. How many people are landless in your district? Do you know how many were made landless by the earthquake?
4. Do you have informal or alternative processes in place to help victims without correct documentation? If so, what are they?
5. Do you have capacity to inspect houses at the relevant times during the reconstruction process for the distribution of the NPR200,000 grant?
6. How many female household heads are there in your district? Has this increased since the earthquake? What provisions are being put in place to support their rights and access to land?

7. How many single women (including those widowed or divorced) are in your district? What special provisions are put in place to support their rights and access to land?
8. How will you resettle people in your district, including those who are now landless? Have they been involved in developing these plans?
9. How will you manage illegal or informal settlements? In your opinion, where will households go if people living in illegal or informal settlements at the time of the earthquake are not able to return to their original locations?
10. How will you ensure fairness and transparency in your processes to protect those who are landless or land vulnerable, including women who lack documented rights or access to land?

# APPENDIX C

## FOCUS GROUP QUESTIONS

### **Female household heads and single women**

1. Did you, personally, own land or a house prior to the earthquake? If yes, what is the nature of your tenure?
2. If you were married before the earthquake, did you own land or a house jointly with your husband?
3. In your local customs, are there provisions for women to inherit land and, if so, can they keep it when they marry? Are there other customs for women to own or inherit land? Please explain.
4. Do you have documentation for your ownership of the land or house? Please specify: what type of documentation?
5. If you don't have documentation, would you prefer to have documentation, or do you think this is unnecessary because your family and community recognize your ownership? Please explain how they recognize your ownership. Is this recognition different for housing or agricultural land? If so, how?
6. Do you feel pressured to not have documentation by your family or community? Does this pressure affect your opinion about your right to the land or house?
7. Have there been any special or unusual ways your community has addressed your lack of documentation, so that you, your family or others in your community can continue to own or manage the land or house (e.g. community loan guarantees)? Is there any difference for houses, agricultural land or land for other purposes?
8. How did you acquire your land (inheritance, purchase, gift etc.)?
9. What do you use the land for (to live, for agriculture, renting or other)?
10. What was the impact of the earthquake? Did you lose your land or housing documentation? Have you lost all or part of your land or house to landslides/slips? If so, please explain the nature of the impact (to housing, livelihood etc.).
11. What difficulties do you now face in relation to the land you own?
12. If you don't own land personally, but there is family land on which you can live (e.g. it is in husband or brother's name only), who owns it?
13. Do they have documentation for their ownership?
14. Are they here, and can they make arrangements to access or use the land? If not, where are they? What are your options if arrangements cannot be made?
15. Did you lose your husband in the earthquake? If so, is your right to land and housing recognized by his family? What access to land or

housing have they given to you (if any)? Have any new or unusual practices developed in your family or community to manage this since the earthquake? Please explain.

16. Have you had any land disputes with your family or others as a result of the earthquake? What happened?
17. Are you having issues because documentation is in the name of someone who has migrated? If so, please explain more.
18. Do you have a JLO certificate? If not, why not? If you do, when did this happen? What do you think about this initiative?
19. As a woman, are you happy with the way your rights to land have been recognized since the earthquake? Do you think the land rights of women (especially single women) have received proper recognition?
20. Are you having difficulties because you lack documentation proving your rights to land? If so, please explain more.
21. Please explain what difficulties or challenges you face if your land or house was damaged or destroyed due to the earthquake. Are these challenges different for houses compared to agricultural land or land for other purposes?
22. (*For questions 9–11*) What do you think would help you most to resolve these difficulties? Please explain.
23. What other issues do you have in relation to land and housing since the earthquake (not already discussed), and how do you think they might be resolved? Please explain.

## **Gender-mixed: landless and land poor (in IDP camps)**

### **Land poor**

1. Did you own land or a house before the earthquake? If so, what was the size of your land?
2. Is your land or house now damaged or destroyed? Please explain.
3. Do you want to return and rebuild on your land or are you unable (due to risk)? Please explain.
4. If you do not want to return and rebuild on your land, what do you want to do? What do you want the Government or aid agencies to provide?
5. Do you have documentation for your house or land? If so, what kind of documentation?
6. If you don't have documentation, do you think you can rebuild and recover without it? Is the lack of documentation causing difficulties for you?
7. If you do not have land (either because you lost it in the earthquake or didn't have any originally), what would you like, so that you can move to permanent shelter and be safe? Please explain.

## **Renters**

1. Did you rent prior to the earthquake? What was the nature of your agreement (e.g, was it written, how often do you pay rent, how long has it lasted, who has signed the agreement, are they still present)?
2. What has happened since the earthquake? Will the landlord allow you to return and are there any new conditions? If not, what reason has the landlord given to refuse your return?
3. Have rents gone up since the earthquake? If so, by how much? Do you have enough money to rent another house? If yes, would you want to return to rent at your original location? If not, why and what are you looking for in a new location?
4. Do you still have documentation showing that you rented land before the earthquake? Has this documentation been useful to help you get shelter or other assistance?

## **Landless people**

1. If you do not have land (either because you lost it in earthquake or didn't have it), what issues and difficulties do you face in accessing land for housing or agriculture? Please explain.
2. (*For those who had land before the earthquake.*) Do you have documentation concerning the land you lived in at the time of the earthquake? What type of documentation? What is your tenure status?
3. If you do not have land, what would you like the Government or aid agencies to do? What needs to happen to help you resolve your difficulties? Do you think you will need documents proving that you have rights or access to land in order to get assistance? Please explain.

## **For all: questions about resettlement**

1. Do you want to return to your original land? If not, why not?
2. If you were offered the option of resettling on land that was safe, would you consider it?
3. What do you think about the Government creating resettlement sites? Why do you think this?
4. What are your key criteria for any site on which you could be resettled? Why do you think these are important?
5. Have you been approached with an offer of resettlement? If so, do those offering resettlement require documentation of your rights to land from before the earthquake? Is the resettlement site close to your original location?

## **For groups with access to community or trust land**

1. Did you have access to communal land or trust land prior to the earthquake? If so, what did you use it for (living, agriculture, other livelihood)? Has this changed since the earthquake? If so, how?

2. Prior to the earthquake, did you work land owned by another person for sharecropping or for another arrangement? Has this changed since the earthquake? If so, how?
3. Do you have any documentation relating to the agreement for sharecropping or using community land? What kind of documentation is this? Has this changed now? Are there new conditions?
4. Has your access to communal land or trust land changed since the earthquake? If so, how? What do you think needs to happen to improve this?

## Questions for farmers

1. Did you own the land you farmed prior to the earthquake? What has happened to this land now? Are you able to work on it still?
2. If you did not own land that you farmed, what land did you work? What has happened to this land? Are you able to work on it now? If not, why not?
3. If you have continued to farm, how has production been this year compared to last?
4. Are there provisions in your community for communal grain storage? Has this been affected by the earthquake? If so, how?
5. Do you have enough food for 12 months? If not, what will you do when it runs out?
6. What do you think are the issues related to land for agriculture and the earthquake? Please explain.
7. What would you like to see the Government or aid agencies do in relation to agricultural land?
8. What do you think the community can or should do with regards to agricultural land?
9. Some people will need to be resettled on safe land—do you have concerns with this in relation to farming?
10. What would your criteria be for identifying land for housing and agriculture?
11. Do you have access to water? Have there been issues with access since the earthquake? If so, what are these?
12. What needs to happen to resolve water access issues?
13. Is it different for men and women farmers? If so, how? What are the various issues? Please explain.
14. Do you feel your rights as a farmer have been upheld since the earthquake?



# NOTES

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This paper was written by Ruth Jackson, Daniel Fitzpatrick and Prabin Man Singh. This paper was produced in partnership with the Humanitarian Accountability Monitoring Initiative, Himalayan Conservation Group, the National Network of Community Disaster Management Committees Nepal, and Community Self-Reliance Centre Nepal. Oxfam acknowledges the assistance of Bal Krishna Kattel, Jagat Deuja, Rasna Dhakal, Jagath Nath Kurmi, Durga Pandey, Komal Aryal, Manita Tamilsina, Min Bahadur Shahi, Geeta Pandey, Prasen Khati, Mahendra Narayan Mahato, Sudha Khadka, Sandhya Shrestha, and Bhawana Subedi in its production. It is part of a series of papers written to inform public debate on development and humanitarian policy issues.

For further information on the issues raised in this paper please e-mail [advocacy@oxfaminternational.org](mailto:advocacy@oxfaminternational.org)

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The information in this publication is correct at the time of going to press.

Published by Oxfam GB for Oxfam International under ISBN 978-0-85598-696-4 in April 2016.  
Oxfam GB, Oxfam House, John Smith Drive, Cowley, Oxford, OX4 2JY, UK.

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