

CHAPTER- I

INTRODUCTION

This is an ethnographic study of land in Makar Village Development Committee of Nawalparasi district. Makar is an agricultural countryside of outer Tarai in western-central region where people of different castes and ethnic groups have been living in a mixed settlement since the 1960s. Like other parts of Tarai, most of the people have migrated to the area in the hope of getting land. Legal, political and ecological constraints to achieve land ownership are the central concerns for people of Tarai over the last few decades. Land ownership generates inequality because land is the source of wealth, power, social status and many more in underdeveloped countries like Nepal.

Nepal has been a state of considerable political ferment and one of the central issues on political arena is land. Local people appropriate locally available land resources from the traditional land use practices, whereas the state administration and bureaucrats develop a certain requirement and mechanism to control record and provide land ownership. As a result, two distinct patterns of decision and implementation procedure are used to allocate and distribute the state owned land. On the one hand, there is government bureaucratic structure and centralized decision making process, i.e. the 'top down' procedure. Similarly, the land right at local level is also initiated by local people applying the local procedure. When these two types of procedures are in practices at local level, a kind of gap is created. The gap allows different agencies to exercise power at the local context. Lack of uniformity in resource management diversity is created which Bend-Beckmann et al. (1997) call "legal pluralism". It covers different types of laws such as state law, folk law, customary law, indigenous law, religious law and so

on. More than one legal system or institutions co-exist to deal with the same set of activities (Bend Beckmann 1999). There is no clear demarcation regarding land status and ownership of land resources. As a result, subsistence farmer and land poor people are unfamiliar with land governing process. The situation provides of fruitful situation 'local elites'¹ who are familiar with the land administration procedure.

Land in agrarian society is interwoven to many social, cultural economic and political institutions. It has intrinsically complex nature. This dissertation attempts to depict how land resource is utilized and managed in a rural context (where land is the prime resource) and how the local elites appropriate land resource during the period of political transition.

1.1 Conceptual Tool: Anthropology of Legal Pluralism

In the recent days, legal anthropology focuses more on understanding of the social practices in the frame of multiplicity of legal institution arrangement and normative repertoires in society (Spiertz 2000). This perspectives helps to clarify discrepancies between rules and behaviors, their interpretations, and enables social relations in action and interaction to be seen clearly (Kaplan 1995).The contribution of a legal anthropological perspective as Benda- Beckmann et.al. remark, "adopting a legal anthropological perspective means giving primary attention to description and analysis of the current legal situation and trying to understand the significance of that legal situation for the actual forms and practice" (1997:222). It means asking about the interrelation between law and social practice, rather than engaging in conventional doctrinal legal science. Similarly, legal pluralism covers different types of laws

¹ The term 'local elites' is here used to mean those individuals who actually exercise political, social, cultural, economic and intellectual power in a society at any given time. Basically, upper caste, educated people and who have strong clout with political parties are local elites.

such as state law, folk law, customary law, indigenous law and so on (Benda-Beckmann et.al., 1997). Therefore, it is an umbrella concept that helps in understanding the diversity in the role of cultural, social and normative practices in communities because it reflects the condition in which more than one legal system or institution co-exists to deal with the same set of the legal order of society as it is based on a pluralistic conception of the law (Griffiths 1983).

Land ownership represents the principal form of wealth, the principal symbol of social status and principal source of economic and political power (Regmi 1977, Bhandari 1985 and Shrestha 2001). Land ownership rights differ on perception, practices, procedures, and human decisions and activities. The action and behavior towards natural resources is not shaped and guided by single comprehensive law. They are guided by several local norms, practices and believe on folk and legal regulations which Benda-Beckmann (1997) calls “jungle of legal pluralism”. They are generally different and even contradictory. Likewise, Spiertz (2000) argues that legal pluralism means that in different life situations different people can make use of more than one normative repertoire to rationalize and legitimize their actions. Though central government's decision determines ownership right but actual practices may be different from the prescriptions. People face different complex and interwoven legal environments as well as customary practices and normative rules amended in the multiplicity of native and legal systems (Benda-Beckmann et. al. 1997).

Security of ownership right in the context of different legal system is problematic and sometimes leads to conflict. State laws seek to regulate land according to their framework, whereas local people attempt to secure ownership right in the context of different legal system. In this context,

state laws seek to regulate land according to their framework, whereas local and customary norms may or may not follow the framework. Many times the state laws are modified in practices, by the actors themselves to fit in the local situation (Upreti 2001). Such amalgamated and modified laws are called local laws; they are practices or customs, new codes, laws regulations and principles made outside the state legal institutions. Law has a different value; it is based on prevailing norms and local contexts. They are actually the locally dominant mixture of interpretations and transformations of the surroundings universe of plural legal repertoires (F. and K. Von Benda- Beckmann 1996). Laws and regulations administered by government are only one of the many forces to change human behaviors and action.

Land as the underlying factor in agrarian culture has multifaceted impact. Religious rules, local norms, economic opportunities, political power and technological advancements have considerable influence in the security of the land. Hence, the present researcher's primary attempt is to explore how such complex and plural forms of law create problem to obtain land ownership and how the different agencies are acting on land ownership, land institution and land status. Similarly, focus is given on how local elites benefit through the lengthy process of land distribution, management and development at local context.

1.2 Statement of the Problem

The land use systems in Nepal are rapidly changing together with population growth, market expansion, social transformation process, information revolution, technological advancement and globalization processes. The lack of a conducive land use policy and planning, weak institutional arrangements and a rapid population growth exert the enormous pressure on land resource (Upreti 2001). There are wide

disparities in settlement in Nepal. The ecology of Nepal and lack of infrastructure and employment opportunities, the gap between rural and urban areas and unavailability of basic services facilities are the triggering factors for migration from rural to urban /flat areas.

Land encroachment and unplanned settlement are the result of such migration whereby an imbalanced situation increases gap among people. Internal migration is rapidly increasing the population in urban centre and putting additional pressure on fertile land in the urban areas (NPC 1992). Land distribution is much skewed. Gross disparity in land ownership is one of the major causes of poverty, injustice and social discrimination (Shrestha 2001). According to the human development report 2004, 40 percent of agricultural households use only 9 percent of the total agricultural land owning less than 0.5 ha; while the top 6 percent occupies more than 33 percent of the total agricultural land. These inequalities are manifested in the higher incidence of poverty. The report also points out that the Nepalese land tenure is fragmented, unequally distributed, institutional obstacles and unfocused government policies.

Land in the Tarai is facing extreme pressure due to migration of people from the hills and mountains. Lack of effective land use planning the agricultural sector is not able to reach its potential by using specification and diversification (Upreti 2001). Erosion, landslides, floods, and insecurity in the hilly areas have seriously affected riverbanks, lower slopes of the hills and the fertile land of the Tarai region that consequences had a negative impact on agriculture, forest, environment, road systems, transport, irrigation and other developmental activities. In the same manner, fertile lands are increasingly used for non-agricultural purposes, i.e. urban settlement, industry and infrastructure. Highly fertile land of the Tarai regions and urban centers are rapidly

being covered by buildings as city centre expand (*ibid*). Land fragmentation is being increased due to cultural and legal provision to provide land among sons (Bhandari 1985). Legal measures to protect land fragmentation and promote land consolidation are ineffective (Ghimire 1992). The documentations and implantation procedures are corruptive and local elites manipulate them as Sainju et.al. remark:

The government implemented numerous acts to improve the living standards of farmers by solving the agrarian problems of the post 1951 era. Unfortunately, efforts and acts aimed at bringing concrete results failed due to a lack of political determination and an absence of implementation machinery. (1973:2)

The situation of agrarian system is decayed; land resource in the country is inadequate to supply the facilities and social services for the increasing population. Likewise, available land resources are not utilized in an effective and productive manner. The lack of proper mapping or planning based on land efficiency classification is very weak. Landlessness is increasing rapidly; small holders are marginalized and transformed into landless people (Shrestha 2001).

The absence of national land use policy and programme, and a narrow sectoral approach have led to land use problem and conflicts. The conflict leads to court procedure. The lengthy and corruptive court procedure not only gives trouble to the tenants but also increases expenditure in futile task. '*Land to the tiller*' is merely a slogan of government and political parties although it was initiated in 1951. All major political parties have been incorporating the land reform in their agendas but none of them are fulfilling their commitments. According to Keshab Badal, the land tenure system of Nepal is best on Hindu

Theology which nurtured feudalist norms and values, as a result, land reform programme is notoriously hard to accomplish (Badal 1999). Likewise, the *Sukumbasi Samasya Samadhan Ayog* (Landless Problem Resolution Commission- LPRS) is a political platform of ruling parties to reward their workers rather than solving the genuine problems of landless people. Land as the underlying factor and foundation of our national economy, land allocation efforts are made to bring about changes in economic and technical aspects without the consent of local people and involvement of the local community, often fails to achieve their goal; this kind of forced change disturbs the whole economy (Tongba 1971). The government of Nepal neither can secure ownership through land allocation programme nor can well recognize the local practices of land utilization. From this point of view, the government's administration realized local practices to be illegal in which government may even seek complete monopoly in land management activities in which it intervenes. As a result, the mismanagement and failure occurs in these government projects. The unfavorable performance something new beyond the interests of people and centralized policy also generates problems at local level where local elites distort the policies during the implementation phase. In this regard, Rose and Scholz remark:

In a bureaucratic polity like that of Nepal in which policy making is restricted to a selected groups, private sectors resources are relatively insignificant, and the bureaucracy is the only national institution capable of performing a wide range of tasks throughout the country. There will be intense competition for the resources funneled through all levels of the bureaucracy. (1978:9)

The encounter of central level land laws and local practices is never

foregone conclusion. Makar area reflects many of the problems of land in the present situation. The dissertation mainly focuses on the following questions:

How do the local elites manipulate land resource in the name of local development?

What is the nature of land encroachment and how is the status of lands?

How and why are the poor peasants under the problem of dual ownership?

Is the land asset totally under the control of the centralized state?

1.3 Objectives of the Study

This research has the following objectives:

to study the role and relationship of different agencies that function to use, develop and transform land ownership.

to trace out the land ownership system and its distribution pattern.

to study the ownership problems related to land status in the study area.

1.4 Literature Review

For this research previous research, books, articles and journals are reviewed. Many of the social research conducted by *Swadeshi* (native) and *Videshi* (foreigner) in the past or recent days too focus on cross cultural method where, basically ruling class (mainly upper caste and elites) are compared with non-Hindu tribal groups on the basis of land resources. Traditionally different immigrants' group appropriated land resource differently based on their technology, culture and fooding pattern web (niche). Basically, Mongoloid people who entered from the

North while Indo-Aryan people entered from the South. Indo-Aryan people possessed a better technology both in the field of warfare and in agriculture production. Mongoloid used light bows and arrows, while Aryan bought swords and other metal weapons to defend them from their enemies (Sanwal 1965:14). Aryan people were able to exploit more land resources because they bought technology of wet rice cultivation combined with an extensive use of building, ploughing and irrigation (Seddon 1984:4).

From the very beginning of land development, the ruling elements were upper caste - - Rajputs and Brahmins. They were accompanied by large number of low caste people. The low caste people in complex form of social division work as artisans, laborers and tax paying peasants. The Hindu tribal groups were able to establish their control over much of the hilly areas by subordinating the non-Hindu people (Ghimire 1992).

Prithvi Narayan Shah unified different kingdoms into one centralized kingdom where High caste Hindu people governed the power by subjugating and persuading the Mongoloid populations (Bhandari 1981:172). The continuing power struggle was resolved when Junga Bahadur Rana legalized the social stratification based on Hindu ideology through the civil code in 1910. The Rana regime initiated various types of land allocation and distribution systems. Land was the primary resource where all the political and bureaucratic management was based on the land revenue. The cultural practices and cognition pattern shaped by Hindu ideology also prevented higher caste people from physical agricultural labours. The other caste groups involved in transportation of mail, military, suppliers of fodder and food grains to the royal palace and the construction and repair of roads, bridges and other public facilities (Regmi 1978:93). Along with population growth in many parts of the

hills, a shortage of cultivated land was already reported by the end of eighteenth century (Caplan 1970: 56) until the end of Rana regime. The agricultural surplus was concentrated on hands of few ruling class while Ranas sustained their autocracy by supplying Nepalese manpower as soldiers exported agricultural products and timber from the Tarai to India - - Colonial Britisher (Gaize 1975).

Many of the studies on land show binary opposition between Mongoloid and Aryan people where different Mongoloid and indigenous people experienced some level of displacement and subsequent alienation from land ownership. The Hindu immigrants encroached upon the more fertile valley bottomland of the Mongoloid people in the central hilly region and pushed them up slopes of the hillsides (Kansakar 1973). Out of many tribal groups, Magars were first subordinated by Hindu people where the Magar's earlier cultivated spacious tracts of riverbanks and valley floors. As rice cultivation was the most preferred agricultural practice amongst the Hindu settlers and as this needed flat land with relatively easy irrigation facilities, the Magars were steadily dispossessed of their most fertile land (Hitchcock 1966: 80). In the same manner Caplan's study shows that Limbus of eastern Nepal were alienated and deprived from land resource when the upper caste Hindu people settled into the communal land plots of Limbu and extended and utilized the land in a symbiotic relation. Limbu people are nostalgic after they face the problem of land scarcity during the population growth. The communal land ownership known as *Kipat*, under which the land was cultivated and inherited only by the members of specific Limbu community. Hindu people cultivated *Kipat* lands under a possessory mortgage and Limbus continued to lose control over the land. Just before the land reform nearly 70 percent of *Kipat* lands were possessed by non-Limbus under

mortgage. Caplan notes that the centralized land policy held by high caste Hindu and different cultural practices are the contributing factors to landlessness amongst the Limbus (Caplan 1967). Similarly, Patricia Caplan in her ethnographic study of two different caste of Hindu system in relation to land concludes that the economic, political and cultural changes occurred in far western cluster where high caste people enjoyed the opportunities but low caste people were deprived of and subjugated by the village system due to variation on land ownership. Before the land reform in 1964, the land resource was concentrated in the hands of a few people with plural system of land ownership. Land grants were given to royal family, the nobility (*birta*), the senior civil and military personnel (*jagir*) and priests and religious institutions (*guthi*). Where as *birta* system was inheritable and transferable, but in caste of *jagir* land grants, the recipient was allowed to benefit from land only during the period of his service (Regmi 1976).

The political development after the Rana regime focused on planned development, exercise of democratic system and operation of development activities. During this period Nepal was able to establish bilateral relationship with foreign countries. The paradigm of land politics shifted from hill to the Tarai where different researchers focused on land issues of the Tarai. King Mahendra took the power in 1960 through coup d'etat'. The monarchy system got pressure for land reforms from international aid donors, particularly from the USA and many of the larger landowners from the Tarai were lending support from political parties opposing the king's direct rule (Scholz 1977:530).

The land reform in 1964 synthesizes the traditional land ownership system (*Birta, Jagir, Kipat, Jimindari, Rakam, Ukhada and Guthi*) and

established the tenancy records and created the awareness of land tenure right by tenants and the landless (FAO 1980).

The land reform could not genuinely implement the reform programme. As a result, many tenants were unable to secure land ownership. Inefficiency within the bureaucracy and the implementation of land reforms at three stages provided an opportunity to adjust the records by transferring the land not only to other family members but also to their relatives and friends (Basnyat 1981:58). The land reform could not meet the objectives because of the lack of local details (Melford 1965:3) and political instability (Lindsey 1965:5, Rose 1965, Zaman 1973:53). The land reform programme distributed about 50,580 ha. land to the landless people where only 34,705 ha. land was actually confiscated from the landlords whereas the land reform ceiling for land owners were set 2.7 ha in Kathmandu valley, 4.1 ha. in the hilly region and 17 ha. in the Tarai. The partyless Panchayat system could not properly conduct the programme due to the pressure and helpless situation created by the then underground parties and inability of genuine vision where plural legal systems were strongly prevalent (Scholz 1977).

Control of malaria permitted hill dwellers to settle in the Tarai land. The Nepal Resettlement Company (NRC) in 1965 was initiated to distribute land for the landless and natural disaster victim migrants. Similarly, the government of Nepal encouraged and inspired people to settle in the fallow land of Tarai, the ecological barrier epidemic jungle in the south border and malaria to hill dwellers was under control. Gorkha soldiers retired from the British India and Nepal armies were settled on the border as a paramilitary force to prevent smuggling detrimental to Nepal and to prevent raids by bandit gangs from India (Gorkhapatra 26 April 1968). The government policy of modernization in agriculture is

incorporated through resettlement programme in the Tarai. Historically land recording system, land management mechanism and agencies of land allocation were in poor condition.

But in actual practice land that had been reclaimed in the name of the landless and flood victims was customarily channeled to influential officials and their patrons in Kathmandu and other resourceful migrants. Land allocation was marked by rampant mal-feance', nepotism and patronage (Kansakar 1985:114). The flow of migrants continued and the government could not manage all the migrants. As a result, the process of migrant selection, land allocation and settlement became bureaucratized and stringent.

The applicants for resettlement land had to present proofs that were either victims of natural disasters or the landless and disadvantaged groups (Shrestha 2001). The problem of land encroachment and spontaneous settlement continued to intensify the problem. Until the 1970s thousands of families encroached on the valuable forest land of Nawalparasi and Rupandehi. "Realizing the magnitude of this problem, the government decided to evacuate the forest areas and to resettle these encroachers in specified resettlement areas for the protection and preservation of these forest areas"(NRC 1980:41).

Elder et al., (1975) conducted an intensive sociological study of planned resettlement in Khajura, Banke found that high caste people were able to secure more land than lower caste people. In rural societies social inequality generally generates from land ownership because sources of wealth power and social status is rooted in land. The sociological study about land ownership in Chitwan district, Bhandari remarks, in migrants society many households are landless because of social disparity were few people control more land than necessary to themselves and many

peasants own parcel of land too small to support even their even their families (Bhandari, 1985:7).

Similarly, Upreti (1981), Ojha (1983), Singh (1984) did comparative study of both sponsored (planned) and spontaneous (unplanned) in different settlement areas of the Tarai concluded that spontaneous settlers were more successful to secure land ownership; more efficient and able to cope with align social structure. But in contrast to these researchers Mathema (1999) found sponsored settlers more powerful in terms of land ownership than the spontaneous migrants. The situation indicates that the possession of land plot in Tarai areas is equally determined by time and natural scarcity of land. Lack of organized institution of landless people time and again peasants' movements are unsolved. The landless movement in 1979 was initiated in a mixed with political movement when Pakistani Prime Minister Zulifkar Ali Bhutto was executed in 1979. The partyless panchayat system was facing underlying pressure from different political parties. The execution of Zulifkar Ali Bhutto provided an opportunity for the banned, political parties of Nepal to protest against the government. The landless people protested demanding land reform it was the largest landless movement but the real aspiration of landless people was distorted along with election of referendum (Kaplan and Shrestha 1982) Land reform, land for the tiller or Agricultural revolution and so on are the mere political slogans that sound pleasant to landless poor people but real fundamental procedure is not initiated. Political parties in Nepal have attempted to incorporate aspiration of squatter (*sukumbasi*) through different commissions on the other hand *sukumbasi* people also encroach government land forest to give pressure for their settlement. The government evicted the illegal forest encroacher working as a group the squatters would either reoccupy

the area or move to a new forest after eviction team had left the area. The government's cumbersome and episodic measures were no match for the dogged persistence of the *sukumbasis* who were aided by local politicians (Shah 2004:57).

Since 1990 one of the central issues on the political landscape is the increasing prominence of ethnic political groupings making political demands. Tharu community was not able to hold land resources in the past. They were deprived of land resource due to indebtedness and migrant people from parallel district occupied and bought the Tharus' land. The political change also raised the political consciousness in Tharu people where indigenous people formed different political institutions to explore their monumental histories. Tharu people advocated them as "sons of the soils" and collected the aspiration of "our ancestral lands." Nowadays, Tharu community rarely sell their land as a result fragmentation and degradation has been decreased (McDonaugh 1998). Similar to Tharu people, in one way or other, the political consciousness among indigenous and *Janajati* people have increased towards land tenure.

Afore mentioned reviews on land declare that the land policy, planning and implementation activities are influenced, guided and shaped by the activities of international politics, state's policy, and in the cunning nature of local elites throughout the history.

On the basis of above presented ideas this thesis explores the confusion, complexity, contradiction and plural situation on land tenure system in Makar VDC of Nawalparasi District.

1.5 Methodology

Anthropology is a field-based observational science. It places special emphasis on field work and participation methods focusing on

grassroot level human condition, social relation and local institutions, social changes and transformations. Field research is very much an individual experience. What one asks, sees, and experiences in a given community or research is contextual.

After four days of my arrival at Bardaghat, the seven party Alliance(SPA) and Maoist party Nepal jointly announced the four days strike all over Nepal. My plan for field work got shadowed when the strike continued for nineteen days (April 6-24) Local people were urged to participate in the agitation where some people were shouting slogans for land rights to the poor. After replacement of king's regime, it took few days for local people to pay attention on social issues of land ownership.

Doing field work in the new community during the period of people's war is really a challenging job. Whatever different agencies tell is the strong part of this research. The data is verifying from different party at the local level.

Land issue is associated with many social phenomena. The people of Tarai are full of the stories about land. The ecology of Tarai was unfamiliar to me. I found myself lonely, missing home and friends and trying to adjust with local people. My initial contacts with the participants of the study occurred in a variety of ways. I had been acquainted for some time with migrated people from Kaski who helped me to find out the issues. During the initial visit I talked informally, observed, listened and chatted with household members. I also spent time just hanging out in the neighbourhoods of study in an attempt begin a better understanding. The field work was conducted in Nepali language. I lived in a house of Magar as a paying guest who was retired from Indian army. I was scared with

the chance of encounter with poisonous snakes and mosquitoes. Even some people threatened me saying, "This is Tarai; be careful." Likewise, the initial reactions to my pronouncements were disbelief and a certain amusement. But at a certain point I did not give up my task but persisted on hanging around local people and taking my aims more seriously. For example, when there was a conference of community forestry they called me as a guest. Likewise, people often invited me on different ceremonies conducted at that area. In general, I was far more successfully in establishing the relationship with the land poor people than the local elites.

Slowly and gradually the myth of Tarai was dimmed and I found myself as the member of 'this' village. The data for the study come from field research conducted in Nawalparasi. The actual field research period lasted from March 30 to September 10, 2006. Various tools and techniques were used to gather data and information for the study.

I participated in different socio-cultural events of Makar village development committee and taught local children as a volunteer. My field study was stagnated for two weeks due to the local political protest in the name of *Jana Andolan Part- II* (Peoples' Movement-II). The political environment was hot; even a small event can be an issue of big scandal at that situation. Cycle was the reliable vehicle for travelling. I rode on a bicycle and observed physical setting of different communities. The data and information are based on concrete realities of human situation obtained by looking at and listening to real people and real life. As Fricke reports, "I relied on people with whom I had a special relationship . . ." (1986:53). I have kept the names of people, places and events in the text but I have used some pseudonyms to cover the identity as the ethnographic ethics. I kept field notes visiting people while staying in

Dibyanagar. Many people did not like to reveal themselves about land cases during the politically transitional period. Basically, local political leaders did not like to talk about the land issues. Some local poor people showed me all the land related testimonials hoping that I may help them to give justice.

Interview: In the field, before conducting interview, I introduced myself to the people by showing letter from university and told them the purpose of my study. I used situational semi- structured interviews for ordinary local people, community level leaders and office representatives of both government and non- government organizations and agencies located in Makar Village Development Committee (VDC) and district head quarter. Basically with rural housing company, *sukumbasis* (landless people), community forestry, forest office, campus, school, Local Youth Club-members, local leaders, Tharu people. Land Registration and Revenue Office. The purpose was to gather policy and implementation processes as well as the local practices, recognition and perception on land distribution and allocation

Participation observation: I participated in various village level meetings, dialogue, sessions and programmes organized either by government or non-government organizations and agencies to gain concrete realities of this society. I was always eager to listen and perceive peoples' activities that were being conducted around me. My concern was to make sense from these activities because the information remains lively and reliable at local context. Likewise, I observed daily life style of Tarai people, ordinary and everyday events which helped me to synthesize my knowledge that were related to actual social behavior and community events.

Case study and situational analysis method: In order to understand the

complex political power relation existing between process of development and its implementation in social structure, I have adapted case study method. The scope of this method is to capture the essence of the various nature of land development from the point of view of the local people. As per the objectives of this study, I employed the case study method with situational analysis. This method gives the concrete details of people's inner strivings, tensions, barriers, frustrations and forces of a patterned way of life. It also helps to obtain detailed knowledge about strategies adopted by individuals with micro and macro agencies in existing social structure. Overall, the approach helped to furnish and refine information obtained from other sources of data collection.

Key informants: during the field work, I was able to collect data and information from key informants. I chose some people who were regarded as more knowledgeable people about land issues in the Tarai, village history, migration pattern, and development taking place in the area. Local leaders, elected VDC members, Tharu *Gurau*, and representatives of different government and non- government offices located in Makar.

Archival materials: I also used archival materials available related to nature of this study. Various agency reports, newspaper archives, personal diaries, school -meeting minutes, appealing and complaining letters, court testimonials are used. All the translations of archive materials from Nepali to English are mine. These materials helped to depict better sense of local reality.

1.6 Rationale of the Study

Land is every where than man is; most men get their living from the land directly and indirectly. Land obviously means many different things to different people. Barlowe (1958) shows that the word has at

least seven meanings (1) it is space, or room and surface, upon which life takes place;(2) it is nature, or natural environment, including access to sunlight, rainfall, wind and other climatic conditions and including natural soil and vegetation;(3) it is a factor of production in economic process, comparable to labour and capital;(4) it is a consumption good especially when used as a site for dwellings, parks and other, essentially consumption processes;(5) it is a site or location with respect to markets, geographic features, other resources and other countries;(6) it is property of individuals and right and responsibilities of ownership and sovereignty of governments and (7) it is capital in a realistic, economic sense. Along with these all definitions land is a socio-cultural phenomenon where social prestige, political power and legal procedures are interconnected in a location specific context.

Nepal is an agriculture-based developing country; more than 65 percent of Nepalese people depend on agriculture as their major source of livelihood. Agricultural sector contributes about 40 percent of total GDP which is recognized as the engine of economic development in Nepal (Tenth Five Year Plan 2002/03). The total land of Nepal is 1,47,181 sq.km. out of it mountain covers 51,817sq.km.(35%),hilly region covers 61,343sq.km.(42%) and Tarai covers 34,019sq.km.(23%). Similarly, the population distribution by ecological region comprise Mountain 7 percent, Hill covers 44 percent and Tarai by 49 percent of the total population. In the same manner, the land use data shows that the agricultural land (cultivated) covers 3091sq.km.(21%), the uncultivated agricultural land contains 1030sq.km. (7%), forest land consist of 4268sq.km (29%), shrub land include 1560sq.km. (10.60%), pastureland and grassland covers 1766sq.km (12%), water covers 383sq.km. (2.60%) and others consist of 2620sq.km.(17.80%). Similarly the average land

holding is 0.8 percent (Ministry of Agriculture 2008). The report shows that Tarai land has holding of 49 percent of the total population in the land covering 23 percent of the total land. Similarly, the uncultivated land, forest land and pasture land plots are the areas where people exercise their power to gain individual ownership.

In countries' where agriculture plays a major role in the economy or land is only primary resources for modernization because everything is rooted to land. Land security in the hands of peasants is still a burning problem in Nepal. The economic challenges of exploiting or preserving the land resource are at the core of political debate; hence, complicate the country's land use and rules. This study portrays a village land management, utilization and development system in Tarai area. Likewise, the study helps to understand how social composition, power politics, economic system as well as socio-cultural pattern are associated with land issues. In the same manner, the perception and narratology of land issues depicts a power structure of a microcosm.

1.7 Limitations of the Study

The researcher tries to extract the complexity of land ownership issues from the very field. Basically, the research focuses on land issues in Ward No. 2 and 4 of Makar VDC of Nawalparasi district. So, the finding of this research cannot be generalized. Likewise, the research was conducted for the partial fulfillment of Master's degree in Anthropology. Several land ownership problems were observed in the study area out of them mainly the common land problems are incorporated for the research rather than the individuals. The study focuses on social practices happening at the local level in relation to land than rather legal aspects.

1.8 Chapter Organization

This research begins with a political decision making procedure and land ownership problem of Nepal. The chapter also consists of the statement of the problem, objectives and literature review. Chapter two is about land issues in the context of Bardaghat area along with the setting of geography, social structure and party politics of the area. Similarly, chapter three is concerned with historical development of land, re-settlement programme and other development programmes which pursuit people to migrate to the Tarai areas. Chapter four gives some of the crucial land ownership problems where I present case studies. The confusing situation is created when decisions are made without understanding the local realities. In the same manner, chapter five deals with socio-political picture of society, status of land and consequences of land development at the local level. Likewise, chapter six includes the complex situation created by different land allocating institutions at local area. The concluding chapter attempts to delineate basic factors that play crucial role in land ownership along with socio-political changes brought about in the name of poor peasants who solely depend on land.

In this context, most of the previous works have focused on other aspects of agriculture like, technical problem, irrigation, and land conflict at local level. This study attempts to explore the practical problems on land ownership, land status and other institutional complexities and confusions at local level.

CHAPTER - II

THE SETTING: THE PLACE, PEOPLE AND THE ISSUES

It was a hot day of July; I was having tea at Chisapani at Gurung's tea shop near Dibya Jyoti Campus. Local people were discussing about contemporary political issues. A group of local people arrived from the campus and started picking up the fenced poles of the grassy ground. Some of the local dwellers hanging around the local shops attempted to prevent the action. The wire fence was broken no time. The number of people increased and they were divided into two groups: Young people who vandalised the fence were blaming towards the members of Chisapani community forestry, "You all are against the progress and development of campus". In the similar manner the members of the community forestry shouted against the boys with grievances: "Hey! Agents of *bhu-mafia*!² We will not allow you to sell this communal land in the name of campus at any cost."

When the two parties were quarrelling, the cattle heading towards the pasture land were munching the long grass on the open ground. Likewise, school children were playing football. Slowly people dispersed giving their own type of expression about the action.

A local woman standing near the ground said that the dispute is related to land ownership. The grassland was preserved by Chisapani community forestry for the local income but campus boys broke the wall. I attempted to find out the local reality about the action related to land ownership. According to local knowledgeable people, the land dispute between Chisapani community forestry and Dibya Jyoti Campus is about the land ownership. The land plot No. 21 contained 19 bigha.

² Bhu-mafia is a colloquial term to refer a group of people who always seek individual benefit from land resources.

Traditionally, it was to be developed as a 'green belt' area as per king Birendra's wish, after his Majesty king's visit to Western Development Region in 1978. However, local people established Dibya Jyoti Campus in the plot in 1992. Likewise, Chisapani community forestry surveyed just beyond the campus claim land paper provided by district forest office in 1996. When these two local institutions are in constant conflict the case has been registered in the Supreme Court.

After ten days of the dispute, campus administration called all party meeting (*Sarba Daliya Baithak*) where representatives from communist party of Nepal United Marxist-Leninist (CPNUML), Nepali Congress(NC), Rastriya Prajatantra Party (RPP), Communist Party of Nepal Marxist-Leninist (CPNML), teachers from local area, students, leaders from campus, executive members of Community Forestry and general public in number about forty members participated at campus building to discuss about the land ownership. On the very day of the meeting all the representatives were waiting for the arrival of the chairman Dab Bahadur Garbuja of Chisapani Community Forestry. After a long wait, the campus chief sent the peon of campus to call him personally but the peon returned with the news "he is not going to join the meeting." The meeting started with the introduction of the participants and their political affiliation. The chairman of the campus management committee, Rukmangat Gyawali who was also the former chairman of the village Development Committee, entered into the issue. He said:

The campus family would like to welcome all of you. The purpose of this meeting is related to the problem of land ownership between Dibya Jyoti Campus and Chisapani Community Forestry. As we all know that our campus is community-based. It has been attempting to secure the

ownership on surrounding nineteen bigha³ lands as property of campus. Many efforts from campus level to gain land ownership are futile. Day by day new problems are seen at local level regarding the land ownership. Now, the authority of this land is in the hands of Gramin Aawas Company (GAC). The Sukumbasi Ayog (Squatter Commission) 1999 has transformed the authority to GAC. Therefore, we are compelled to develop a kind of negotiation with GAC. According to our former negotiation, the campus will get seven bigha land and six million rupees from selling of the remaining land. The major problem is created by community forestry when it filed a case in Supreme Court appealing that the land is 'green belt' area which must not be sold. In this context, our request to all of you is that to seek the solution.

Makar VDC president of Nepali Congress said, “The campus must be clear about the historical development of land resource rather than blaming the others. We should explore within ourselves why local people are supporting the community forestry in the local case. Local problem should be solved at local level by in depth discussion.”

After Nepali Congress leader a local leader of Communist Party of Nepal United Marxist Leninist (CPNUML) remarked: “First of all we should be clear that whether to join hand with *Gramin Aawas Company* or act alternatively to secure land ownership.”

Interrupting the former speaker, one of the management committee members said, “The activities of the community forestry are always against the campus. The chairman of community forestry claims the land

³ One bigha= 0.66 hectares, 20 kattha= one bigha and 20 dhoor= one kattha.

ownership without any supporting testimonials. A team of delegation has to visit cabinet ministry to gain land ownership.”

Secretary of Parijat Community Forestry, Bardaghat expressed his opinion: “We should not compare and contrast between two local institutions. We have to seek solution with local discussion. For that both institution should not politicalize the land issue.”

A teacher from Dibya Jyoti School said: "The arbitrary situation was created by district forest department. Earlier District Forest Officer (DFO) accepted southern border of community forestry as ‘green belt’ area." The green belt area turned to *parti* land when local people cut down the trees. But the same office later provided land ownership to *Gramin Aawas Company*. Likewise, the campus negotiated with *Gramin Awas Company* without genuine discussion at local level. After the teacher, a member of Surya Jyoti Youth Club said, “The area cannot remain no more ‘green belt’ of highway local *bhu-mafias* will encroach the area at any time.”

When the participants were divided into two groups regarding the land area of campus and community forestry, Shivalal Kandel, political leader of CPNUML went in front of the room and sketched a brief map about the land on the blackboard. He said:

The campus will not achieve ownership by blaming culture nor can it neglect the local realities. We all know that campus needs land ownership for further expansion. The community forestry has been developed later than the campus. We were not serious about the land ownership in the past. I heard that now campus needs land ownership because Indian embassy will help the campus only after securing ownership. Let me speak why local people do not

like to fragment the land of campus area. During the period of Sukumbasi Ayog of 1999 led by Satya Narayan Khanal, CPNML was divided and (I was supporting CPNML) then. One dark night a group of local elites were surveying the land at night with the light of motor bikes. As we (I, Dab Bahadur Garbuja, Bhoj Bahadur, Shree Prasad and others) heard the rumour that communal land which was saved as 'green belt' land is surveyed, we chased the group and snatched the surveyed paper. The captured testimonial shows that the land was prepared in the name of local elite. When the Sukumbasi Ayog did not get local support, it transformed the remaining task of land allocation and distribution in the name of Gramin Awas Company. Some of the people of Bardaghat and Chisapani are deprived due to earlier activities of Gramin Aawas Company. So, before developing further negotiation, we have to assure the local people that the land will not be misused. The cabinet ministry could not solve the case when it is filed at Supreme Court. The only solution is to appeal the community forestry to withdraw the case from the court.

Slowly the participants started leaving the room; the chairman requested them to give the collective solution. The participants formed a negotiation team to discuss about and community forestry.

When the meeting was over, I went to the office of community forestry which is about 200 meters east from the campus building where I asked the chairman (Dab Bahadur Garbuja) about the land case. The chairman said:

Our case in the Supreme Court is legal fight against the process of grabbing local resources by the local elites in the name of local institution. The surrounding land where campus is constructed is in the area of community forestry. Earlier the land plot was jungle which was also declared as the 'green belt' area. We local people are deprived when public lands are sold in the name of local development such as construction of school, temple, campus and so on. Likewise, the Sukumbasi Ayog (1999) has distributed communal land in the name of local elites. Two bigha out of nineteen bigha of this plot was also grabbed by local elite. When the squatter commission transformed right of land to Gramin Aawas Company, local elites have developed a newer strategy to sell this important land. We are amazed why the campus needed land ownership. As far as I know many of the local institutions in Nepal are in the jungle area. We are not against the campus prosperity but land selling will not solve the problem. The 25 bigha Land of Daunne Devi Secondary School was sold for the school prosperity but only local elites were benefited. Similarly the campus and Dibya Jyoti School sold twelve bigha land in the 1990s but the purchasers are now in dual ownership because the land was already owned by individuals. Our aim is to preserve communal land. So far as the ownership of land for campus is concerned we allow campus to use the land but will not permit sale of the plot.

I visited the *Gramin Aawas Company* for the query of land dispute related to campus as well as Community Forestry. The company member said:

The land authority is in the hand of the company; it is no more the "Green belt" area nor is it the land of Chisapani community forestry. The Sukumbasi Ayog has transformed the land ownership right to this company. We are developing a negotiation but the case filed at Supreme Court against the company is worthless. We will take action but we are seeking local support for better implementation of land allocation and distribution.

From the above views and expressions from different local agencies on land issue, it is found out that land issue is the complex social phenomena. It has influenced the social activities. There is much confusion and complexity about land utilization, appropriation, distribution and conservation. The green belt area was transformed to *parti* land after deforestation. It indicates the confusion on land status. Similarly, ownership right, claimed by different local institutions, has questioned on right, responsibility and land management. Similarly, many types of institutions have been involved at local level for land development, management and distribution some of the local institutions are: *Gramin Awas Company*, Nepal Squatter Commission, Makar Village Development Committee, Local schools, Dibya Jyoti Campus, Chisapani Community Forestry, Parijat Community Forestry, Ilaka Forest Office (Bardhaghat) and so on.

These institutions, in one way or another, involved directly in land management activities though legal land ownership right is provided by land revenue office. It indicates that many agencies and various local procedures are adopted before the land plot is given the formal land tenure adopted by the government. The forth coming chapter discusses on

land ownership and local intricacies that are reflected at local level in the context of political instability.

2.1 Introduction of the Study Area

Makar village development committee (VDC) is one of the VDC out of 73 VDCs of Nawalparasi district, situated at the central part of it. It is 77 k.m. West from Narayanghat *bazaar* and 37 km. east from Butwal *bazaar*. Parasi *bazaar* which is the district headquarter lies 15 km. West to it. The East-West Highway pierces village in to two parts. The northern area of VDC is covered by Churiya hill. Likewise, the eastern border is Daunne Devi VDC. Jahada and Jamunia VDC are the southern borders whereas Panchhanagar lies in the western side.

The main occupation of the people (61.1%) is cultivation (farming). The local Khajura *Khola* (stream) and Bisaya *Khola* flow from the north to the south. The water in the george of this stream helps to irrigate the field. Local farmers use electric pump sets for irrigation. People grow rice, wheat, pulses and so on in their field. On the other hand, 11 percent people involve in business, 6 percent people work in private and government services and some people live on labour (agricultural as well as industrial). The total number of household of Makar VDC is 4003 where 3705 (92%) households have migrated from different parts of Nepal after the eradication of malaria and construction of East-West Highway. The total number of male is 10,082 where as female consists of 10512. The literacy percent of male is 81 and 65 percent of women are literate 1662 households do not have legal land ownership though they possess land plots for small huts (NLA 2004).

The northern part is covered by forest where *sal* (*shorea robusta*), *sajaha* (*terminalia tomensota*), *simal* (*bonblex mabaricum*), *khayar* (*akasia cotechu*) and *jamun* (*syzuigium cumi*) are the major species. The VDC

ranges from 115m to 695m from the sea level. The climate is hot during the summer season with maximum 37° Celsius, while in the winter normal temperature is 13° Celsius. The total area covered by VDC is 56sq. km. It covers 2.59 percent land of Nawalparasi district. Similarly, the VDC covers from 27°30'10" to 27°35'11" north latitude and 83° 45'47" east to 83° 49'48" altitude (VDC profile 2001).

The settlement area consists of a campus, government schools, private boarding schools, post office, *Ilaka* forest office, banks, health clinics, veterinary, armed office camp and so on. The area is flat so transportation is relatively easier. The Suspura-Gandak Power House (132k.b.) has electrified the village (Oxfam 2004). The major caste and ethnic groups are Brahmin, Chhettri, Tharu, Kami, Damai, Sarki, Kumal, Thakuri, Yadav, Newar and Teli. The caste and ethnic composition of Makar VDC is presented in the following table.

S.N.	Caste/ Ethnic Groups	Number	Percentage
1	Brahamin	5604	27.21
2	Tharu	3692	18.00
3	Magar	2869	14.00
4	Dalit (Hill and Tarai)	2117	10.27
5	Chhettri	2041	10.00
6	Gurung	1112	5.39
7	Newar	685	3.30
8	Thakuri	320	1.55
9	Kumal	158	0.76
10	Muslim	157	0.76
11	Yadav	69	0.33
12	Teli	35	0.16
13	Rajvar	23	0.11
15	Kewat	15	0.07
16	Other	1297	6.29
	Total	20594	100

Source: Nepal Labour Association 2004

Nepali language is used as medium language. *Awadhi* language is spoken by the Tarai origin people. People has faith on different types of clans,

lineages, and kinships system. Hinduism, Buddhism, and Muslim are the religions practised by the local people.

Historical facts show that the early dwellers of the Makar were the indigenous Tharu people. Oral narrative suggests that Tharus have been living in this area for eight or nine generations. The old Tharu people have no enough recorded knowledge about the past. According to the locals, during the Rana regime they were used as labour to transport timber to India and to trap wild elephant. Around 1920 one of the Rana rulers (Chandra Shamsheer) was happy with local people when they cleared the path of Daunehill of eastern side during Rana's jungle safari in western part of Nepal. The Rana leader was pleased with Tharu and declared that the Tharus of Makar should not involve in *jhara*⁴ system from the very day.

The migration process of hilly people (*pahadia*) accelerated after eradication of malaria in the early 1960s and is going on up to the present. The land reform programme conducted in 1964 narrowed the pasture land of Tharus as well as confined them in a certain territory. The abundant resources become scarce with population growth. Remembering their glorious past, old Tharu women said, "*herauti rahal yaha, chran rahal pahariya log agayel ,ghar banake jagga oragail*" (The area was pastureland but migrants from the hilly region occupied it by constructing lots of houses).

During my field stay, Ganga Chaudhary one of the Tharu leaders said that they have a culture of worshipping elephant as *Gajaraj*. In the past statue of *gajraj* was worshipped because the area was terrified by

⁴ Jhara is a labour intensive volunteer work where people have to participate. The practice is common in rural agrarian society, the concept here is used to indicate whip given by Rana regime to the locals.

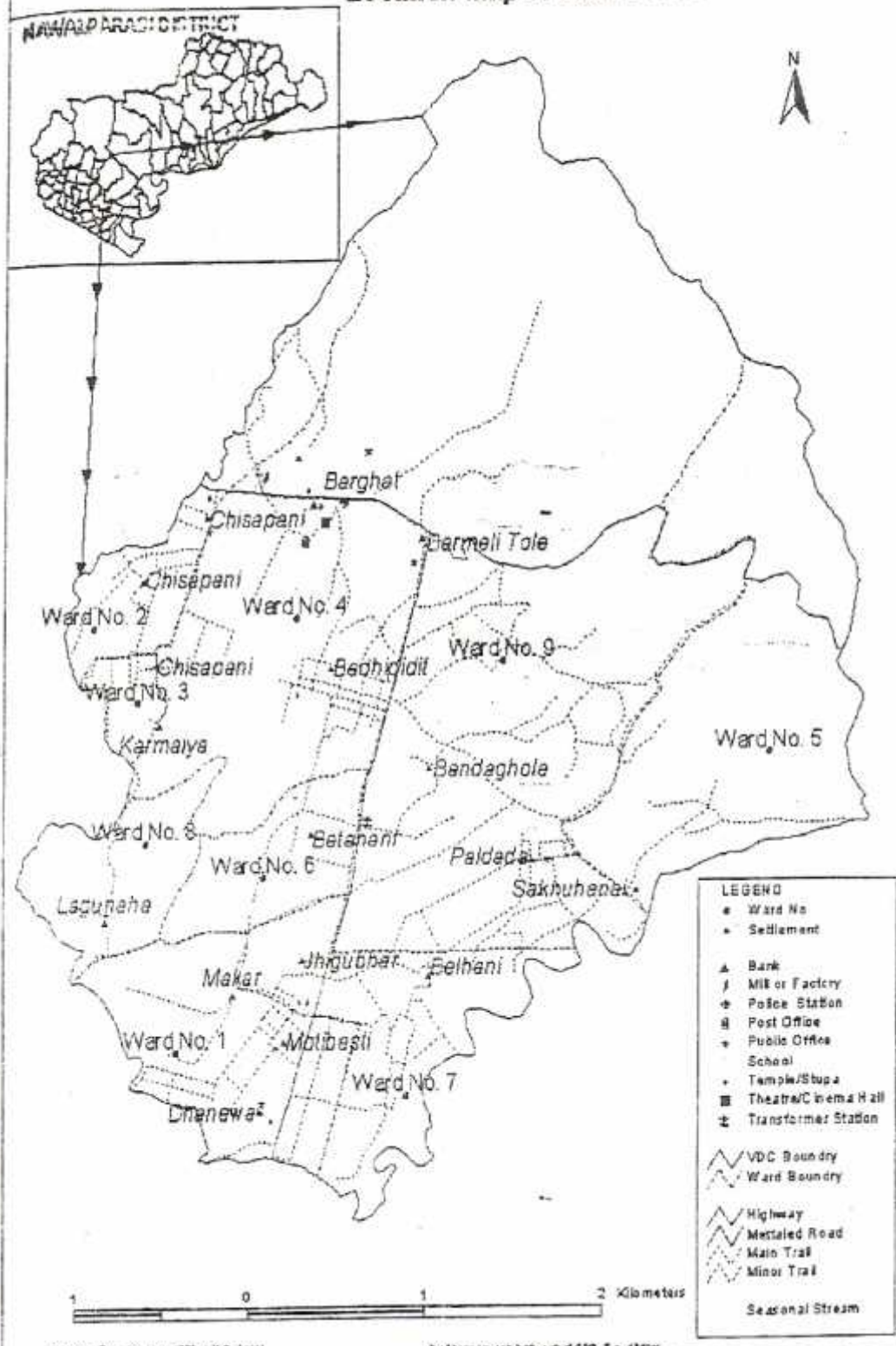
wild elephants but today the culture is turned into myth. However, the meaning has changed when the ecology turned from forest to settlement.

Local people tell different myths about the name “Makar” but many of the local dwellers say that people had to pay *Maha-Kar* (high tax) for the Rana government. The coinage of *maha* (high) and *Kar* (tax) become Makar. Rest of the settlement names are taken from the nature of settlement like *Badhipidit* Settlement of flood-victim in 1983 uprooted by Tinau river of Buttwal area, *Punarbhas* (People who were settled by Resettlement Company). Likewise, *Buddhabasti*, *Barmelitole*, *Tharu basti*, *Musahar tole*, *Dibyanagar* all settlement carry their own surnames.

Many of the political parties have formed their village committee. Local election held in 1999 was won by the members of the CPNUML. Nepali Congress (NC), Nepal Sadbhawana Party (NSP), Rastriya Prajatantra Party (RPP) and CPN (Maoist) and Jana Mukti Morcha are the other political parties.

In the past, Makar area was the route of caravan that visited shrine of *Sita and Balmiki* situated at Tribeni, the southern part of this area. Likewise, it was the route to visit India.

Location Map of Makar VDC



Scale: 1:25,000 (approx.)

Projection: UTM, Zone 48N, Datum: Everest

CHAPTER- III

LAND HISTORY OF THE STUDY AREA

Land and agriculture have played important role in Nepal's socio-economic and political life through the centuries. Traditionally, to implement national policy, all lands of Nepal belonged to the state where the alienation of government land through sale or purchase was a punishable offence. The government allowed the reclaimed and cultivated land of the Tarai and the inner Tarai to revert to their natural state of forests of strategic regions after the Anglo-Nepal war of 1814 and the subsequent peace treaty (Kansakar 1974:25). Makar VDC has its own specific history. This chapter includes the development and settlement of different land management institutions in Nawalparasi district.

3.1 Land Allotment Program in Nawalparasi

Land has remained the principal resource for the sustenance of the subsistence bound rural communities as well as for generating revenues for the rulers of Nepal. It is the principle means of enriching the ruling elites and their collaborators. Land resource in the Tarai area has been playing an important role throughout history. After the malaria eradication, land as a natural resource integrated people socially, economically as well as culturally. Development programmes like Rapti Valley Integrated Project in Chitwan district opened the gate for the migrants in adjacent Nawalparasi in the 1960s. Similarly, acceleration of migration practice was initiated through highway construction labourers. People from the hilly region who were affected by land slide and flood were encouraged and inspired to settle in flat land creating the favourable condition.

Nepal Resettlement Company (NRC) was formed in Nawalparasi district. Their company was established on the bases of the experience of the Kibbuz co-operative settlement of Israel. The objectives of the program were:

to bring fallow land and uneconomic forest land under cultivation.

to reduce population pressure on land in the hills.

to remove forest encroacher from protective forest and resettle them in an organised way elsewhere.

to conserve the natural vegetation of the catchments area of irrigation, drinking water, hydroelectricity and other projects.

to distribute excess land above the ceiling set up the land reform program.

However, the essence of resettlement program was not exclusively designed for resettling tenants. The programme aimed to resettle natural disaster victims but many objectives like modernization and increase of gross national income to promote industries were also intermingled (NRC 1986). The NRC project expanded the programme into two main resettlements in Nawalparasi: Market Daunnedevi and Shankarpur. The Makar-Daunnedevi project office was established at Dhanwa of Makar VDC.

According to NRC report issued in 1986, the company had settled 3975 households in 19 villages including Makar. The early settled obtained between 1 and 1.3 ha. land on the basis of family members but the size of land was decreased later. When the government inspired people to settle in the Tarai area, People from hill as well as southern belt

started living in the fringe of jungle at Makar VDC. All the people migrated to Tarai area could not obtain land. The migrants who were able to get land through Nepal Resettlement Company were categorized as sponsored (planned) settlers.

The government launched different development programmes to promote their lifestyle in the align land. Similarly, land hungry that were unable to get land through the process of NRC were categorized as spontaneous (unplanned) settlers (Upreti 1981). In the context of Makar VDC, highway labourers who worked to build Gaidakot- Butwal area started living Makar area by clearing the jungle. The British people who involved in highway established an office at Bardaghat.

Highway construction at Makar not only opens the gate to migrants of Nepal but also foreign countries like India, Burma and Tibet. About a hundred households of Tibetan Khampa refugees were given lands in Makar area. They were given reward for their acquiesce in agreeing not to use Nepalese territory for their armed resistance against China. These households were also granted one hundred fifty thousand rupees for purchasing tools, seeds and fertilizers and were given Rs 5 per person until their first harvest. Further, they were offered tractors to plough and pump set to irrigate their land (Paudel 1979). It is locally known as Buddha-Basti. During my field visit, many of them have left the place. According to the local people, the area was ecologically unfriendly for them. Similarly, they were scared with the rampant activities conducted by dacoits in 1992.

Likewise, a cluster of settlement in Bardaghat *bazaar* named as 'Burmeli tole' was the settlement of repatriated Nepalese from Burma (Myanmar). They were repatriated due to political change in Burma. According to them, they did not like to settle under more stringent

legislation and religious matters. King Mahendra's visit to Burma in 1966 also inspired them to return to Nepal. Nepal Resettlement Company provided land ownership paper to them without any investigation about their former wealth and property in Nepal as well as the wealth they possessed.

Land was given more value than money at that time because the society was organized around land resource not money. However, some people without land had some other income from various sources of income such as army pensioner, trading money lending and secured land from the resettlement projects. Similarly, the political consideration repatriated Nepalese, ex-serviceman and individuals having contact with the royal palace and higher authorities benefited disproportionately from the land development and resettlement schemes. The local knowledgeable people said, locally acting Nepal Resettlement Company is an autonomous institution but it has to develop a kind of consensus, integration and co-operation with other different government institutions. According to the *Gramin Awas Company* (changed name of Nepal Resettlement company), the land obtaining process is, the company submits a request to the forest ministry to release the specific forest land for a new settlement. In general, the chief conservator office evaluates the request and the survey to ensure the land requested by resettlement would not destroy high quality forestry. If the chief conservator office is satisfied that the criterion of that land for Resettlement Company is met, then the ministry of forest publishes a description and detail of land asking for any claim on the land. If no claim is filed before the deadline date declared by the forest office, the office of the district forest division allocates the requested area to the resettlement company. In fact, it has a choice only in regards to what land it requests. A final decision on land

allocation is made by the chief conservator office of the ministry of forest. Generally, the resettlement company staffs prepare maps of the selection of land released by conservator's office. The agreement made at central level orders Timber Corporation to remove the larger trees in the selected area.

Likewise, the land obtaining process of landless people was also changed. Early dwellers obtained larger amount of land easily but the government of Nepal amended the rule in 1973, where the landless people had to prove themselves as landless from their village panchayat. Then, the landless people had to apply to chief district officer (CDO) including detailed family history and a passport size photograph. At that time many genuine landless people were unable to meet the requirements of the company.

Parallel to the formal settlement schemes, large scale of informal settlements were already witnessed in Makar area as well. Realizing the situation, resettlement commission established other company – Nepal Regional Resettlement Company (*chhetria Basobas Company*). Basically the company aimed to settle landless and freedom fighter against Rana regime (Ghimire 1992). Likewise, the company also rewarded for patriotic people. According to local political leader, the regional resettlement company rewarded 2 ha. land to each household. 115 households were rewarded land in Makar and Daunedevi VDC in the 1970s. Fundamentally this company legalized some lands in Makar VDC as well. In Nawalparasi district the company conducted the activities in the 1970s though it was established in 1968. This company was headed by Lumbini Zone Commissioner of Lumbini Zone (*Anchaladhis*).

In the same manner, land management system at Makar was also conducted by another commission - - Forest Area Resettlement

Authorized Commission (*Uchha Stariya Ban Sudhridikaran Ayog*). The commission legalized the settlement history and nature of land. In Makar VDC the company legalized *Ukhada*⁵ land tenure of 1964. It was a powerful commission guided by Krishna Prasad Uprety. It functioned from 1982 to 1990 in Nawalparashi .

Historically, many types of institutions and commissions were formed to manage the land resources in Makar VDC. Local realities such as dual ownership in land tenure and arbitrary appropriation of land policies and institutional obstacles at present show that the then agencies were unable to solve the existing land problems. Basically more priority was given to private land ownership. There is gap among state's land related institutions like, Land Survey and Measurement Branch (*napi shakha*), District Land Recording Office (DLRO) and poor performance during the implementation programme, manipulation of resources and laws. The legacy of these institutions and their traits are still prevalent in Makar area.

3.2 Land Development in Makar

In order to understand land structure of the past it is necessary to elaborate briefly on the history of the state intervention in Makar area. Historically, the settlement pattern of the study area linked national politics as well as planned development activities. Traditionally Rana regime granted land to the people under *birta* arrangement and offered tax collecting right. This type of privilege was given to the landlords of Palpa and Tanahu as well as some indigenous Tharu (*faujdar*) people. The tax concession was extended to peasants. However due to therisk of

⁵ Ukhada: A form of landownership where real land lords (*Jimindar*) were vested land ownership rights. The land owners collect rent in cash from the *ukhada* peasants.

malaria epidemic diseases and other dangers (snakes, animals, bandits) in the dark forest of Tarai, responses from both landlords and peasants from the hills to land colonization measures remained limited.

In the early days (before 1960s), the rulers of Nepal prevented clearing of the dense and malarious Tarai forest because the forest was an effective defence against the penetration of Indian influences (Gaize 1975). On the other hand, the *birta* holders did not settle in Tarai area. According to Tika Pahadi - - descendent of landlord's family and film star of Nepal - -, some landlords used to come in the close adjacent plains so that they could get to higher ground to sleep before the sunset. During the day time, the chances of mosquito bite and malaria infection is less, while some landlords used to come only during the winter because the risk of malaria was less and harvest is complete. In Bardaghat area Tharu people who were immune to malaria used to harvest sharecropping in *ukhada* land tenure. In that time the ecological constraints prevented people from the hilly region so that consequent lack of manpower remains the essential obstacle to the land clearance and agricultural settlement.

The *Birtaholders* and *Zamindars* initially relied on the indigenous people for cultivation. But as the population was very small and most of the Tarai dwellers prefer to cultivate their own land rather than working for other, this process hampered the Rana government's land revenue activities. In this context the *Birtaholders* and *Zamindars* have to go to border of India to sell the crops to pay land tax as well as to recruit people from India. The transaction was easy to conduct by Indian people because India people were ecologically friendly and immune to the disease of Tarai. The adjacent Bihar land has similar ecology and climate then, Bihari people could easily adjust in malarial area. According to local

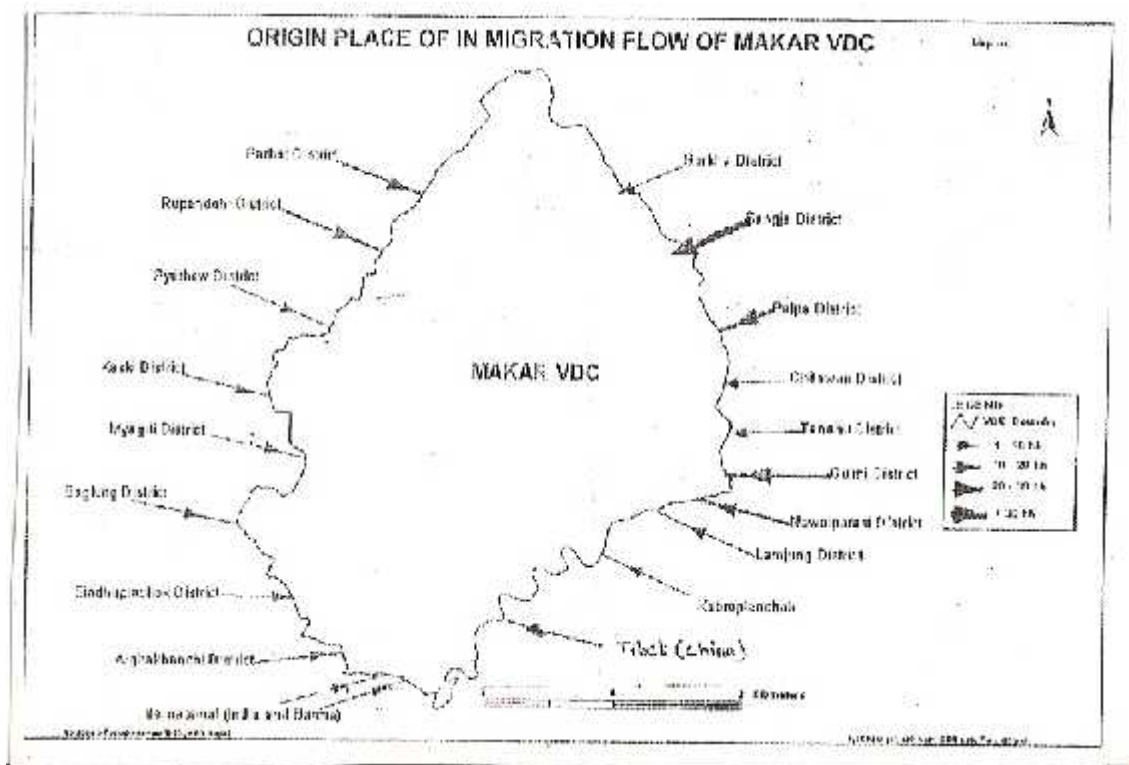
Tharu scholars, Indian people were brought not only as tenant cultivators and farm labourers but in some cases, as farm managers as well. In northern India the population density was higher, so farm labourers were ready to work in Nepal. The intense exploitation of landlords and colonial state of 1930s and 1940s compelled Indian people to enter in the Tarai of Nepal. Likewise, severe harvest failure and prolonged droughts also played important pushing factors for Indian labour (Pradhan 1979:22). The rigid Rana regime confiscated and auctioned *Zamindari* rights of those Nepalese people who were unable to meet government requirements. The process provided land rights only a few wealthy people from the hilly region. At that time land was even offered to Indian *Zamindars* who subsequently acquired permanent ownership rights (Yadav 1984). Due to this process, considerable number of Zamindars settled in the southern part of the study area. Similarly, in 1965 land reform was introduced in Nawalparasi with the imposition of ceiling for land lord of 17 ha. During that time more affluent Indian landlord took advantage and settled permanently to the area and many landless labourers accompanied them in order to maintain employment (Ghimire 1992).

In the 1960s two development projects were started in this area - Gandak water Centre Project (1964- 1971) and the British funded Gaidakot-Butwal section of East-West Highway (1965-1975). Both of the construction activities influenced the settlement pattern of Bardaghat area. These projects heavily relied on Indian constructors and labourers. It was estimated that 6000 labourers were brought here from Bihar and Orrisa in short term contract and were employed for road digging and stone breaking (Fournier 1976; Seddon, Blakie and Cameron 1981). Some of these labourers did not return home. According to local Tharu

people, many people attempted to stay in Bardaghat area but they could not stay here due to strange type of disease - - stomach swelling.

After the construction of infrastructure like drinking water, health post and high productivity of land; Makar as well as most of the Tarai areas of Nepal provided shelter or opened the gate for the people from two ecological zones - - one from the southern part (plain area) - - familiar with the ecological and the other from hilly areas - - familiar with centralized land policy.

In this context, Makar area has been functioning as a "contact zone" (Pratt 1992) where people from different social strata exercised power to accumulate land resource for subsistence. Likewise, it was not surprising that indigenous people at Makar remained marginal; the linguistic barrier and the problems of understanding the customs of Tharu made contact difficult. Nature of Tarai remained a place peril and 'howling wilderness' for hilly migrants in the 1960s. The following chart reflects the major migration flow of people for settlement in Makar VDC.



CHAPTER-IV

LAND OWNERSHIP

This chapter analyzes how individuals and institutions have acquired rights on land. The problem in land recording, management and controlling mechanism where land sale and purchase at local level at present context is problematic; basically communal land has been utilized by different institutions and individual. The claim over same plot of land by different agencies has created confusion, complexity and conflict at local level. There is no scientific way on land tenure system; it is managed through formal as well as informal way.

4.1 Dual Land Ownership: From *Ukhada* Land Tenure to Gramin Awas Company

Dual ownership on same piece of land created by the state-owned agencies is one of the burning land problems in Makar VDC. The co-existence of multiple laws makes the study of land right more complicated than expected. Plural normative orders are found in virtually all societies. Pluralistic legal situations are more prominent in multiracial (multi caste- multiethnic) and multi religious society (Benda Beckmann et.al. 2000) Various forms of legislative and government policies declared and implemented at different time period have created pluralistic as well as dual ownership at Makar area.

In ward No.2 of Makar VDC about 65 *bigha* lands belonged to 32 farmers is under dual ownership. "The Pandora's Box"⁶ of dual ownership opened with *Ukhada Land Tenure Act* (1964). According to the local knowledgeable people, the *ukhada* land tenure system appears to have

⁶ The Greek myth in which a girl named Pandora opens the box full of evils such as jealousy, hunger, death out of her curiosity. So, human beings get the vices and massive confusion or chaos. The term here is used to indicate the confusion and complexity in land.

emerged as a result of the appointment of *Zamindars* to function as agricultural entrepreneurs and land tax collector during the Rana regime. Around 1930, local people denied paying cash tax with the problem of agricultural prices. *Zamindars* at local level appointed other tenants to cultivate fallow land under their authority. The centralized government assigned land to individuals under different land tenure systems to collect revenue at local level. Many migrated Indian and indigenous Tharu people cultivated the land. *Ukhada* land system existed in districts of Nawalparasi, Rupandehi and Kapilbastu (Regmi 1977). The land reform programme realized the tenancy right and bought a new system by ministry of law and justice in 1964. The *ukhada* land tenure act vested land ownership that mitigated the state requirements. According to Mahesh Chandra Regmi in his book *Landownership in Nepal 1977*, the lands were registered in the name of the actual cultivators who were then under obligation compensation to the *ukhada* owners at a rate amounting to ten times the land tax. This means a maximum payment of between Rs. 270 and Rs. 510 per *bigha* (Regmi 1977:112).

In Nawalparasi a branch of *ukhada* land tenure system was implemented in 1964. The tenure system collected the information from *Zamindars* about the actual tillers who cultivated *ukhada* land in the past. Many of the tillers who possessed citizenship and were able to mitigate the state's requirement gained land from the *ukhada* land tenure act of 1964. Some of the local tiller who cultivated land from *Zamindars* could not possess land ownership due to technical aspects like citizenship, recommendation of *Zimindars* for more tillers on the same piece of land (Pererra 1964).

The deprived tillers claim their ownership by filling an *ukhada* form (*Akanda* form) in land revenue office because the *ukhada* land

tenure act 1964 was merged into it. According to local indigenous people, after the land reform in 1964; the government of Nepal surveyed in Nawalparasi. The earlier *ukhada* tenure was measured around the jungle area because the *Zamindars* had given fringe of jungle for them. The survey team prepared the detail map without consulting the land revenue office and land utilization practices at local level. The tillers waited the lengthy process of land revenue office. During this period some of the *ukhada* land was purchased with formal paper by local elites who migrated from the hilly area.

Similarly, Nepal Resettlement company (*Nepal Punarbas Company*) distributed land to settlers. NRC gained land authority from forest department. The company also prepared detail map on the land provided by forest department. Chhatra Bahadur Hamal of Ward No.2 of Makar VDC said, the survey team of NRC did not enter into the jungle where the land of *ukhada* tenants was overlapping.

Nepal Resettlement Company provided land ownership to the settler who fulfill the state requirement and provided land paper. In Makar area many of the farmers did not know that the NRC has overlapped land of *ukhada* tenure. But *ukhada* tenants registered the file against Nepal Resettlement Company. The government of Nepal formed a commission named, *Ban Sudhridikaran Uchha Stariya Ayog* in 1982. It was the powerful commission acted from 1980 to 1990 in Nawalparasi. This commission also provided land ownership to the earlier tenants who were deprived during the period of *Ukhada* Tenure in 1964.

When two government institutions provided land ownership of the same plot to different individual; both of the farmers claimed on same piece of land. The conflicting situation was created. According to the local people, many of the farmers who obtained land from *Ban*

Sudhridikaran Uchha Stariya Ayog where chased and given corporal punishment by the farmers who obtain land from Nepal Resettlement Company in 1990. Just after the restoration of democracy. Since then farmers who followed the process of *ukhada* land tenure were marginalized. The land is used by the farmers who obtained land from NRC and land ownership paper (*lalpurja*) was given for both sorts of farmers. Both type of farmers appealed to Land Revenue Office, Survey Office, and *Gramin Awas Company* (Nepal Resettlement Company) to manage the land property in a genuine way. The problem was not solved during my field stay. I, here, present a case study about dual land ownership.

Case No. 1

Prem Bahadur Malla, 70 years old inhabitants of ward No. 2 of Makar VDC got one bigah and ten Kattha land from Nepal Resettlement Company of Nawalparasi district in 1977 for the six members of his family. The land plot No. 164 is his land. The land was divided into two plots, i.e. ten kattha for house plot and one bigha agricultural plot. In the beginning, he got food and other agricultural trainings from the company. Getting of land after long time wondering as landless person and lengthy administrative process made him happy. Remembering the year of getting land he says, "The area was barren and with large trees but government cut down the trees through Timber Corporation during the election of referendum in 1979". The land was dear to him and he knitted a sweet dream of good future but his dream was shattered when other people claimed over his agricultural land. At first, he could not believe the news of dual ownership because it was the land provided by the government. But the case was real; like him more than 30 peasants were under the problem of dual ownership. At first, he cursed his fate but later he went to the Nepal Resettlement Company to know the reality. The staff of the company gave him the words of help.

Time went on but the case was not finalized. Since 1990 he spent all his money and time by visiting and requesting different institutions and persons. By showing his rough bare foot he said that he came on this land during his mid life. He further said that he became old by doing Namaste to different officers of land institutions like Survey Offices, Staff of Land Revenue Office, Gramin Awas Company as well as different

political leaders. He spent five years in Kathmandu requesting to secure the land ownership. During our talk Prem Bahadur brought the document into a grimy cotton sack, shat the lid of the chest and sat near in side and brought a bundle of papers and showed me a letter of request which he gave to ex-majesty the King, Gyanendra during his visit to Parasi (district headquarter) in June of 2006. He further said, "People like us who earn our subsistence through farming could not get land ownership; sometime I think I will die without the land paper. I got much trouble".

Prem Bahadur Malla is an individual character who represents thousands of poor peasants who are deprived of land ownership. The case indicates the poor land management system of Nepal. Likewise, one institution rarely reviews the earlier programmes conducted by the state and social practices being at local level. Similarly, because of lack of co-ordination and sharing of information among different institutions local farmers are victimized, deprived and collided.

Case No. 2

The case study presents government apathy to peasant and burden of tenure security to the subsistence farmer.

Phularani Tharu (62) lives in a small tin roofed bamboo house that lies just beyond the East-West Highway in Makar-2. She and her husband spent most of their early life as tiller as well as on share-crop. When I met them in July 2006, she started presenting the labyrinth of their struggle to possess the existing piece of land. Phularani and her husband worked for some years in the house of local landlords in Jahada VDC (situated in the southern part). As the feeding mouths increased; the couple decided to occupy some vacant land. The people who were unfamiliar with state land policy and marginalized people at local level rarely could get land in Nepal. Phularani's family is also not the expectation. For the first time, the family occupied the forest frontier land during the election of referendum in 1979.

But they could not possess the plot because when the election was over the government chased them blaming as the forest encroachers. Later on the uprooted and spontaneous peasant were managed by Resettlement Company. Due to the lack of citizenship Phularani was deprived of the opportunity of getting a piece of land. The couple perpetually uprooted and shifted in search of a piece of land of their own. As Phularani was expressing her past agony, she urged her small daughter call her husband who was ploughing in the field. The old man arrived at once and started telling me about the troubles given by the forest guard and forest department. According to him, the forest guard

beat him, broke his plough, and burnt down their hut. The couple tell me their past and present in an assembled manner thinking that I would help them. When I asked about the status of present land, the couple was settled in this land just after the restoration of democracy, at first land administration did not allow but as the people were divided into the party system the local government gradually supported them. Though the family was able to occupy the land, they did not fully rely on it. They have to hear the gossip that the area was under the green field and one day they would leave it. The area was barren that was covered by bush, lonely and under the fear of wild animals. They made the area as farm land with hard labour. Phularani requested land institutions to register the land under her name. The VDC chairman (Makar) gave a recommendation letter of one bigha and five dhoor in the name of Phularani by mentioning four borders. The family, which was scared of dacoits in an align land, was longing for neighbourhood. She started selling the land on the basis of locally practiced chhodpatra. Hill spontaneous migrants and landless people became her neighbours. Slowly and gradually, the area of her unregistered land decreased. Now, she has only five dhoor land. The interrelationship with her neighbours could not remain static.

Local elites also bought her land and started occupying the surrounding land by manipulating the local power. One of her neighbours, Yadav Subedi, registered the land that was bought from Phularani during the period of Squatter Commission (Sukumbasi Ayog). Local elites asked citizenship card of Phularani saying that they will bring piped-water in the settlement. Phularani realized that they betrayed her. The local elites who helped to write the recommendation letter from the VDC local journalist, political leaders and teachers were trying to appropriate the valuable land attached to the highway. Though Phularani did not know why they would taken her citizenship card, other dwellers settled on the same plot of land saying that the elites are scared of other interest group could not persuade her and the elites could manage the land in their name. The case study reveals the repatriating nature of land. The topography of land, local power and informal land transformation process is fruitful ground for local elites. Local elites who are familiar with land ownership process easily registered the land where as subsistence farmer at local level are deprived of land as well as other facilities.

4.2 “We Lost Our Religious Land”

Land also has a symbolic and religious component, particularly where graves, ancestors or earth deities are involved or where religious

laws have to be used to regulate inheritance (Gohen and Shipton). The monolithic concepts developed in central level on resources, property, tenancy has dominated and often distorted other societies, notion of land tenure and its meanings

The centralized land allocation agencies rarely address the socio-cultural impacts on the aboriginal Tharu people in Makar VDC. The government sponsored settlers occupied the fallow land around the Tharu residence. The commercialization of land at local level has slowly marginalized the early dwellers from their parental property. Historically many types of land management commissions were formed in Nepal and most of them implemented the programmes in Makar. Recently, Tharu people are deprived of land when they have lost culturally important land like *Budha-Baraju* and *Dihuwar*.

The religious land of *Budha-Baraju* is situated just beyond the northern part of Bardaghat *bazaar* is registered in the name of local elite. Tharu people worship the *sajha tree* as the holy place of their ancestors. They worship in June before rice plantation and just after harvesting of grains in October. They need Magar priest because until and unless Magar priest lights the lamp, the worship can not begin. According to local people, once Tharu people of Makar area could not get Magar priest, they carried a child of Magar from Palpa and conducted the ritual. They are not sure from when this culture was initiated. Some local people believe that Tharu people regard Magar as their priest to conduct the ritual of *Budha-Baraju* was initiated since the kingship of Mukunda Sen, the king of Palpa. The squatter commission of 1999 registered the land plot No. 566 in the name of local elites. The three *kattha* land was encroached by the commission secretly. Tharu people came to know that the land was registered in an illegal manner. Tharu people chased the

survey team and fenced the area. In the past the land was in the middle of dense forest but it is surrounded by settlement. The local Tharu leader has appealed to the land revenue office and Nepal *Janajati* and *Adibasi* Forum Nawalparasi to dismiss the ownership but concerned sector has not taken any positive action.

Likewise, *Dihuwar* is the another holy shrine where Tharu people of Makar area performed different rituals like offering new grains, marriage ceremony and other life cycle rituals. It is situated in the eastern side of Tharu cluster. The *Gramin Awas Company* distributed sixty *bigha* lands for the squatters and settlers where the company has constructed a park which has occupied the holy land. Though Tharu people appealed to *Gramin Awas Company* to allocate a piece of land for the holy shrine, the Company replied that they could not allocate any land for informal institution like *Dihuwar*. Tharu people expressed their grievances and realized the land encroachment. Because of the Lack of written documents that are needed to claim land ownership. Oral narratives are neglected by the administration. Despite the increasing emphasis on written evidences and the growing role of central government and local politics the voices behind the words still determine what emerges as evidence and what does not. But there are fundamental differences between oral and written claims and between surveyed and unsurveyed land (Connerton 1993). This case demonstrates a link between identity and place, even in community where identity appears to be inextricably attached to the land i.e. the inherent relationship between identity and the cultural land.



(The holy land of *Budha-baraju*)

4.3 Local Elites Turned Communal Land as Individual Property

Buddhi Prasad Uppadhya of Makar VDC-7 got three bigha lands as a political sufferer in 1977 from the government of Nepal. He was alone, unmarried and his birthplace was unknown to local people. Old Buddhi Prasad Upadhaya spent last days of his life asking food on the street of Bardaghat. When he was on the verge of death, some of the local volunteer people took him to Butwal Hospital. Unfortunately, he died on the way to hospital. The dead body was buried on the bank of Tinau River by Krishna Chaudhary of Makar on 11 April 1995.

After his death local people paid attention towards his property where local people were doubtless that the property would be communal land as Buddhi Prasad has been living at Makar since 1955 without the successor. During twenty years period he was contactless with his kin group. The VDC of Makar published a notice with the dead line of 35 days to claim the land plot No. 24 situated in Ward No. 6 of Makar VDC.

After a month of notice, villagers came to know that the land has been sold by his brother. A person named Bin Prasad Gautam sold the land to Laxmi Pahadi of Sunwal VDC of Nawalparasi in a minimum price; local villagers heard the rumour. They did not believe on the constructed reality of the land selling with the help of VDC chairman. Makar VDC assembly suspected on chairman and local elite so, a committee was formed to find out the reality. Basudev Adhikari, Kul Prasad Sharma and Prem Narayan Chaudhari were the committee members. Village assembly provided the rights to investigate to find out the reality about the land case related to Buddhi Prasad Uppadhya. Prem Narayan Chaudhari left the team but two members initiated their task in April 1996. The team submitted its report in village assembly after a month's investigation.

According to the report, the person who claimed to be the brother of late Buddhi Prasad Uppadhya was not the real brother. The team did not find any supporting fact to prove Bin Prasad as the brother of Buddhi Prasad Uppadhya. Bin Prasad is the fraud brother constructed by the corrupt bureaucrats of Khanar VDC of Sunsari district with the help of testimonials provided by Makar VDC. The citizenship and land testimonial with *teen pusta* (three generation) were frauds that were submitted to obtain the land. The real testimonials recorded in district administration office of Sunsari district shows that Bin Prasad has taken new citizenship just after the Buddhi Prasad death. His caste is 'Chhetri', the marriage certificate of Bin Prasad son proves it. Similarly, the report found weakness of VDC chairman Rukmangat Gyanwali, district vice chairman Sampat Kumar G.C. (Surya Bdr. G.C.), Nanda Raj Gyanwali, Dil Bahadur Bhattarai, Pritam Shahi. These people had helped to construct fraud testimonials. The report was submitted to the VDC

assembly and urged VDC to initiate the process of land ownership dissolve.

Slowly and gradually local elites tried to elide the land case of Buddhi Prasad. VDC assembly was also divided into two parts when CPNUML was divided into CPNML and CPNUML. According to Basudev Adhikari, Makar VDC members did not pay any attention to punish the people who were engaged in the land case. Basudev himself filed a case in district court of Nawalparasi making Bin Prasad and Laxmi Pahadi, VDC chairman (Rukmangat Gyanwali) as the opponent. The powerful elites join their hands and lost the case. Basudev Adhikari fought the case until he loosed the case in the Supreme Court. Local people could not threat Basudev Adhikari because he was the member of CPNML and his brother was the strong supporter of the then under lying Maoist party. When the Maoist people knew about the case, they took more than half million rupees as the donation from those people who were involved in land transformation process.

This case indicates that an interested group easily can construct reality and manipulate land ownership when there is corruptive bureaucratic system. Likewise, the legislative body of Nepal pay much attention on individual case rather than institutional. Poor recording system, lack of coordination among the bureaucratic system of different districts, miss utilization of power at local level to appropriate communal land by local elites and soon are the common examples in Nepal.

4.4 From Land Use Right to Land Development Right

Dibyanagar, a settlement cluster, has its own land history. It is a newly established settlement and the name 'Dibyanagar' is taken from Dibyanagar secondary school situated just to the southern part. The 13

bigha land of this area was planned and sold by the school management committee of Dibya Jyoti Secondary school in the 1990s.

In the past the area was covered by thick forest when the East-West Highway was constructed by piercing the area in 1970s. Migrants from surrounding areas started occupying the area of road side with slash and burn practices. The illegal land occupants were managed by Nepal Resettlement Company in 1977. The people were transferred at Chisapani area of Ward No.2 of Makar VDC. Then the land plot became vacant. Local people open a school at Chisapani, the school was managed with the surplus derived from grain product of this area. Dibya Jyoti School managed the land and morally regarded as school's land. The fallow land did not remain as communal land for more years. In 1985 a dozen of local elites were able to collect the essential testimonials with the help of private land. The border land of this plot belonged to Lokai Chaudhary who helped the local elites. According to the Land Revenue Office, individual can claim any *ailani*⁷ land by mentioning the surroundings four borders (*char killa*). There is fluid demarcation if surrounding land plots are communal or uncultivated (*parti*) as a result the land owner can occupy the fallow land attached to his/ her land. Similarly, the corrupt bureaucrats helped them to appropriate the large *Aath number parti*⁸ land. When local people knew that the land managed by school was registered as individual's property, the school management committee decided to write Land Revenue Office to dissolve the land ownership. Similarly, local people urged the police station to arrest the people who conducted the malpractice. The local elites were arrested and kept in Bhairahawa police custody for one year. Thereafter school managed the land plot

⁷ Ailani is unclaimed land which is owned by government

⁸ *Aath number parti* is a type of fallow land neither in total control of government institution nor belongs to an individual.

where local people planted rice in sharecropping. The school management committee filed the case of illegal land registration in district court. But the case became complicated when school management committee not included one of the opponents name in the file. The land case between school and local elites went in the Supreme Court when school management committee lost the case in both of the courts.

The political change of Nepal in 1990 helped the elite to link the power with political leaders. Local elites were recognized as political sufferer of panchayat system, the then Cabinet ministry of democratic government led by Nepali Congress in 1995 urged the supreme court to postponed the case so that the opponent were able to regain the land. According to the local people, most of opponents were local political leaders from Nepal Congress. On the other side, the school management committee headed by CPNUML decided to sell the land forcefully to the local purchaser. Though the land was registered on the name of local elites the management committee decided to confiscate the land to take political revenge at the local level.

The school committee prepared a detailed map and planned the area for homesteads. More than two hundred homesteads contained of ten *dhoor*. House plots were allocated and the minimum prize also determined. School management committee provided a card for the purchaser that consists of nature of land, its size, surrounding area and purchaser's name. Local people and their kin group bought the land plots. The purchasers were given the words of land security, responsibility of ownership paper by the school management committee.

According to the land purchaser, the school was able to earn more than eight million rupees through land transaction. Many of the purchasers did not know that the land belonged someone else than the

school. When local people started to construct houses on the land, the land owner attempted to stop them. Landowners became powerless at local level because they registered the land through malpractices and local people called them *bhu-mafias* and the case also became a political substance at the local level. Though, the landowner could not block the act of house construction, they were strong in legal process. A kind of chaotic situation was created when school management committee could not provide land ownership paper to the purchaser. The purchaser formed a pressure group to demand land ownership from the campus. On the other hand, school management committee could not resolve the land right from the Land Revenue Office. The then underground Maoist party urged the land owner to pay ownership paper in the name of local dwellers. The threat from Maoist party helped to negotiate school management committee, land owner and land purchaser. According to the negotiation, landowner would achieve 25 percent of amount as per the land valuation from the Land Revenue Office. Some of the local dwellers are able to gain registration paper through the negotiation .But many of the local dweller could not secure the ownership right due to the absence of land owner and lack of amount that had to be paid to the land owner.

Local people who were unknown about the land case expressed their wrath to school management committee as “the school betrayed us.” On the other hand, local elites benefited from the land transaction. The school management committee had promised to develop necessary infrastructures like clean drinking water, electricity and construction of road with the purchaser. So, the committee performed different activities to develop the infrastructures they demanded to Hridayesh Tripathi the then supply Minister to provide electricity to the villagers. Likewise, drinking water programme was constructed with the help of Rural Water Supply

and Sanitation Fund Development Board (RWSSFDB). Even now the development of this area fulfills the interests of local elites.

Local land resources are not only utilized and appropriated for individual use. But local elites use land resources to take political revenge. In a surface meaning the land is utilized for the betterment of local institutions but in reality an interested group at local level utilizes the land resources for their own betterment. The informal right without their clear definition ambiguously understood by the whole community is not sufficient to provide order in absence of formal institutions where the community is diverse and heterogeneous (World Bank 2002).The case indicates the local land confiscation and power relation attached to land at local level.

The land tenure is always more complex than simply distinctions between public and private. The confusion is created when use rights (access for residence), transfer rights (possession through inheritance, buying and selling) and administration rights are not properly adopted.



Settlement area managed by local school and campus

CHAPTER- V

LAND STATUS

Basically, productive land status determined on the basis of soil fertility. Along with the changes in morphological status from barren land to productive land, the land status always is not determined through the productivity but also through the social activities. The existing land tenure system and land status is difficult to be defined because land tenure is so intimately linked to other facets of society and culture. In local context, there is no clear definition about communal land, *parti* land, government land and so on. The changes in land tenure system with another often entangles or superimposes create uncertainties manipulate wealth, powerful or cleaver (Dawns and Reyna 1988). There are legal arrangements to manage the land status. But there are a number of short comings but they are often ignored in practice. Unregistered lands are very difficult to be arranged and managed. Land ownership issue becomes a local concern to press the government to introduce suitable policies and laws. This chapter focuses on how land status is being changed at the local context.

5.1 Profit Seeking Settlers Neither Proletariats nor Peasants

During my field stay in Makar area, the most popular gossips were about land. The word '*Bhu-mafia*' is a common gossip among the dwellers. *Bhu-mafia* at local level is a group of powerful local elites who always seek individual benefit in every social phenomenon. *Bhu-mafias* are not guided by any political ideology or do not concern on class consciousness. But local people easily blame the elites who survive on the surplus from land transaction. They play important role in local power dynamics. The local interest group equally influences the local politics and implementation of government programmes. According to the local

people, Nawalparasi is a fertile land for *bhu-mafias*. Most of them have strong political clout.

Land is the important resource and each individual seeks benefit from it. The government programmes conducted to allocate land for landless people have provided good platform to *bhu-mafias*. The pretenders who claim themselves as *sukumbasi* in the eyes of bureaucrats are the real landless people. They possess other wealth, business and have a regular source of income such as army pensions, employment, job and so on. Some of the *bhu-mafias* are able to possess the land resource because they maintain personal and other forms of contacts with government officials and other senior politicians and Mps. These connections are crucial in terms of security registration of their land plots or at least in avoiding frequent evictions by the department of road.

The control and the use of unauthorized forest areas by wealthy and powerful groups (together with poorer ones) was a common phenomenon in the past but now a days these groups manipulate the local resources in the name of local institutions. Lack of recording system and network among government institutions, some migrants pretend themselves to be landless though they already possessed lands elsewhere. Likewise, another group of migrants/settlers are those people who are really landless but adopt it as profession and immediately sell the obtained land to professional landless. Both types of people are engaged in land encroachment to make quick economic gain by taking undue advantage of the ongoing process and the transitional situation of the state. There is no scientific measurement about *sukumbasi* and implementation strategy under what condition people will be *sukumbasi*.

It is a well established fact that in the very early phase of settlement life was extremely hard and rugged as it involves dealing with

the wild environments, clearing the forest and converting it into the farmland. Settlers faced chronic food shortage and many hardships. Now a days, the migrants are not ready to bear this kind of hardship. They tried to obtain lands that had been already reclaimed or land was relatively easier to bring under cultivation. To get free land in the Tarai is a myth now. Local elites are active to appropriate communal and fallow (*parti*) land in the name of social institution. Similarly the circumstances of land purchasing is grown up due to the armed conflict in different adjacent districts of Nawalparasi as a result the affected people forced to migrate and the land sales and purchases become quite common. Much of the land was sold without any legal titles. Because of much cheaper than legalized lands the buyers are apparently willing to take the risk associated with such purchases. The only piece of paper that the buyer received from the seller is a *chhodpatra* an unofficial proof that the former occupier willingly relinquished the land. As the demand for land continued to accelerate due to infrastructure in this area, local *bhu-mafias* conducted different types of malpractices to appropriate lands by establishing a kind political affiliation to the politicians and concerned bureaucrats.

5.2 Land Encroachment in Makar Area

The settlement pattern of Makar is heterogeneous. People have migrated from different geography, culture and socio economic background. Though the main occupation of the dwellers is agricultural production; the farming practices, family composition, settlement pattern has been changing day by day. As the population increases the land value of this area, basically the land along the highway is increased. A person passing through the village easily visualizes the settlement of landless people in the fringe of jungle and settlement. Basically, the encroachment

on communal land is conducted at the time of political transition. It is also conducted in kinship basis; the local people (earlier settlers) call their relatives and clans to settle in Tarai land if they are in difficult situation at their home places. Local dwellers play the role of information as well as the role of catalyst. According to Krishna Prasad Paudel (Sastri), who is the one of the earlier settler in Makar area from hill side, many hill people able to occupy land in the area during the political crisis: in 1979 (Election of referendum), 1990 movement for restoration of democracy and after 2003 (non-functionalised of local bodies) due to armed conflict. In this sense land encroachment at local level directly influenced by political crisis were both insiders as well as outsiders are involved.

The local government body at village level has not elected since 2001. Local people do not speak against the encroacher unless individual land is appropriated. The side of Bisaya *Khola* and outskirts of Bardaghat *Bazaar* well as fringe land between the settlement and jungle are the some encroachment areas.

A settlement cluster at Marchaghola where people constructed houses made of reeds, forest twigs and bushes. Most of them occupy less than five *dhoor* land which is unmanaged. But during my field stay, most of them replied that their job is farming. Local people recognized them as squatter and do not oppose to the land obtaining process. The encroachment in the fringe belongs to the state and recorded as jungle in the survey record. But the gradual process of deforestation turned forest land into pasture. The pastureland again changed to communal land and individual. The local encroacher initiates thinning of forest by cutting the bark of trunk and cutting the head of the trees. The forest guard could not charge for cutting the bark or the gradual process is not well noticed in

the eyes of administration. When the trees turn to dry forest office itself remove the trees and sell to the Timber Corporation which is beyond the Bardaghat chowk. When the big trees are removed local people use the area as pasture land. The convention is that if some people are able to stay few years on that land they claim their right over it. During the armed conflict period the *Ilaka* Forest Office and VDC could not remove the settlement.

Along with individual effort with some political linkage local institution like school, temple and campus are the agents of land encroachment. Morally local people do not complain about land encroachment of religious institutions. The fifteen *kattha* forest land is covered by the school named *Brahma Kumari Rajyog Sewa*. In the initial stage in 2001 the area was fenced and developed as a meditation centre. The local people go for the meditation in the morning. The school committee managed some of the local elites to travel Mount Tappu of India for meditation. With the support of local elites slowly and gradually the institution started to build the concrete building in 2005. The near by Forest Office attempted to check the building construction but The *Ilaka* Forest Office was deprived when the land paper was given by VDC chairman for the utilization of land. According to former VDC chairman, the land was given to prevent from the local encroachment. But staff of *Ilaka* Forest Office said that the VDC chairman has no rights to provide land ownership of forest land. The interesting fact is that, on the very day of the building inauguration in 2006 the school blew a loud speaker towards the *Ilaka* Forest Office and said, “we were seeking a piece of land his Majesty *Baba* has provided us this beautiful plot of land,” in the same manner, a large area of forest is encroached by Buddha statue. Local people established a Buddha statue on Buddha *Purnima* (Birthday

of Lord Buddha). Likewise, other smaller temples can be seen in the forest fringe.

There is no reliable data how much forest land has been encroached. Apart from the local initiation, large number of government forest land has surveyed in the name of squatter commission by the centralized government. The aboriginal Tharu people and their cluster and pastureland have been narrowed down. Decreasing of pastureland and fragmentation of traditional lands, Tharu people have begun to adopt newer type of task like business, abroad going and so on.

The poor landless people are subjected as encroacher but ultimately the resource is enjoyed by the local elites. The construction of small cottage is initiated by landless people. They are locally known as *sukumbasi*. The group of *sukumbasi* people protest against the government agents to secure the land plot they occupied. They fight until and unless the political leaders do not accept the land in their own name. When the government provided them land paper, the encroachers were shifted to the other areas. Ultimately the land goes in the hand of local elites. Local powerful people purchase the land or they become mediator between *sukumbasi* and land purchaser of providing land proper. So that surplus money is enjoyed by them. Local elites also give words to the purchasers. The locally powerful and rich people have benefited from the pluralistic land management system.

5.3 Where have the Darai People Gone?

The government of Nepal has provided land for the displaced people from the decision of central government. Darai people (ethnic group) people of Tanahu district were displaced during the development of Byas municipality in 1990. Byas Municipality and political leader

promised to provide land for the 21 households in Chitwan or Nawalparasi district.

The displaced Darai people waited for the land from the government living in the marginal land of the municipality. The lengthy procedure of land allocation was delayed. When Tam Bahadur Darai was elected as Vice-Mayor in Byas municipality in 1999, he initiated the resettlement process of Darai people. Ram Chandra Poudel and Govinda Raj Joshi, central member of Nepali Congress Party, also helped them.

According to local knowledgeable people in Bardaghat, the Darai people were given choice to select the land for their settlement. It is said that Darai people prefer the area just behind the armed police force camp of Makar VDC. The 32 *bigha* fallow lands were registered in the name of twenty-one Darai households. On the other hand, assembly of Makar VDC had allocated the same plot for the industrial area. Local people did not like the centralized decision and protest against the land giving process. They constructed some cottage to prevent the area but their attempt was futile in front central decision. Paper at Land Revenue Office named of the Darai. Darai people who obtained land paper never appeared on the land. But after a few month local people heard that the land has been sold. Local people expressed their wrath to centralized leader and their agent at local level. The former VDC member said, "Our leaders in Kathmandu still think that Tarai has abundance land." The situation has created some controversial situation at local level. Some of the local believe that the land is transformed in the name of local elite. Local people did not see present of Darai people on the land. Now they have been asking "where have the Darai people gone?"

5.4 Changes in Land Use Pattern

In case there are houses on lands which can be converted into fields they shall be shifted elsewhere, irrigation canals shall be constructed and the field shall than be cultivated (Divya upadesh by king Prithavi Narayan Shah).

The flat geography of Makar VDC has different basic infrastructure and growing *bazaar* of Bardaghat area has attracted many migrants. The east west highway functions as the pulling factor for the new people. The area is near to India preferred to settle in the area. “The area is suitable for our offspring” migrant women from Syanja district said that the local traditional market on Friday and growing infrastructures have fulfilled the necessity of market. The VDC has allocated a plot of communal land for the *haat bazaar* (local market).

Relatively the migrated people have dominated the local market. They also enjoy the newer technology in farming. The old rural land use practices cropping pattern occupational structure and land ownership have been changed. The settlement pattern of the village is denser along the highway.

The area is like the nascent stage of urban area. There is no point where rurality ends and urbanity begins. The reality is more a continuum rather than a dichotomy. The area may be visualized as quasi- urban and quasi rural characteristics which I prefer to say 'Ruban' area. But government administration is unable to define such places under their jurisdiction. The land is influx and urbanization is in operation.

In 2001 Makar VDC jointly with Jahada VDC situated in the southern area appealed to regional development office to declare the area as municipality. The appeal was cancelled by central government with

political reason. According to VDC member of Makar, Nepali Congress party postponed the appeal and urged the committee to include Daunnedevi VDC as well. The local politics between Nepali Congress and CPNUML delayed the task. According to local autonomous government Act 1999, government of Nepal can declare municipalities on the basis of its geography, population and its social diversity, a fixed territory as well as having all the infrastructure of development like electricity, road, drinking water and communication with the minimum population of twenty thousand in the context of Tarai.

When the land value is increased a group of local elites are active in land appropriation activities. The fertile land has been developing as household in ward No. 4 and 2 of the VDC. Slowly the consumption patterns of indigenous people have changed. During my field stay, I saw a barter practice where a lady came to the local shop with two kg. wheat and took two noodles in turn. The existing realities show that Makar village has all the essential requirements. The existing situation of Makar shows that urban area in Nepal is declared on the basis of political administrative level rather than on functional level. The migration pattern and construction of household has turned the areas as foundation of urban as connection of Nepal's urban development.

CHAPTER -VI

LAND INSTITUTION

The government of Nepal has its own bureaucratic institutions to manage, distribute and control the land at local level. The study at Makar area reflects that the role of the formal government institutions is minimized by the local institutions. Local institutions as well as government institutions are working as land management and development institutions. This chapter includes the ownership problem created by the institutional complexity.

6.1 Local Land Politics in Land Allocation

The *Gramin Awasiya Company* (Dhanewa) branch legalized about four hundred family who were already settled in the area. Likewise the company also provided land to the landless migrant people. The sixty bigha land of ward No. 4 was used to settle the people from different background and different situation.

The company formed a committee where Civil District Officer (CDO) District Forest Officer (DFO), Superintendent Police (SP), Urban development engineer, local political leaders, women development officer, VDC chairman and participants from local institutions were included. The committee provided the suggestions and help to Gramin Awasiya Company to implement the program properly. The duration of the committee was until company would complete the land allocation process. The committee formed at Makar decided to distribute ten *kathha* land on the basis of coupon system. As per the agreement with the local homestead were divided into *ka*, *kha* and *ga* on the basis of topography and value of sixty *bigha* land.

The land plots around the East-West Highway were categorized under *ka* and the cost was determined Rs. 1500. The second category was named as *kha* that was the land just beyond the highway its prize was Rs 500. Respectively the marginal lands were categorized under *ga* and price was Rs.50. The presented price was only for the earlier dweller. Similarly, the coupon was divided into two categories- - even and odd number. According to the negotiation among settlers and company, only the odd numbers were allocated for the early dwellers on the other hand and even numbers were kept under the authority of the company.

When the land allocation programme was initiated, landless and local people obeyed the rules and took the land on the basis of the requirements of the company. Basically these people selected the land of third category and shifted from their earlier settlements according to the coupon system. The local elites and powerful people did not like to move from their settlements from earlier area. The company urges to obey the rule. In this context there was a clash of interest between the company and local elites. Local elites protested against the company shouting the slogan'' The company is corrupt therefore it should be removed''. The *Gramin Awas Company* could not implement the programme without the co-operation from local level. As a result a kind of negotiation was developed.

According to local knowledgeable people, the company changed the detailed map more than ten times with the pressure given by the political leaders. Likewise, the valuable land along the roadside was given in the name of powerful people. The even number house plots were sold to the local elites and new settlers who paid higher price. Local elites involved in land business initiated by the company. The company staffs also earned huge amount of money by selling the valuable land. Some of

the house plots were given to political elites when rich people when political leader certified from central level. According to Prakash Biplabi, the company did not function as it promised earlier the local people. In the detailed map the size of road, bridge, stream size, vehicle parking area, Green Park, rest place (*chautari*) and so on is minimized. The infrastructure were constructed in a poor manner, the size of the road was narrowed from eight foot to six foot. The construction of road, bridge and control of local stream was not constructed properly. As per the contract, the company had spent 25 percent of total income to develop the infrastructure at local level.

Local people in co-ordination with local Surya Jyoti Youth Club wrote to the Commission for the Investigation of Abuse of Authority (CIAA) to investigate about the activities of *Gramin Awas Company* (Makar). According to the local youth club, CIAA did not investigate the land distribution activities of the company as per the request of the local people.

Local elite and powerful people are able to gain ten *dhoor* but voiceless common people were compelled to adopt less than eight *dhoor*. Local powerless people were forced to leave the land that was used for more than ten years. A woman repatriated from Burma (Myanmar) said, “The company has done great injustice to us we are dispersed in many areas”. Many of them exchanged the homestead to minimize the unproductive expenditure of transforming the cottage or reconstruction of the houses. On 12 February 2002 the company building caught fire at night. It had damaged the room of the building and some important testimonials .The company building caught fire at night. It had damaged the room of the building and some important testimonials. The company suspected on the then under ground (Maoist) party, some of the local

people blamed on the company staff. According to them, the company staffs themselves burnt down the building to hide their corruptive activities. The incident became a local mystery. The company has shifted the office in a hired house near the bus park of Bardaghat.

Local people have many complaints about the company. Out of them local people frequently talk about the land case of “Kukurmara” at local tea shops. According to the local knowledgeable people, The Company settled about five dozen households in the 1980s. But the settlers left the area due to ecological constraints. They shifted to Sardikhola of Nawalparasi. The company again distributed the same plot of land of Kukurmara to the new settlers. But the company staff made a fraud paper from the dweller that the land was purchased from earlier migrants. The land was sold to other landless and migrants people. In the same manner the company develop infrastructure like road, bridge, electricity, garden and so on. The Tharu cluster which is the early settlement of this area is deprived from these facilities. Tharu people expressed their wrath to the Company, “The Company is just like a new landlord for us”. Similarly, the analysis of the settlement pattern and household construction represent the local power in land and social hierarchy in Makar area. The Gramin Awas Company developed a kind of strategy in land allocation (even and odd number coupon system) where locally poor people either left their homestead of market centre valuable land of due to their indebtedness or hegemonic power performed by local elites.

6.2 Squatter Commission whose Agenda?

Squatter commission (*Sukumbasi Ayog*) is the government strategy to reduce poverty by providing land to the landless people. In 1999, Nawalparasi district was also recorded under the squatter commission

where Satya Narayan Khanal from Nepali Congress party was the chairman. When the commission task was over, the aftermath situation of the land distribution has left many local conflicts. The commission was dissolve when it could not conduct the task properly in a harmonious way.

According to *Sukumbasi Ayog* 1996, the land of stream belt, green belt, jungle, culturally important on, institutional land and land under process of registration should not be distributed. The reality is hidden into rhetoric; most of the local elites with strong political clout registered the government owned land. Local people of Makar VDC have many examples which are related to mal practice land registered. A land plot northern to London Bridge at Makar VDC is registered in the name of local politicians. The local elite from all parties, class and ideology do not hesitate to appropriate land resource in their name. According to some documents obtained here, the local elites also went on collecting large amount of money from the household of local people before the *Ayog* actually began the task in Makar. Likewise, 'green belt' area along the highway leading to Butwal 35 km. west from here, stream belt of Bisaya *Khola*, jungle area of beyond the bus park have been registered in the name of local elites. According to locals, "the communal land all around the village are either encroached by land less people or registered by powerful individuals." When local people complained to the Commission for Investigation of Abuse of Authority (CIAA); at the beginning the CIAA showed some concerned but later on it also went without any positive result. The then underground Maoist *Jana Adalat* (Peoples' Court) taken up the matter seriously. A local person said that land related incident and mal-practices helped the Maoist party to take the political

revenge. In some cases they collected donation for party and left the cases later.

On the other hand, the land plot given by the squatter commission is very small. Land obtained people could not sustain their lives by the production generating from the land plot. The Musahar people at *Sukumbasi tole* were given three *dhoor* lands which is only enough to construct the small cottage if the poor people caught by a diseases there is no alternative except selling the land with informal paper. The land could not be sold formally for ten years. The chaotic situation is here “whether they should allow to sell the land or not”, a local leader said.

The government policy of reducing poverty without structural change is just an agenda to silence the voice of voiceless people. In reality squatter commission is formed to develop a political channel rather than addressing the real genuine problem of squatter.

CHAPTER-VII

SUMMARY AND CONCLUSION

The ethnographic research was conducted in Makar VDC of Nawalparasi district. The data were collected by implying anthropological methods where participant observation is used. In connection with land issue the research incorporates the historical, ecological and socio-political characteristics of the study area. Equal attention is given to the situation of land disputes, its relation to the vested interest of local elites and exercise of power eventually. The chaotic condition created by political instability has mocked at the existing rules in land tenure. Plural situation on land ownership transformation has nurtured a fruitful environment in land management and development. The study analyses the interrelationship of local people to land resource. Local people visualized and defined local resources with different socio-cultural meanings. The analysis of social structure reflects that the individual and local institutions are seeking different types of power to be benefited from the land resource.

Land is the cornerstone of social stability and the focus of intricacies of complex of economic and social relationship that determines the position and status of each individual in society, especially in rural areas. Tarai land has been a political slogan of land distribution to the landless, flood victims, disadvantaged and settlement about the desire to look after the poor and needy, distressed groups. The resettlement policy has established to make arrangements for granting land in the Tarai to those people through lengthy and elaborated procedures to be resettled. It is not surprising that many people pretended themselves to be landless or victim of natural calamities and occupied forest lands of the Tarai. The early migrants were able to gain enough land but recent

migrants were given only minimum land. This situation indicates that Makar area is in the near landless situation. People claimed themselves as farmer even if they do not possess minimum land for their subsistence. On the other hand, landless people who are regarded as *Sukumbasi* are developing their plight as profession. The state has formed different commissions to allocate land for them. The *Sukumbasi* (squatter) are always subjugated either from indebtedness or professionalism of their plight. As a result, land resources are repatriated on the hand of local elites. Statutory laws do not permit the *sukumbasi* land to transfer but *sukumbasi* sell the land in an informal way i.e. *chhodpatra*. Land encroachment is not the new phenomena in the study area. It is not marked physically and legally because there is no clear demarcation among the different types of land. Apart from individual; local institutions has encroached on valuable forest land along the high way. Local elites promote the action hegemonically local people and bureaucratic systems do not oppose their actions from the moral perspective. The landless masses encroach on common lands not only as a means of economic survival but also as a political exercise to put pressure on the state regarding their plight. Local Tharu people did not realize the value of the land in the past. When centralised legal system penetrates into the local level many of the indigenous (Tharu) people who only rely on agriculture activities are deprived. The marginalization in development activities has turned them from glorious past to nostalgic present.

The intricacies of land ownership has created dispute at local level. There was no overall land shortage in the past, dispute over the fertile land that was close to individual farm land. Nowadays disputes occur over any land. Local people function on institutional land such as

community forestry, campus, school and many development activities have created conflicting situation at local level. When different interest groups seek benefits from transitional phase, the dispute resolution process at local level could not settle the local dispute. As the result, rely on 'litigation' process - - rely on for legal solutions for that one of the conflicting parties files a case in the court. This perspective helps to analyse the behaviour and interaction of conflicting parties. Many of land related disputes were simply erupted due to the weakness of the existing land related institutions. Lack of genuine coordination, consensus and integration among government institutions like land survey office, *Gramin Awas Company*, Land Revenue Office and Village Development Committee. These institutions had drawbacks therefore common people could not ensure the rights of tenancy.

There are problems on what sorts of land are distributed, its procedure, its location and size, exercise of power interest of the local elites. Basically, state owned land has diverse purposes at the local level. The statutory laws and locally developed laws regarding distribution and use of land have created the existence of 'plural laws'. Local people started building up different facilities and services. In this context, when state's formal laws and local informal laws are intermingled, a kind of arbitrary situation is reflected during the implementation of the programmes. During this process local elites interplay with centralize rules differently generating new informal, unofficial rules.

Heterogeneity in language, caste, class, region and customary practices have also played role in Nepali society to be legally plural. In the same manner, the government of Nepal has formed different programmes of restore land rights that underlie legal, political and social ordering. The one decade armed conflict also developed tenurial legal

pluralism as a result- - reduction in penetration of state power. The repercussions for the state's role in the administration of land and property and the resulting of influences on legal pluralism are several.

Similarly, the state's land administration institutions were affected; they are rendered crippled or inoperable and rules unenforceable. This situation existed due to general insecurity where land encroached areas occupied by opposition groups or populations sympathetic to them. In the same cases, diversion of resources and the distribution of the physical components of the land systems such as local registries and the other records; undermines the functioning of formal property rights institutions. The land study of Makar during armed conflict period shows the different derivation on legal pluralism. As a result - - derived on innovative legal system that worked locally in the absence of functioning state institutions. Political parties accumulated land related grievances against the state brought by land alienation. Similarly, distrust of the state and its ability, wiliness or bias in handling land issues to the perception of the state as the enemy. Likewise, some interest group also resurgence in the use of certain traditional norms in sub-state groups. The traditional norms and laws and customs have been selectively employed for political purposes despite the ostensible values over land in legislation. This kind of plural systems has raised the "historical consciousness of grievances" with regard to land issues. In this regard, plural normative orders once developed can persist with considerable tenacity, justifying themselves to perceived historical wrongs done to certain groups.

Likewise, land ownership certificate popularly known as *lalpurja* which contains information on the identity, the owner, the land plot number, location size and nature of land. Nowadays, land ownership paper is required for local institutions. Traditionally, such certificate was

not required morally people allocate enough land. The formal land registered in the name of schools, campuses, temples, monasteries being required with market linkage, economic value and commercialization of lands. Likewise, school, campus, VDC and so on sell local land but the purchasers have to bear nuisance to obtain *lalpurja*. Similarly, how land is dealt with (demarcations, transfers, inheritances and access etc.) becomes critically important. The competition and confrontation of local agencies to control a specific land area also influences legal pluralism.

Public land ownership and control have become major function or activity of governmental agencies in the interest of public welfare or the purpose such as resettlement, educational institutions, and hospitals. Local people have doubt on such agencies when people could not realize adequate legislative and administrative machinery. The centralized process treats the existing social practices, value and economic institutions and agents control over economic and political activities. Public land policy at local level is slightly concerned with the transfer to private ownership. Major consideration goes instead to variety of local practices affecting the use and development of the land resources.

Migrants have perceptual change regarding the Tarai land. Early migrants have developed deep respect on land- - "earlier slogan land was ours before we were the lands" has changed into "land is ours and we belong to the land." People are curious to preserves public land for future utilization. People are stratified on the basis of land resources. Land disputes in Makar reflect that politics on land is not always automatically attributable to physical or economic land shortage. It is because they are also socially induced.

Regarding rural land use practise; cropping pattern and land ownership are being changed with urban orientation and new economic

possibilities. The settlement pattern of this VDC is being denser along the road side. The development pattern indicates that Makar represents both agricultural as well as urban functions. In other words, the productive agricultural land is transforming into the unproductive plot from the agricultural point of view. The physical land fragmentation - - planning for home stead is clearly visible in this area. Lack of effective land use and conservation of natural resources have neither played role in the field of environment nor to the aspiration land poor people.

There is a growing gap between land availability and rapidly increasing population. Land is being utilized according to market forces rather than its proper utilization for human needs of peasant societies. The land politics in Nepal neither allows normative rules nor does legislative rules intermingle of both which has created paradoxical and plural situation. The confusion on land ownership, land status and land administration rights have given fertile platform for local elites to appropriate land resources. Political leaders declare some programmes to earn cheap populism without realizing the structural intricacies in soft state like Nepal. The innovative plural legalism has reduced formal land tenure system as a result, reduction in legitimacy, sympathetic to landless; reduce the capacity of administration and the formal tenure system. The pluralistic situation of local specialities indicates that social arrangements are often effectively stronger than the new laws.

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