

Impact of Tax Rebate on Land Registration to Women's Empowerment in Nepal

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Key Words: Access to land, Security of Tenure, Tax Rebate, Sustainable Development Goals, Women Empowerment

SUMMARY

Access to, ownership and control over land and other forms of property is considered one of the means to achieve gender equality and empower women and girls; and achieving sustainable development. In Nepal, the 2011 census indicated that only 19.71% women had some ownership over land or property. The roadmap for Sustainable Development Goals in Nepal proposes to increase this figure to 40% by the year 2030. Nepal has implemented several incentives to improve the women's ownership of land and property important among them is tax rebate on land registration in the name of women and joint ownership among spouses as well. This study is undertaken to assess the impacts of these policy reforms in empowering women through land rights. Though the Government started providing symbolic tax rebate on women's land registration since 2006 by 20% and gradually increasing this from 25% to 50% by 2019 depending upon different criteria, statistics from secondary sources for the last few years as available are analyzed to provide more gender nuances. Major indicators for social empowerment of women are the reduction/elimination of cases of domestic violence and violence against women and girls. Regarding economic independence, different indicators like women's access to formal employment has also been analyzed. The study is primarily based on analysis of data from secondary sources and literature studies including government land administration and tax records.

The study shows increasing trend in the percentage of land transfer and registration in women's name and huge amount in tax rebate for the purpose; affirming available statistics that shows an increase in land ownership among women from 19.71% in 2011 to 26% in 2015; and the potential of Nepal to meet its targeted of 40% by 2030 as one of the Sustainable Development Goal (SDG) indicators.. However, it was indicated that the major motive behind women's land registration was to escape from higher taxation in most of the cases, but this initiation has at least motivated families to register land in women's name. Findings show that in general women's access to statutory land ownership has increased significantly. However, most women still do not have full control over the land and property they 'own' as a result of power relations at household level with their spouses or extended family members. Despite challenges associated with lack of 'full control over their owned land', the study finds and increased sense of tenure security among women; which in turn enhanced their social status and reducing domestic violence. It was evident that there is increasing women's agriculture productivity, improving confidence level to participate in household decision making, access to education and formal employment, access to civil and political affairs, greater mobility and social independence among other benefits. Statistical and perceptual analysis of this study show that there is a positive correlation between tax rebate on land registration, increased women's ownership, and their social and economic empowerment. The study provides evidence in support of the policy interventions undertaken to enhance women's empowerment through increased women's access to land and

property in Nepal and may be applicable in other locations/countries of similar land regimes, cultural and legal characteristics. Despite these findings, further studies are recommended.

1. BACKGROUND

Nepal is a mountainous country in the lap of Himalayas. It has a long history with a rich culture embedded in the Hindu philosophy. The Hindu civilization of *Vedas*, *Puranas* and epics of *Ramayana* and *Mahabharata* are pre-historic and provide high reverence to women. Women embodiment as *Luxmi*, *Kali* and *Sharaswoti* are the emblem of prosperity, power and wisdom in Hindu philosophy. One of the Vedic statement “*Yatra Naryapujyantu Ramante Tatra Devata*” meaning “Where Women are Worshipped, God is Pleased” is very much recited by Hindu Pundits. But there is another side of the story. The society is very much patriarchal in practice. Basically, after the Mughal intervention in the Indian sub-continent women were advised to be in the protection of their male guardians e.g. father, husband or son in different cycle of their life. As guardians of the family, men were considered the main bread-earners and the property be in their possession and women were assigned household gender roles. Women became more dependent on their male counterparts and considered a weaker sex. They were considered more as beneficiary rather than stakeholders when it comes to ownership of land and property. The *Mulki Ain* (Civil Code) of 1854 had a special section on *Stri-dhan* (Women’s Property) explaining about the provisions of *Daijo* and *Pewa* or land and property as gifted by in-laws or parents.

The political change of 1951 was a turning point in the history of Nepal. After a century of Rana oligarchy, the country slowly embarked into a democratic system. This provided for slowly changing in the social mindset in favor of empowering women. Women’s participation in education and social or political life was slowly enhanced but their access to land and property as a source of empowerment was not fully considered. The Land Reform of 1964 provided for security of tenancy rights of the tillers who were tilling land of their landlords but ironically despite the fact that 73% women are engaged in agriculture contributing to all stages from management to marketing, women’s rights to legal ownership of land was rarely recognized (IOM, 2016). After the restoration of democracy in 1990, Nepal quickly declared accession or ratification of a number of international treaties and instruments relevant to women’s rights to access and ownership to property including, inter alia, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966, Beijing Declaration and Platform for Action 1995, and the Habitat Agenda: Istanbul Declaration on Human Settlements 1996. All of these international treaties and instruments advocate for equal access to economic resources including access to land and property as a means of empowerment of women. In line with these instruments, Nepal adopted or amended legislation important among them Eleventh Amendment to the *Mulki Ain* (Civil Code) in 2002 and the Gender Equality Act in 2006. In 2006, the Government of Nepal initiated a policy of providing rebate on the registration tax in case of transfer of property in the women’s name. It was symbolic with 20% in 2006 gradually increasing upto 25% to 50% by 2019 depending upon different criteria like the status of women (married or widowed) or the type of land (urban/ rural or mountainous). There is a further policy of near free transfer of land or property into joint land ownership (JLO) among spouses with the payment of Rs 100 (less than USD 1). These provisions have provided for increase in land ownership among women from 19.71% in 2011 to 26% in 2015 which is targeted to reach 40% by 2030 as one of the Sustainable Development Goal (SDG) indicators. This study is undertaken to assess how far these policy reforms for improving legal ownership of land have impacted in the empowering of women, their actual control over the land they own, and how far they have been socially and economically benefited/impacted.

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Access to land and property as a means of production and source of social, economic and political power has generally been advocated for empowerment both men and women in general. Sustainable Development Goal 5a specifically recommends to “undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial resources, inheritance and natural resources, in accordance with national laws” as one of the means to “achieve gender equality and empower all women and girls”. SDG target 1.4. make specific reference to the importance of securing land tenure rights for men and women towards fighting poverty, with indicator 1.4.2 aiming to measure the proportion of adult population (male and female) with secure tenure rights by legal documentation and by perception of tenure security. In addition, SDG target 5.a. and indicator 5.a.2 provides for assessment of national policies and legislative frameworks including customary tenure that secure women’s and girls’ land and property rights. These two targets 1.4. and 5.a underscore the importance of land tenure rights in the context of SDGs. Nepal has adopted or amended few national policies and legislation to undertake such reforms. The figures show positive indications with respect to improving women’s access to land but there is a prominent gap as examined by the study of whether these figures really mean that the women have been empowered in practice. Some of the indicators to adjudge empowerment of women could be their access to education and gainful employment, and improvement in their social and political status. Such indicators of empowerment are the results of several factors, and access to land and property is assumed to be one of them. A comprehensive study into different factors and their collective contribution to women’s empowerment is a complex issue. Non-the-less, some studies into the trends in women’s access to land and the indicators on their empowerment were considered important. Considering that policy reforms like tax rebate to facilitate land registration into women’s names are positively correlated, this study was undertaken to look into the indicators on women’s empowerment as indicated above.

2. RESEARCH METHODOLOGY AND DATA SOURCES

This study is the first of this kind in Nepal. As such rather than a comprehensive study on the subject, it is considered as a brainstomer. The study analyzes data and information from secondary sources. They are collected from different government sources and other existing literature. The main sources of Government data for number of land transactions and amount of tax rebate are the annual reports of Ministry of Land Management, Cooperatives and Poverty Alleviation, and supplemented from information obtained from Department of Land Management and Archive. The data on crime and violence against women was obtained as available from the Nepal Police website.

Due to limitations of data sources, during data analysis, it was felt that some of the data were incomplete, and also the temporal components were inconsistent in few cases. Despite the limitation, the data and information collected was found to be sufficient to show the trends both in the ownership of land and property, and the indicators on empowerment of women in general.

This study being designed as a starting point for a more elaborate research on the subject, this provides some initial outcome from desk studies. Simple excel tools were used for data analysis.

3. LEGISLATIVE AND POLICY REFORMS AND THE ISSUES RELATED TO WOMEN’S EMPOWERMENT

3.1. Legislative and Policy Reforms to Improve Women’s Access to Land in Nepal

3.1.1 Legislative Reforms to Improve Women’s Access to Land in Nepal

Major reform in the property rights of women after the re-instatement of democracy in 1990 was the Eleventh Amendment to the *Muluki Ain* (Civil Code) in 2002. It provided for the recognition of daughter's right to inherit parental property and wife or widow to inherit husband's property. But it had several weaknesses e.g. the daughter had to return the ancestral property to other legitimate male heirs after marriage, and that the wife or a widow could have right to dispose her share of the property with the consent of her male family members only. Nepal underwent through a decade long armed conflict during 1996 to 2006 which was culminated through a Comprehensive Peace Agreement (CPA) in November 2006. Few of the 40-points demands of the Nepal Communist Party (Maoist) before they went to the armed conflict were directly related with access to land and women's empowerment. Point 19 explicitly mentioned "patriarchal exploitation and discrimination against women should be stopped, daughters should be allowed access to paternal property". The policy and legislative reforms after the institutionalization of peace in 2006 are in some way directed towards this.

The new amendment to *Muluki Ain* (Civil Code) in 2007 after the adoption of Gender Equality Act of 2006 are less discriminatory in some sense that "unmarried girl, married woman or a widow living separately may enjoy movable or immovable property on her own" indicating no need to consult male family members for use or disposal of their share of the property.

In 2015, a new Constitution was adopted by the Constituent Assembly. The Constitution embraces major international human rights principles and are in line with international covenants and conventions as per the accession or ratification by Nepal and also general principles of land governance under, Sustainable Development Goals (SDG), Voluntary Guidelines on the Responsible Governance of Tenure of land, Fisheries and Forests (VGGT) and the New Urban Agenda. The Constitution of Nepal has following specific provisions in favor of property rights to women:

- Article 18: Equal rights of children to paternal property without discrimination based on gender
- Article 25: Equal rights of all citizens to acquire, use, dispose, undertake commercial benefits or any other transactions of property
- Article 38: Equal rights of women to inherit property and engage in family matters

In line with these provisions, the *Muluki Ain* (Civil Code) has been repealed by the *Muluki Dewani Samhita Ain* (Federal Civil Code Act) in 2017 which guarantees equal access to and control over their share on the paternal property to women unmarried, married or widowed.

3.1.2 Policy Reforms to Improve Women's Access to Land in Nepal

To improve women's access to land Government of Nepal has adopted few policy interventions in terms of tax rebate on land transaction taxes in case of transfer of land and movable property in the name of women. This policy was brought into practice since Fiscal Year 2006-2007. The policy is implemented annually through enactment of annual budget as approved by the parliament as the Financial Act for the Fiscal Year (FY). For the current FY 2019-2020, the provisions are as following:

- 25% rebate on registration taxes on land and other immovable property in any type of transaction in the name of a woman
- 35% rebate on registration taxes on land and other immovable property in any type of transaction in the name of a single (widowed) woman

- 50% rebate on registration taxes on land and other immovable property in any type of transaction in the name of a woman in the Himali area
- Rs 100 (less than USD 1) in case of transfer of property registered in the name of any spouse into Joint Land Ownership (JLO) of spouses
- In case of transaction of land or other immovable property into Joint Land Ownership (JLO) of spouses, similar rebate as applied when transacted in the name of a woman will apply.

The essence of these policy reforms, is to improve women's access to land and property singly or as JLO with her spouse.

3.2. Tax Rebate and Women's Access to Land and Movable Property

Land administration in Nepal is based on land registry maintained at the Land Revenue offices and cadastral maps maintained at the Survey offices functioning together under the Ministry of Land Management, Cooperatives and Poverty Alleviation of Government of Nepal. The land titles awarded and the records as maintained in the register and the maps are legally recognized as formal ownership on land tenure although studies have indicated that around 25% of cultivated land amounting to some 10 Million physical parcels on the ground are under informal and mostly legitimate tenure which are beyond formal land administration. The transaction of such informal tenure, be it in the name of a man or woman, are beyond the scope of this study. The transaction of formally registered land by means of sale, gift or other legal deeds are certified by the local Land Revenue office, mutation of land parcel if applicable undertaken by the Survey office and record updated in the land registry. For this process, the Government levies registration taxes up to 6% of the transaction prices depending upon the location of the land and type of deed. The transaction price may not be below a designated valuation of the property which is updated annually and considered to be near market price. As such, the land registration tax amounts to a reasonable amount, the rebate on which is an incentive to the buyers and their family for registering in the name of a female or JLO of spouses. After the policy of tax rebate on land transaction in 2006-2007, during the last 12 years women's ownership on land and property has increased by 17 times. In the period more than 2.4 Million (1,457,320 women in the rural areas and 950,236 women in urban areas) have benefitted through registration of land at the reduced tax rate (Rai, 2019). During the last six years 2013-14 to 2018-19 alone 1.34 Million women have benefitted with a total tax rebate provided by the state exchequer amounting to an equivalent of USD 80.71 Million at the current rate of NRs 100 per USD. The following provides some details for the last 6 years.

Table 1: No of deeds registered and tax rebate allocated

Sl No.	Fiscal Year	No of deeds registered in woman's name	Amount of tax rebate in Million USD	Remarks
1.	2013-14	250,431	7.48	
2.	2014-15	199,824	11.13	
3.	2015-16	187,639	12.31	
4.	2016-17	223,359	17.43	
5.	2017-18	151,877	10.17	
6.	2018-19	327,762	22.19	
	TOTAL	1,340,892	80.71	

Source: MOLMCPA

3.3. Women's Empowerment: Some Indicators

3.3.1 Access to Education

Literacy and women's access to education is considered one of the strong indicators for women's empowerment. Education provide women with values and power to judgement. The literacy of adult women defined as 5 of female ages 15 and above was 17.38 in 1991 which has grown to 48.84 % and estimated to stand at 59.72% in 2018 around 8.19% below the national average. (Source UNESCO Institute of Statistics). If the appearance in the final Secondary Education Examination (SEE) of Grade 10 is considered an indicator women's participation is encouraging. Out of the 475,003 students who appeared in the SEE in 2018 more than 50% (238, 558) were girls (Source: <http://see.edusanjal.com>) which relate very much with the increase in women's access to land.

3.3.2 Access to Gainful Employment

Women's participation in the civil, military and police services provide some indicators on their empowerment not only through access to gainful employment but also as source of power in the public services. The percentage of women in administration and other civil services have steadily grown from 12.87% in 2008 to 13.10% in 2012 and 15.31% in 2014 (Source Paudel, 2013 and Bjracharya et al, 2014). Classification of the civil service in Nepal is categorized into decision making (Gazetted Classes) and clerical or support staff (Non-Gazetted Classes). Gazetted Classes are again re-classified into Special (highest) Class being Secretary or Chief Executive of a Ministry to the Third Class (lowest) being a Section Officer. In 2012, proportion of women holding a position of a Secretary (Special Class) was only 3.03% while Section Officer (Third Class) was 7.62%. In 2014, the percentage of women in Gazetted classes was 11.0%, in Non-Gazetted classes 21.2% and 7.3% in classless positions. This shows that while the number is growing, women in administrative and other civil services are poorly represented and their number in top positions is very low. The political change of 2007 has advocated for inclusive democracy. The Civil Service Act has been amended to provide for reservation quota for entry into public services for women and other deprived classes. 33% of the 45% reserved quota are assigned for women and the age limit for entry into services has also been relaxed for women compared to males. It is expected that these provisions should ease to better improve in the situation.

During the armed conflict waged by the Maoists, the rebels did engage women combatants during the civil war 1996- 2006. This has helped women in Nepal to empower them as a active force. This challenged official security forces in Nepal- the Nepal Police, the Nepal Army, and the Armed Police Force- to improve participation of women in their forces as well. The number of women in the state security forces has steadily been increased. In 2014, close to 8% of positions in the Nepal Police, around 4.5% positions in Nepal Army and some 5% positions in Armed Police Force were held by women. Non the less, women in higher positions in the security forces is still scarce. Recent data shows that there is a lone woman Brigadier General in the Nepal Army and also one woman as Additional Inspector General of Police both in technical positions while few women offices have reached to the position of Major in the infantry of Nepal Army.

3.3.2 Women in Politics

Political positions as major sources of governance are the symbol of power. As such the participation of women in politics is considered one of the important indicators of women empowerment. Nepal has adopted several provisions for inclusion of women in politics. Under the federal set-up of state restructuring it is envisaged that one among the Speaker and Deputy Speaker in the federal parliament of the Mayor and Deputy Mayor in the Municipality (either urban or rural) should be a woman. Similarly, political parties are expected to fill 33% of key positions in their party hierarchy by women, though not fully complied as yet.

Representation in local units, the rural or urban municipalities, are the foundation to grow for political leadership. In 2017, local elections for a total of 35,041 positions across the total 753 local units were held and among them 14,352 or 41% positions were filled by women elected (Election Commission, 2017). This is a significant event in advancing women representation and their political empowerment. However, to comply for the mandatory provision of electing a woman among the Mayor and Deputy Mayor it is a dilemma that nearly all the political parties fielded a woman for the position of Deputy Mayor and now 91% of Deputy Mayors in the country are women. When it counts to women in national politics, although the current President is a woman and there was a time when the President, the Chief Justice and the Speaker of the Parliament were women, currently 2 women among 25 Ministers (or 8%) are in the national Government. When it comes to representation in national parliament, thanks to the provision of proportional representation, nearly one-third are women after the political change of 2007 e.g 32.8% in 2008, 28.6% in 2013 and 33.2% in 2017.

3.4 Gender based Violence against Women

Records of domestic violence and other types of gender-based violence as available in the police records is shown in the below table. In a patriarchal society where women are considered weak and dependent on male for any social, cultural and economic protection many of the gender-based violence against women go un-reported. As such, the figures need to be analyzed very carefully. In the following, the figures show the statistics for the last 6 years on domestic violence and other crimes (like rape, attempted rape, trafficking, illegitimate abortion, polygamy, child marriage, witchcraft and child sexual abuse) where women are generally the victims.

Table 2: Gender-based Violence Against Women

Fiscal Year	Domestic Violence	Other Crimes against Women	Total of Gender Based Violence against women (GBV)	Domestic Violence as Percentage of GBV
2013-14	6,835	1,994	8,829	77.4
2014-15	8,268	2,325	10,593	78.0
2015-16	9,398	2,286	11,684	80.4
2016-17	11,629	2,430	14,059	82.7
2017-18	12,225	3,239	15,464	79.0
2018-19	14,774	4,645	19,419	76.1

Source Nepal Police (www.cid.nepalpolice.gov.np)

The above show increasing trend in the number of domestic violence and total crime or violence against women. However, the cases of domestic violence as part of violence against women has shown some trends in declining in the recent past. The statistics is as recorded with the Police and several sources argue that the increase indicates women have been able to come out to report the cases rather than the increase in the number of cases itself.

4. ANALYSIS OF MAJOR FINDINGS

Nepal has taken several steps in empowering women specially after the re-instatement of democracy in 1990 and more specifically after the political change of 2007. Several policy and legislative reform and institutional re-structuring has been undertaken in favor of women and other deprived/marginalized section of the society. Access to, ownership and control over land and property has been considered as one of the important inputs for women empowerment. As one of the practical tools to implement the policies and legislation towards access to land and property tax rebate on land registration in the names of women and JLO between spouses were introduced.

Based on foregoing data and statistics analyzed by this study show that there has been substantial increase in the number of women with legal or formal access to land and property. The increase in the access to education and literacy among women, access to gainful employment in public sector including security forces and in politics and elected representations, the study finds that with the access to land and property in general women’s social status has gained a positive momentum. When it comes to number of deeds registered in the women’s name (WD), the tax rebate granted by the State (TR) and total number of crime or violence against women (WV) the data shows that compared to the percentage change in the number of deeds, the rate of violence against women is has gone up., although the trend in the increase of value of tax rebate is still wider.

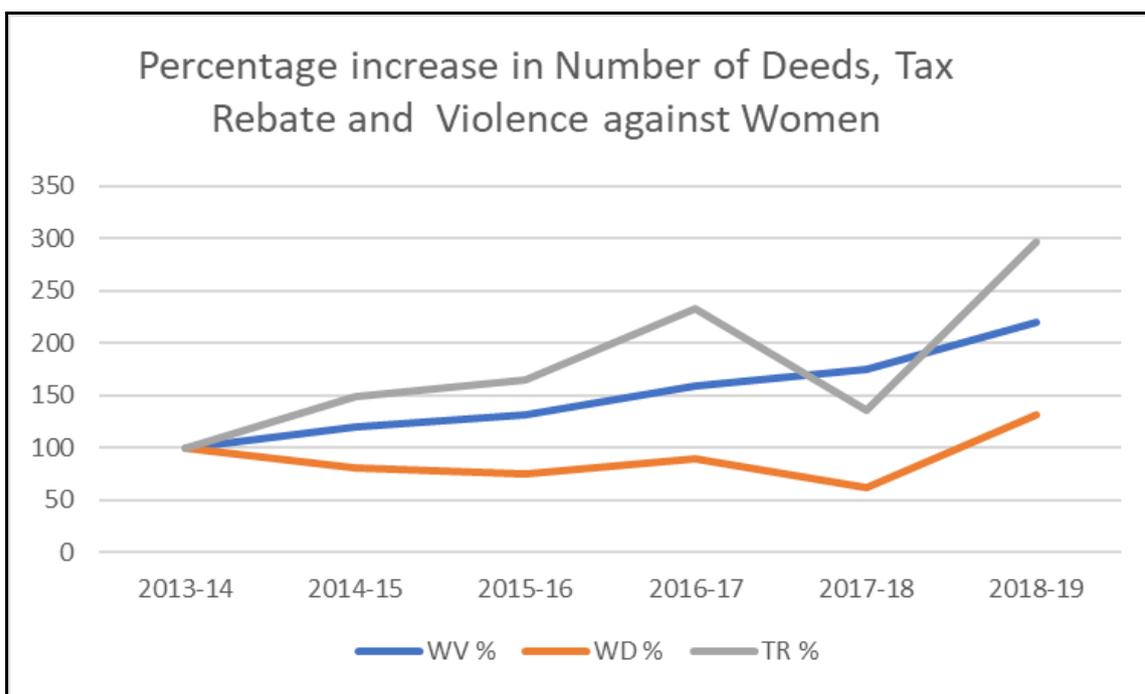


Figure 1: No of deed in women's name, Tax Rebate and Gender Based Violence

At the first glance, the statistics may indicate that with the increase in access to land and property women have become more vulnerable, more prone to violence. But the fact is that the data has grown because women have become empowered to come out and reported cases of violence. Also, there are misgivings that the provisions of tax rebate have been misused by the families to evade taxes by registering deeds in the names of their female family members. Despite that women who have property registered in their names have actually been socially and psychologically been empowered. This finding is affirmed by a study by IOM conducted in 2016, and which include testimonials of respondents including Gangajali (40) of Nawalparasi who got transferred 0.2 Ha of land from her father-in-law said *“In the past my husband would beat me for little mistakes, but it does not happen anymore. I am often confident about myself.”* and Jamuna Wokheda of Bajhang who got transferred as JLO of land previously registered in the name of her husband Kiththu Wokheda said *“After I have this piece of paper, I am more secured”* and also another study (Rai, 2019) of Saraswoti Paudel and Dhriba Khatri couple, who bought a piece of land in the name of the wife from their joint earnings who reported *“more secured future for both”*. Women’s land ownership provides security of poor and vulnerable women particularly from Dalit community from trafficking as it would be disadvantageous for the community to trafficking such women as title transference is a difficult process (IOM, 2016). Overall, land ownership is a shield against gender-based violence and a source for economic, social, and political power for women.

5. CONCLUSIONS AND RECOMMENDATIONS

Knowing that there are different means to empowerment of women and different indicators to measure them, this study highlighted on the impact of tax rebate on land transaction in the name of women and Joint Land Ownership (JLO) among husband and wife in Nepal. This was a major policy implementation tool to improve access to land ownership and enhance physical control over land by women with a view to empower them. The state exchequer has subsidized millions of dollars in this process, and it is important to confirm that the policy has actually succeeded to achieve the goals. The study findings reveal that with tax rebate at least 2.4 million women have accessed to land ownership. It also shows that land ownership and control by women have far reaching positive impact beyond agriculture productivity to include other indicators such as reducing domestic and other gender-based violence, increased access to education, gainful employment, status in social, political and family life, and overall confidence level among women. The study further concludes that the government of Nepal could be on the right trajectory towards meeting its 40% commitment to increase women’s ownership and control of land by 2030 through tax rebate and JLO approach; but need more studies including the measurement of perception of tenure security among women regardless of their land registration status. This is the first study of this kind and with limited scope undertaken in Nepal. It is envisaged that this study will ignite more discussions and open room for more elaborate studies in the future on the impact of such policies and legislative measures on land towards empowerment of women.

To improve availability and access to sex disaggregated land tenure data and enhance government readiness to report on SDGs land tenure indicators on women (1.4.2 and 5.a.1), the National Statistical Offices and Land Administration Offices are called to apply the approved methodologies for measuring individual rights to land as developed by custodian agencies (UN-Habitat, FAO and World Bank) – https://glt.net/wp-content/uploads/2019/08/190824_Measuring_Individuals_Rights_to_Land_publishing_web.pdf

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<http://www.smallarmssurvey.org/fileadmin/docs/T-Briefing-Papers/SAS-BP-Nepal-Women-State-Security.pdf>

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https://www.nepalarmy.mil.np/page/women_in_army

<https://www.molcpa.gov.np> Ministry of Land Management, Cooperatives and Poverty Alleviation annual reports

BIOGRAPHICAL NOTES

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