



## GOVERNMENT AND PUBLIC LAND MANAGEMENT PRACTICE IN NEPAL: CHALLENGES AND OPPORTUNITIES

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### ABSTRACT

The government and public lands are valuable resources that the government manages and oversees for the benefit and welfare of the country's citizens. So, the management of these lands is crucial for ensuring good governance, sustainable development, and equitable distribution of land resources. However, the system faces numerous challenges that hinder its effectiveness and efficiency. This study provides an overview of the legal provision existing in Nepal for government and public land management and discusses possible challenges and opportunities in the government and public land management practice in Nepal. There are several legal arrangements for the preservation and management of government and public land, but the lack of a comprehensive land policy, an integrated land act, and a bureau responsible for their preservation and management has resulted in their continuous encroachment of land. The challenges identified from various literature reviews include ambiguity in institutional roles and responsibilities, a lack of accountability and methodology in land allocation and use, inadequate information on state and public land, weak enforcement and compliance mechanisms, and limited public participation in decision-making processes which overall contribute to land encroachments. Similarly, the opportunities which are supposed to enhance and improve land management and land governance include the provision of land access to marginalized groups, formalization of informal settlement, implementation of land inventory and audit process, and so on. The article underscores a recommendation to address the possible challenges in the land management system in Nepal in order to provide a strong foundation for further policy making which ensures effective governance, equitable access, and responsible utilization of land resources to all stakeholders.

**KEYWORDS: Land Administration and Land Management System, Land Use Policy,  
Land Use, Land Act**

## 1. INTRODUCTION

The land is a particular area of the ground, a piece of property with distinct boundaries, and has an owner and primary factor of production along with capital. The land itself is a valuable resource, but if it comes with other natural resources, like oil and gas, its value increases ([Enemark, 2010](#)). Land basically has a spatial component that serves as a starting point for development planning that leads to regional and urban planning. Every national land administration should take into account the conservation of lands because it directly affects the socioeconomic development and environmental sustainability of a nation.

Government and public land are two common types of land classifications. “Government land” means roads, paths, railways, and land housing government buildings or constructions; and this term also denotes forests, shrubs, rivers, rivulets, land abandoned by rivers, lakes, ponds and their banks, canals, water channels, unregistered land, uncultivated land, unused land slopes, sands, and other lands. “Public land” means land allocated for use not only by individuals but by the general public, such as paths, ponds, springs, wells and their banks, cattle exit, grazing land, graveyards, public inns, temples, the place for religious practices, memorials, courtyards, sewers, market places, public entertainment and sports grounds and other lands specifically denoted so by the Government of Nepal through publication in the Nepal Gazette ([Rabi, n.d.](#)).

The management of state and public land plays a crucial role in supporting poverty alleviation, food sovereignty, human rights protection, peace, security, common property rights, access to land for the poor and indigenous communities, and revenue generation for the state ([Manandhar et al., n.d.](#)). According to ([Chand, 2019](#)) land use management is mutually related to the emergence of growth centers and the physical environment of a specific urban or urban-oriented area in both the concepts of regional and urban planning.

Generally, land management is the science and practice involved in conceptualizing, designing, implementing, and assessing socio-spatial interventions on land with the aim of enhancing people's quality of life, the resilience of their livelihoods, and their environment in a responsible, successful, efficient, consensual, and clever manner([Chigbu, 2018](#)). Nearly 10 of the 17 Sustainable Development Goals (SDGs) that the world is pursuing have a direct or indirect

relationship with aspects of land resources and six of those goals also show interdependence in significant areas of regional and urban planning ([Chand, 2019](#)). In this interdisciplinary setting, land management becomes the most important tool for attaining common objectives i.e. sustainable development.

Though Nepal's traditional system of land management stretches back to the 1870s, the Land Survey and Measurement Act, which was passed in 1962, was the first regulatory tool for modern Nepal's land management. In Nepal, the land is divided into three categories: private, state, and guthi among which around 28% of the total land is covered by private land, 72% is covered by State land and the remaining is covered by guthi ([Chand, 2019](#)). To deal with land management we first need to deal with land tenure, land use, land value, and land development. In Nepal, land use policy and planning do not function according to international standards for several reasons: landless and jobless people are encroaching on public and state land, such as forests, setting up squatter farms and settlements, ecosystems are deteriorating, and small-scale farmers are struggling to secure stable food supplies. Land Use Councils are established at the federal, provincial, and local levels of government in Nepal by the Land Use Act 2019. The Act suggests a comprehensive land use program that covers a variety of areas, including industrial corridors, special economic zones, national initiatives, protected natural and cultural heritage sites, educational areas, roads, medical facilities, irrigation canals, national security-sensitive areas, disaster-prone areas, and areas for environmental conservation. The Act also includes rules for modernizing land records, taxing land, valuing land, putting a stop to land fragmentation, and introducing the idea of a land bank. The government is still having trouble increasing the public's access to digital land surveying and administrative services([Chand, 2019](#)).

The land management system in Nepal faced various challenges and was lacking in certain aspects. The land management system in Nepal has been characterized by both systematic and fragmented approaches. The country has made efforts to establish a systematic land management framework through legislation, policy, and institutions. The government has implemented measures such as the Land Act, Land Use Policy, and Land Administration and Land Management System (LAMS) to streamline management practices. These initiatives aim to address issues related to land tenure, land use planning, and land administration([MOLM, 2008](#))

Talking about the recent context, Nepal's Land Management System has made a great stride. The ministry has implemented a land use policy and act for proper management of land and has also launched a people-oriented program. The government of Nepal addressed the need to make the

sector clean, computerized and transparent was emphasized by the complaints of the people in the field of land administration. Today, due to inadequate utilization of land, food production has declined, and insecurity has increased which directly relates to the issue of providing land for conducting development works and opening of industries and factories.

Despite having some improvements in land management system, there are still some problems including weak institutional capacity, complex land tenure systems, inadequate land records and documentation, land encroachment, illegal land transactions, lack of transparency and so on.

## **2. OBJECTIVES**

The objective of this study is to assess the current state of public and government land management practices in Nepal and identify the key challenges and areas for improvement. Moreover, the study also focuses on exploring the existing legal provisions and policies governing government and public land and analyzing the effectiveness in recording, protecting, and managing these land categories.

## **3. METHODOLOGY**

### **3.1 Literature Review**

Land management in Nepal involves a range of materials and methods aimed at promoting sustainable land use practices and addressing land-related challenges. The process begins with land use planning, which entails systematically assessing and allocating land for various purposes. Nepal has diverse land tenure systems to ensure secure land rights and reduce conflicts, including public, private, and community ownership. Establishing clear and equitable land tenure is crucial for sustainable land management ([World Bank, 2014](#); [Aryal, 2016](#)).

Effective land use regulations and policies have been established at different levels in Nepal. These regulations address various aspects, including land acquisition, conversion, use change, registration, and administration, to guide and govern land management practices. Geographic Information Systems (GIS) technology plays a crucial role in land management. It is utilized for data collection, mapping, and analysis of land-related information, enabling efficient land use planning, parcel identification, land records management, and monitoring of land use changes over time ([Chand, 2019](#)). Furthermore, Nepal's land management approach emphasizes public participation and stakeholder engagement. Engaging local communities, landowners, and

stakeholders in decision-making processes through participatory approaches, consultations, and awareness campaigns ensures their active involvement and empowerment ([Sharma et al., 2020](#)). Moreover, it encompasses land use planning, land tenure systems, soil, and water conservation measures, agroecological practices, forest management, land use regulations, and policies that aim to ensure sustainable land use and address environmental challenges.

### **3.2 Legal Provisions on Government and Public Lands**

In Nepal, the management of government and public land involves various legal provisions and responsibilities assigned to different organizations. Government land encompasses infrastructure, government buildings, forests, rivers, and other designated areas, while public land includes paths, ponds, grazing lands, and marketplaces. The Law Books Management Committee (LBMC) defines these categories ([Acharya, 2006](#)). The Local Self-Governance Act of 1999 designates Village Development Committees (VDCs), Municipalities, and District Development Committees (DDCs) as responsible for maintaining inventory and protecting land, rest houses, shelters, inns, temples, shrines, hermitages, monasteries, mosques, madrasas, holy places, barren land, ponds, wells, lakes, deep water, canals, taps, stone water taps, etc.” within their areas. Similarly, clause 189 defines shelters, inns, temples, shrines, hermitages, monasteries, mosques, madrasas, holy places, barren land, ponds, wells, lakes, deep water, canals, taps, stone water taps, etc.” within their areas. ([LBMC/GoN, 1999](#)).

The primary survey of all land, including government, public, and private land, as well as the creation of cadastral maps and related land registers, which include information about the characteristics of the land (such as class, area, and use) and the landowner (such as name, citizenship information, and address), are all the responsibility of the district survey office's survey officer. Once the survey officer has turned over the land records, the land revenue officer of the district land revenue office is the registrar of land and maintains the land records. The Land (Survey and Measurement) Act of 2002 and the Land Revenue Act of 1977 categorically prohibit the registration of government and public land in individuals' names. In the case that such land is recorded in the names of anyone before or after the implementation of these laws, the registration shall be deemed null and void, and the land shall thereafter continue to be preserved as public or government land. Additionally, there are legislative provisions for keeping track of public and government property. The Government and public lands are now protected by the related district land tax office as per the 1998 revision to the Land Tax Regulations of 1979.

As per Article 22A, the Land Revenue Office is required to register any public and government property that falls under its purview and to keep records updated in accordance with the established schedules. It specifies that the competent land revenue agency shall be responsible for the conservation and protection of such documented public and government lands. ([DOLRM/GoN, 2001](#)).

The surveyors should pay close attention to the registration of government and public land in the name of the government during cadastral surveys and re-surveys. It is essential to first identify government and public land, as well as their boundaries, before deciding on land boundaries. All government and public lands must be registered in the name of the "Government of Nepal," and a land ownership certificate must be given to the relevant government office for any lands that are used directly by that office, as well as the appropriate district administration office for all other lands. ([Acharya, 2006](#)).

There is a clear distinction between the government authorities responsible for land registration and those in charge of its conservation, protection, and custodianship. Private, public, or government land must be registered with the district survey office or the district land revenue office. Each government office is responsible for the conservation, protection, and custodianship of the land under its direct use. The Forests Act of 1982 outlines measures for conserving and protecting government land, particularly forests, national parks, and wildlife reserves ([LBMC/GoN, 1982](#)). Government property that has been classified as a forest is in the Department of Forests' custody, while government property that has been declared as a national park or wildlife reserve is in the Department of National Parks and Wildlife Conservation's custody. However, there is no government organization in charge of the preservation, guardianship, and protection of other government and public lands.

The Chief District Officer (CDO) plays a crucial role in enforcing regulations, such as ordering the demolition of unauthorized constructions and penalizing unauthorized cultivation. As per Clauses 9 and 10a of the Local Administration Act 1971, the CDO can order the demolition of houses constructed by unauthorized persons on government and public land and impose fines up to NRs5 000). Without the necessary level of government power, no one may cultivate public or government land. The CDO may impose a three-month jail sentence for illegal cultivation or give illegal authorization for cultivation. The CDOs should keep track of all public and

government lands under their control and give a copy to the appropriate land revenue office and DDC office. ([LBMC/GoN, 1971](#)).

*Table 1: Different agencies/offices Involved in the Protection of Government and Public Lands*

| <b>Agency/ Offices</b>                                 | <b>Functions</b>   | <b>Relevant Legislation</b>                       |
|--|--|---|
| Local unit (Village Development Committee)             | Maintain Inventory and protect public land   | Local Self-Governance Act 1999                    |
| District land revenue office                           | Register, maintain, and protect government and public land   | Land Revenue Act 1977 and Regulations 1979        |
| District forest officer                                | Conserve and protect forests   | Forests Act 1982                                  |
| Chief district office                                  | Remove unauthorized possession and impose a penalty. Maintain a record of government and public land | Local Administration Act 1971                     |
| District survey office                                 | Conduct a cadastral survey, adjudicate boundaries, and register private, government, and public land | Land (Survey and Measurement) Act 1963            |
| Department of National Parks and Wildlife Conservation | Protect and conserve protected government lands  | National Parks and Wildlife Conservation Act 1972 |
| Ministry of Land Reform and Management                 | Define land Tenure (Right, Use, and Ownership)   | The Land Act, 2021                                |



The above demonstrates that, in Nepal, numerous organizations and authorities have been entrusted with the legal responsibility for keeping records and government property. How else, do challenges arise due to overlapping responsibilities and ambiguities in the management of government and public land in Nepal. While the Land Revenue Office and Survey Goswara are responsible for land registration and record-keeping, other organizations and authorities share the responsibility for protection and security. [\(Ghimire et al., 2015\)](#).

## 4. DISCUSSIONS

### 4.1 Challenges and Opportunities of Land Management System

State and public land management is a crucial component for successful governance in any nation's land administration, The unclear tenure definition and use of right mechanisms of state and public land, poor public land governance in terms of legitimacy, fairness, and participation aspects. Gaps and overlaps in the institutional role, function, accountability, and responsibility, lack of data reliability, completeness, accuracy, transparency, and user access of state land information, and lack of accountability or methodology in the processes of allocating, appropriating, disposing of, or using state and public land, as well as a lack of knowledge about state and public land results various challenges in land management activities. However, to address the issues and to ensure sustainable land management and equitable land distribution proper enforcement of regulations, strong governance, land administration, and community participation is the most.

As per the literature review, some challenges and opportunities that may appear during state and public land management include:

*Table 2: Opportunities and Challenges*

| <b>Opportunities</b>                                  | <b>Challenges</b>  |
|---|--|
| Provision of informal and encroached settlements      | The increasing rate of state land encroachment and informal settlement |
| Formalizations of informal and encroached settlements | Misuse and unsustainable allocation of state and public land           |



|  |   |
|--|---|
| Support Concession, Lease and Contract                         | Increasing loss of open spaces                    |
| Land Inventory and Audit                                       | Lack of infrastructure development                |
| Proper documentation, registration and maintenance of cadaster | Lack of transparency and corruption               |
| Promote public participation and strengthen law enforcement    | The increasing gap in regional and urban planning |

In Nepal, despite all the legal provisions for the protection of governments and public land, there is continuous encroachment. There is still a need for efficient and sustainable land management. Many riverbanks are becoming slums, many forests are being cleared, highway and other road banks are becoming towns and markets, and many arable public and government properties are becoming agriculture. These unauthorized incursions into public and government property occur for a variety of causes. Some major causes for continuous public and government encroachment identified from studies include:

- Poverty, landlessness, and search for better facilities.
- Lack of good governance
- Ambiguity of responsibility and custodianship
- Lack of political will and consistency in policy
- Incomplete documentation, outdated information
- Open border and poor immigrants from abroad

In Nepalese society, there is a strong tendency for migration of the rural population to favorable areas like towns, cities, and terai areas for a better life. With the little money, they cannot afford a suitably sized farm in a new area that can ensure a livelihood. Therefore, they encroach on government and public land which today has resulted in increased slums on banks of rivers and so on. Similarly, Nepal India has an open border with the provinces of Bengal, Bihar, and Uttar Pradesh in India. Coincidentally, the area near these provinces is heavily populated and also home to the poorest in India. ([Acharya, n.d.-a](#)) Nepal has experienced political instability for many decades due to a lack of law enforcement. Owing to such frequent political changes in the

country, people do not show proper respect for the law instead, they blame the government and take the law into their hands in a haphazard way. There are some legal loopholes that enable encroachment on government and public land. In the absence of a strong legal body to stop them, non-law-abiding people tend to encroach upon government and public land. Another very strong reason for encroachment on government and public land is the lack of political will and policy stability on how to deal with landlessness. The governments from the Panchayat era until today are not able to implement a sustainable policy for dealing either the problem of landless farmers. Different governments have established land reform commissions in the past and given them the task of legalizing the encroachment on government and public land as a means of resolving the issue in response to the agitation of the landless farmer. Instead of providing a landless farmer with access to alternatives past governments have always considered that allocating land for subsistence farming would resolve their problems. Similarly, inaccurate, incomplete or outdated land records and information systems, unclear delineation of responsibilities and custodianship among different government agencies and stakeholders, weak governance characterized by corruption, and inefficiencies contribute to the persistence of encroachments.

The formalization of informal settlements, concessions, leases, and contracts, land audits and inventories, cadaster registration and upkeep, and use of Spatial Data Infrastructure are growing factors in the development of effective public land management practices in Nepal. Additionally, leveraging technology and digital solutions such as digital mapping, and online land registration systems, effective land use planning and zoning for allocation of state and public lands, collaborative partnerships of the international, development agencies and non-governmental organizations can also enhance transparency, accuracy, and accessibility of land records. And equitable land distribution.

## **5. CONCLUSIONS**

In conclusion, government and public land management in Nepal play crucial roles in ensuring the sustainable development, conservation, and equitable utilization of the country's natural resources. One of the notable achievements in government and public land management in Nepal is the establishment of protected areas, including national parks, wildlife reserves, and conservation areas. These areas serve as havens for diverse ecosystems, rare species, and cultural heritage. They are managed by the government and supported by local communities, non-governmental organizations, and international partners. This collaborative approach has been instrumental in promoting biodiversity conservation and sustainable tourism.

However, challenges remain in the effective implementation of land management policies. Illegal logging, poaching, encroachment, and unregulated development activities continue to pose threats to public lands and natural resources. To address these challenges, it is crucial for the government to strengthen enforcement mechanisms, promote awareness and education on sustainable land use practices, and involve local communities in decision-making processes. Adequate funding, capacity building, and technology transfer are essential to support effective land management practices. Additionally, continuous efforts, collaboration, and innovation are required to tackle existing and emerging challenges and ensure the long-term protection and sustainable use of Nepal's land and natural assets.

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