

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal

Raja Ram CHHATKULI, Ranjita KATTEL and Jagat DEUJA, Nepal; Hellen NDUNGU, Danilo ANTONIO and John GITAU, Kenya.

Key words: Access to Land, Security of Tenure, Social Tenure Domain Model, Fit-for-Purpose Land Administration

SUMMARY

In 2019, a National Land Policy was adopted in Nepal which among others, committed to equitable land rights, access to land for the landless, and security of land tenure . With a backdrop of an estimated 25% of all inhabited land under informal tenure and nearly half of the rural population dependent on subsistent farming being near-landless operating less than 0.5 hectares of land mainly under informal tenure, necessary legislative, technical and institutional frameworks were necessary. The paper discusses the methodology adopted in Kankai Municipality, Jhapa and the lessons learnt for implementing the land policy towards regularization of informal tenure and providing secured land rights to the landless and urban poor.

Key technical procedures adopted for the identification, verification and recordation (IVR) of landless and informal tenure were based on the Fit-for-Purpose Land Administration (FFP-LA) principles which reinforce the application of the Continuum of Land Rights and other appropriate technology such as the the Social Tenure Domain Model (STDM) and participatory enumeration tools. The federal government and the local municipality being entwined in the paradox - protection of government and public land, and in the mean time providing access to land to the landless – meant that a careful and multi-tier verification and monitoring process was necessary. Further, due to the work being part of a national campaign overseen by the National Land Commission, a robust procedure was to be adopted. Additionally, the government had an ambitious plan to complete the work in three to five years, and therefore, a Fit-for-Purpose approach was necessary. Details on the procedural and technical methodology adopted for the land titling process are highlighted as a case of translation of policy into practice for providing secured access to land rights to the landless and urban poor in Nepal.

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (12015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal

Raja Ram CHHATKULI, Ranjita KATTEL and Jagat DEUJA, Nepal; Hellen NDUNGU, Danilo ANTONIO and John GITAU, Kenya.

1. BACKGROUND

Although the land administration system in Nepal is very old with a history dating back to the 5th century, this covered only the statutory land tenure (Chhatkuli et al, 2019) and almost 25% of land holdings with almost 10 million parcels operated by some 1.3 million families consisting of mainly Dalits, indigenous communities, rural farmers are estimated to be out of the formal cadastre (Pandey et al, 2021). In Nepal, 60.4% of the economically active population are engaged in agriculture (NPC, 2020) mostly as subsistence farmers and nearly half of them are landless or near-landless operating less than 0.5 ha of land (ADS, 2015). This provides them less incentives for continuing as such for their livelihood and there is a growing tendency of families to migrate from the mountains to the more fertile plains of the Terai, or subsequently the impoverished and vulnerable families to the small or larger urban areas in search of alternate employment and squatting on abandoned or vacant land. Systematic surveys of land parcels and land titling based on cadastral maps were initiated after the inception of the land reform programme in 1964, but due to the absence of evidence of ownership, such land holdings could not be registered during the surveys. Additionally, the process of migration and squatting by the poor has been witnessed more rampant during the political turmoil of 1961, 1989 and 2006. Whilst such landless and urban poor families were devoid of secured tenure of the land and housing, they were operating for decades, the local governments did lose the revenue in terms of property taxation etc. In this background a National Land Policy was adopted in 2019 which recognized the security of tenure and land rights for all. This paper analyses the policy framework for securing land rights of landless and urban poor in Nepal and discusses on its implementation based on a case study of Kankai as one of the emerging municipalities in Nepal.

2. RESEARCH METHODOLOGY

A literature study was conducted to identify key policy issues related to securing land rights of landless and urban poor in Nepal. Major documents consist of the Constitution of Nepal as a fundamental State policy document, the government policy as outlined in the national periodic plan, the National Land Policy and further encompasses the legislative and other guiding literature.

A study into the translation of the policy into practice for proving secured tenure of land to the landless and marginalized communities in the urbanizing municipality of Kankai Municipality of Jhapa district is undertaken as a case study. Detailed procedure and the results achieved are discussed.

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

3. THE POLICY FRAMEWORK AND THE LEGISLATIVE DOMAIN TOWARDS SECURING LAND RIGHTS IN NEPAL

Although various policy reforms in land governance were initiated after the political change of 1951, the outcomes were short of appeal (Chhatkuli et al, 2019). As concluded by some researchers, after more than half a century of its initiation and with a repeated commitment of the successive governments for land to the tillers, abolishment of feudalism and advancement of economic transformation, the land reform programme of 1964 was a failure (Wily et al, 2008). Demands for access to homes for the homeless and land to the landless continued consistently among the political agenda of major political parties throughout even after the democratic set-up of 1989. These were among the key demands of the Maoist insurgency which led to a decade long armed conflict 1996-2006 (ICG, 2005). The 2015 Constitution of Nepal was a turning point. The Constitution of Nepal, the National Land Policy and subsequent legislations in Nepal highlight major policy enunciation in favor of the landless and the homeless (Uprety, 2021).

3.1 The Land Policy Framework

The Constitution was promulgated by the constituent assembly in 2015. This came as a result of the ten years long armed conflict (1996- 2006) waged by the Communist Party of Nepal (Maoist), the democratic movement of 2006, and the Comprehensive Peace Agreement of November 2006. As such, few of the political demands on land and housing raised in favor of the poor and vulnerable were included in the Constitution as fundamental rights and few others as the Policy of the State. They provide the guiding principles on which detailed land policy and the implementation strategy is based. Article 37 of the Constitution underlines the right to appropriate housing as a fundamental right of every citizen, and guarantee that no citizen shall be evicted from the residence owned by him or her. Article 40 outline rights of *Dalit* such that the State shall provide land to the landless *Dalit* and arrange settlement for housing. By *Dalit*, means a person from a marginalized caste as listed by the *Dalit* Commission. Another important fundamental right related to access to land to the citizens is introduced in Article 42 as right to social justice wherein every farmer shall have the right to have access to land for agro activities. Additional to such fundamental rights the policies of the State as outlined in Article 51 includes policies relating to social justice and inclusion which among others includes to identify the freed bonded labors, *Kamlari*, *Harawa*, *Charawa*, tillers, landless, *Sukumbasi* and rehabilitate them by providing housing plot, housing and cultivable land or employment for their livelihoods. (Government of Nepal, 2015)

The current periodic plan (NPC, 2020), recognize lack of suitable management of slum/shack dwellers (*Sukumbasi*), tenants and *Guthi* peasants, landless, squatters, and informal tenure-holders among the key issues of land administration and management sector. For this purpose, the Plan proposed providing access to land and ensure land rights of the landless *Dalits*, farmers, slum/ shack-dwellers, *Sukumbasi*, tenants and *Guthi* pasants, informal tenure-holders and marginalized people. To achieve this, the document lists out working policy as following:

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

- Identification, verification and detailed recordation of informal tenure and program for regularization of shelter and livelihood of landless, *Sukumbasi* and informal tenure-holders will be implemented
- Livelihood centered rehabilitation program of freed *Kamaiya* and freed *Haliya* , and land sharing programme between registered tenants and landlords will be completed and records maintained.
- Women’s access and control over land will be improved
- System to provide land to landless *Dalits* one-time for shelter purpose will be brought into implementation
- For large scale commercial farming production, cooperative organizations will be mobilized as per the concept of land banking and brought into implementation

The plan document outlines the need for drafting a national land policy and bring into implementation.

Government of Nepal adopted a National Land Policy as an enveloping policy on land tenure, land use, land management and land administration in 2019 (GLTN, 2019). This came as a result of the intensive study and extensive discussions among multi-stakeholders wherein GLTN and partners provided support through the sharing of knowledge, building capacity on international best practices, and providing avenues for consultation and discussion at the national and in different provinces and municipalities with all key stakeholders.

The land policy is founded on six major pillars:

1. Security of tenure, land ownership and protection of land rights
2. Equitable access to land
3. Optimum use and management of land
4. Land valuation, taxation and formalization of land market
5. Land acquisition facilitation for access to land in development projects, and
6. Good land governance

In so doing, the policy has consideration for food security, environment and climate change, safer human settlement, pro-poor, and gender-responsiveness. To ensure the security of land tenure, the land ownership and protection of land rights and to provide equitable access to land, the National Land Policy enunciates following strategies (Government of Nepal, 2019):

- Land tenure system will be recognized and systematized in three categories: Formal, Non-formal and Informal.
- Security of land parcel under the ownership of each landowner is assured.
- Unregistered land, if not yet surveyed, is surveyed and registered on the basis of possession, land taxation and records.
- Landless peasants and poor households occupying lands informally will be rehabilitated in appropriate locations and provided with specific land rights.
- The record of landless, tenants farmers cultivating land owned by others, informal tenure holders and any other land related information is maintained at the Local, Provincial and Federal levels.
- Provision is made so that landless poor households are provided with housing and shelter for one time and Occupancy Certificate (*Upayog Nissa*) is granted as per law.

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

- Provision is made to grant Occupancy Certificate (*Upayog Nissa*) to the landless and marginalized farmer households for agricultural purpose for a prescribed period under prescribed standards.
- For non-landless households living informally on Government land may be provided with Occupancy Certificate (*Upayog Nissa*) or leasehold for prescribed period as per law upon payment of value prescribed by the Government and not contradicting to the prescribed basis and standards and that such allocation does not dissuade land use plan.
- In each local level body, record of the landless and marginalized farmers in the area and the land provided to them is maintained.
- If any landless or marginalized farmer Household who is occupying land allocated with the Occupancy Certificate (*Upayog Nissa*) migrates away, the Local Level may allocate such land to other households for prescribed period under basis and standards prescribed by the Government and the Record is updated.
- Households displaced due to any reason are provided with suitable opportunities for rehabilitation.
- For cadastral surveys time and location relevant Fit For Purpose techniques are applied.
- New legislation, directives/ manuals are developed or amended as appropriate to define the role of all three tiers of Governments as per federal structure.

3.2 The Legislative Provisions

The Constitution stipulate to make necessary legislation related to fundamental rights and as such the Acts related to right to housing, land to the landless *Dalit* and food sovereignty were passed by the parliament in 2018. Regarding necessary legislation for providing secured land tenure for the landless and the informal settlers drafting of the land policy, Fit-for-Purpose Land Administration Strategy and piloting of different tools for implementation through GLTN support were conducted in parallel and necessary legislation was enacted in 2020.

The Right to Housing Act 2018 specifies the three tiers of government (federal, provincial and local) to provide the housing facility to the homeless having no house and land under own or family ownership or is unable make so through own or family income. Similarly, the Right to Food and Food Sovereignty Act, 2018 prescribes for the three tiers of government to expand access of landless families who are dependent on agriculture to agricultural land and means of livelihood. The Lands Act, 1964 is the key legislation with respect to land administration and land management in Nepal. It has since gone through successive amendments to cater for the new challenges in the sector. The Seventh Amendment in 2018 dwelt on proving land to the landless *Dalit* in accordance with the Constitution and while the Eighth Amendment dwelt on more broadly.

The Eighth Amendment to the Lands Act and the Eighteenth Amendment to the Land Rules were adopted in 2020 which provide a comprehensive legal framework and prescribe necessary organizational framework for institutionalizing the process for providing land to the landless, regularization of informal tenure and secured land tenure for all. The Act provides a legal definition of the landless *Sukumbasi*, the landless *Dalit* and the informal settlers and defines the conditions, land ceiling and procedures for allocation of land and/ or regularization of informal

tenure. It also provides for the type of land which can be allocated/regularized or the type of Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Rural Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

land which cannot be allocated/ regularized. Land may be allocated or regularized free of cost for landless *Sukumbasi* or landless *Dalit* who have no registered land anywhere in the country and their economic condition is such that (s)he could not be able to procure a piece of land by own or family income. Informal tenure holder having some registered land elsewhere in the country or if economic condition is such that (s)he is capable to procure a piece of land by own or family income and is operating land under informal tenure for more than 10 years would be required to make payment based on the general economic condition, and the type and value of the land. As such a thorough assessment of the person, the land and the person-to-land relationship is required in line with the Social Tenure Domain Model (STDM) principles. Further, the law stipulates a time period of three to five years to undertake the task, requiring the adoption of a Fit-for-Purpose approach (Panday et al, 2021).

4. NATIONAL LAND COMMISSION AND THE INSTITUTIONAL SETUP

As prescribed by the Act, a Land Issues Resolving Commission (LIRC) was formed in 2020 which was reconstituted as a National Land Commission (NLC) in 2021. The Formation Order clearly outlines the roles and responsibilities of the NLC, different government institutions and the local governments. Provisions for participatory enumeration and mapping for Identification, Verification and Recordation (IVR) of landless and informal settler and application of Fit-for-Purpose tools are specifically mentioned in the guidelines and standards developed by NLC which has largely based on the results of the pilot projects undertaken jointly by the federal and local governments with the support of GLTN in different municipalities (Unger et al, 2019; Panday et al, 2021).

The following are the key roles and functions of the NLC, the district committee and the local municipality in the process of IVR and providing land and land ownership certificates to the landless and informal settler.

Key functions of the National Land Commission:

- Define the basis and standards for identification and verification of landless *Sukumbasi*, landless *Dalit* and informal settler.
- Prescribe the working methods, guidelines and standard templates for collection of data, enumeration and mapping of landless *Sukumbasi*, landless *Dalit* and informal settler.

Key functions of the District Committee:

- Orientation to local municipalities and monitoring
- Verification of records submitted by the local municipality
- Confirmation of revenue to be paid in case of *Informal Settler*
- Finalization/ authentication of land ownership records and land ownership certificates

Key functions of the Municipality:

- Identify the nature of land under informal tenure with respect to the following.

Is it occupied by landless *Sukumbasi* or landless *Dalit*?

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Ranka Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

- Is it occupied by *Informal Settler*
- Is the land falling under negative list
- Is the land to be allocated for housing or agriculture, does it fall under the designated zoning
- Value of land
- Identification of applicant/ family background with respect to the following.
 - Is the person/ family landless *Sukumbasi* or land landless *Dalit*
 - Is the person/ family *Informal Settler*
 - Socio economic condition of *Informal Settler* applicant/ family
- Calculation of revenue to be paid in case of *Informal Settler* based on criteria based on nature of land and Socio economic condition of applicant/ family
- Identification of land for relocation of landless *Sukumbasi* or land landless *Dalit* if they are squatting in negative list land

Cooperative roles of National Roles of the National Land Commission, the District Committee and Local Municipality:

- Resource management (including technical manpower)
- Enumeration and mapping
- Functioning of open source based information system NALCIS
- Address to the grievances
- Completion of pending work undertaken by the earlier commissions
- Ensure necessary coordination among local municipality, district survey office and the district office responsible for land registration
- Preparation of land records and land ownership certificates and their distribution through the local government

5. IMPLEMENTATING THE LAND POLICY AND LEGISLATION: CASE OF KANKAI MUNICIPALITY

Kankai municipality was one of the pilot municipalities where the Fit-for-Purpose tools were tested during the process of drafting the national land policy and the necessary land legislation. The study concluded that the use of satellite imagery was less suitable for small sized parcels (Shiwakoti et al, 2021). Further, a participatory enumeration tool based on STDM principles (Chhatkuli et. Al, 2021) and a hybrid technology of surveying tools based on the parcel size, volume and terrain type was recommended (Panday et al, 2021). The learnings from pilot project were very much reflected in the policy, legislation, the roles and functions of different organizations, and the guidelines and the standards as discussed above. Here under, the case of practical implementation at Kankai Municipality leading to the issuance of land ownership certificates to the landless *Sukumbasi* and informal settler after the enactment of the land legislation is presented. The guiding steps and key activities follow the below mentioned NLC general guidelines (Bhatta, 2023).

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

Step	Key Activities
Preparation, Signing of MOU with local government level and Notification	Establishment of Facilitation Committee, Services Centre, and Resource management
Record collection of landless Sukumbasi and informal settler	Training and fielding of Enumerators and record collection through trained enumerator
Data entry, verification, and authorization from Ward Committee	Data listing, Ward wise report, temporary certificate (<i>Nissa</i>) distribution
Identification of land and recordation	Survey planning, survey/ mapping
Authentication from the local government level and submission to District Committee	Verification, planning, recommendation
Verification and decision from District Committee and reporting to National Land Commission	Verification with respect to regulations, confirmation of land, and area for allocation and regularization fees in case of informal settler
Preparation of Land Ownership Certificate	Finalization of map, fee collection as appropriate, land record, and land ownership certificate
Distribution of Land Ownership Certificate	Authorization to local government level, Distribution

Figure 1: Key steps and Activities

5.1 Study Area

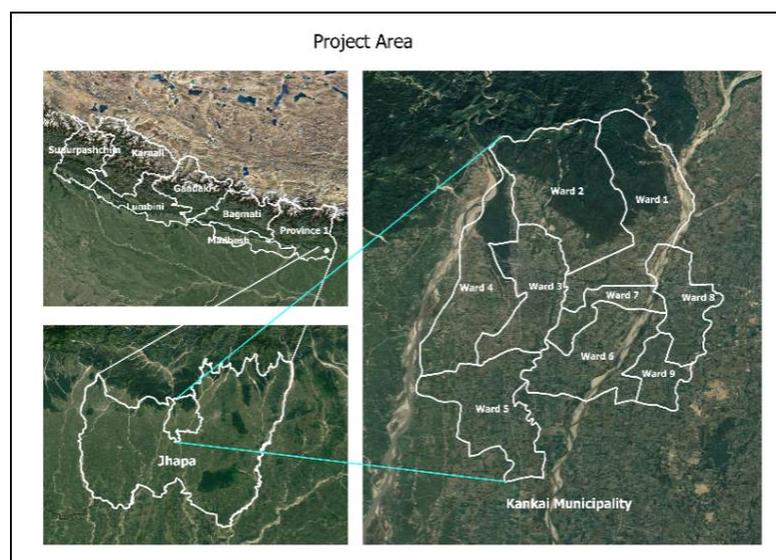


Figure 2: Location map of Study Area

The Study Area is a fast urbanizing municipality of Kankai in Jhapa district, in Koshi Province (previously called Province No 1) with an area of 79.1 sq.km, population around 51,000 and distributed into 9 Wards. This lies in the fertile plains of terai region of eastern Nepal, mostly inhabited by migrants from the mountainous districts lying in the north. Many of the wealthy migrants purchased registered land from the local indigenous

communities like Rajbanshi, Satar etc. and few more among the

destitute, cultivated barren land on their own. In the absence of necessary proof of ownership, such cultivated land remained under informality, while poor and marginalized communities still lived under informal tenure without documents for decades.

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

5.2 Methodology

The detailed methodology applied is given below:

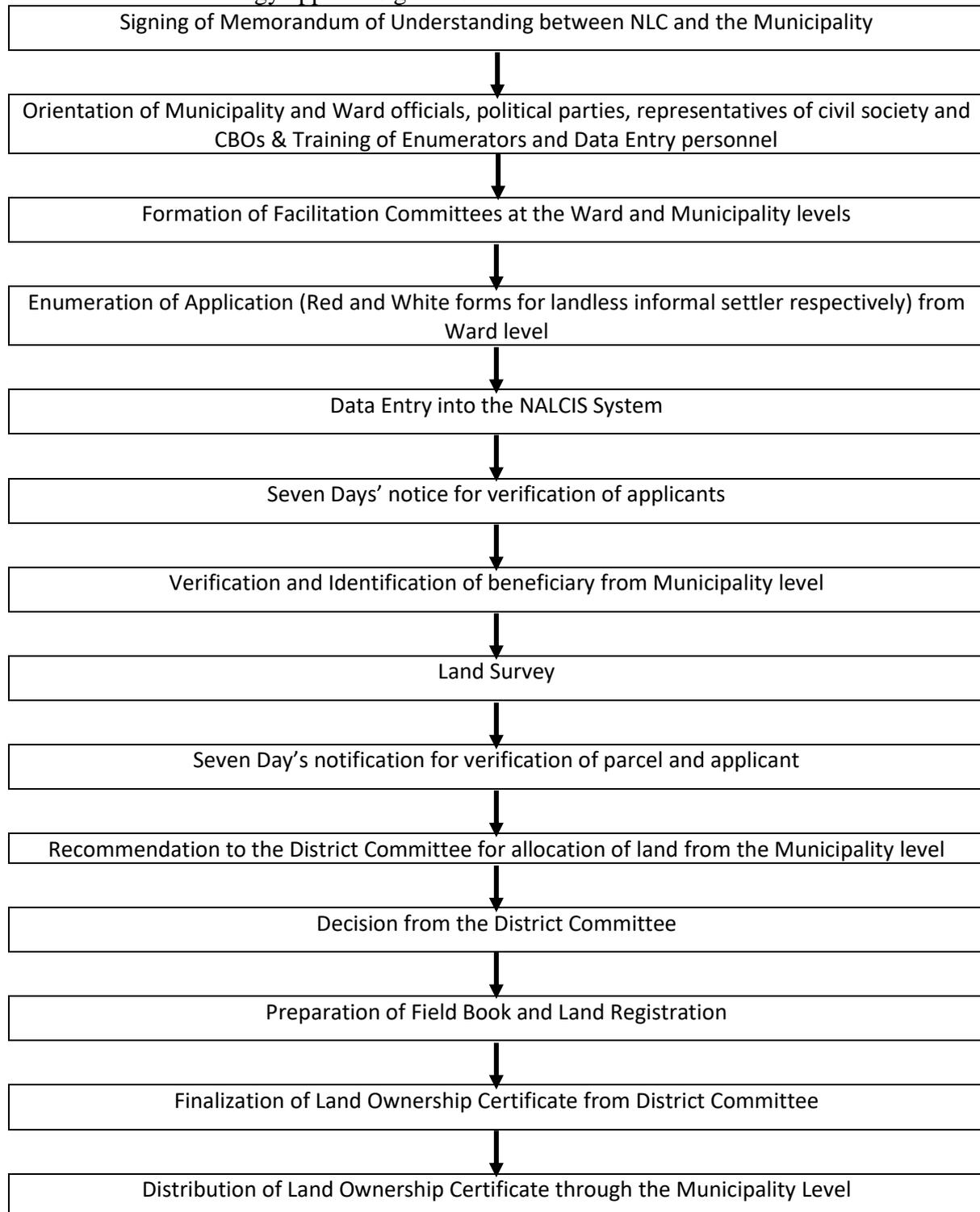


Figure 3: Detailed Methodology

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

The Ward Level Facilitation Committee consist of the Ward Chairperson, all Ward Members, rerepresentatives from nationally recognized political parties active at the Ward level, representatives from CBOs including women and *Dalit*, and Ward Secretary with a responsibility to facilitate the data collection of landless and informal settlers and the survey of land parcels at the field level. Similar facilitation Committee was formed at the Municipality with the Mayor, Deputy Mayor and Chief Administrative Office plus other representatives as above.

The following activities are undertaken in a participatory process:

- Identification and recordation of landless *Dalit*, landless *Sukumbasi*, and informal settler and submit to National Land Commission. For this purpose, collect and analyze information on social and economic status of households, and classification of land under informal tenure and any other land related matter.
- Identification of land for allocation of land to the landless *Dalit* and landless *Sukumbasi*, and management of informal settler confirm the type, location and duration of land under informal tenure.
- The following negative list of type of land are not to be considered for allocation/regularization as per the land legislation:
 - Land under religious, cultural and strategic importance
 - Land considered necessary to be secured from the perspectives of natural disaster, risk management and environmental protection
 - Public land
 - Land at the banks of river and canals
 - Land under risk zone
 - Forest covered with tress and plantation
 - Land within designated road jurisdiction
 - Land designated necessary for the use of federal, provincial or local government
 - Private land of any other person rented or used with or without any payment
 - Land not classified under residential or agricultural under land use zoning
- The following positive list of type of land are to be considered for allocation or regularization
 - Vacant land suitable for cultivation or settlement
 - Other government land including riverbed suitable for cultivation or settlement
 - Land designated as forest in the record but currently converted into cultivation or settlement
- The following procedure is followed:
 - Collection of household information through prescribed application forms (Red Form for landless and White Form for informal settler)
 - Verification of application forms and confirmation from the Ward Chairperson
 - Registration of application
 - Issuance of Temporary Card
 - ~~Data entry in the National Land Commission Information system NALCIS~~

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

- Report generation through the use of NACIS system
- Notice and re-validation
- Recommendation from the Ward Committee to the Municipal Executive Committee
- Verification and authentication from the Municipal Executive Committee and recommendation to the National Land Commission

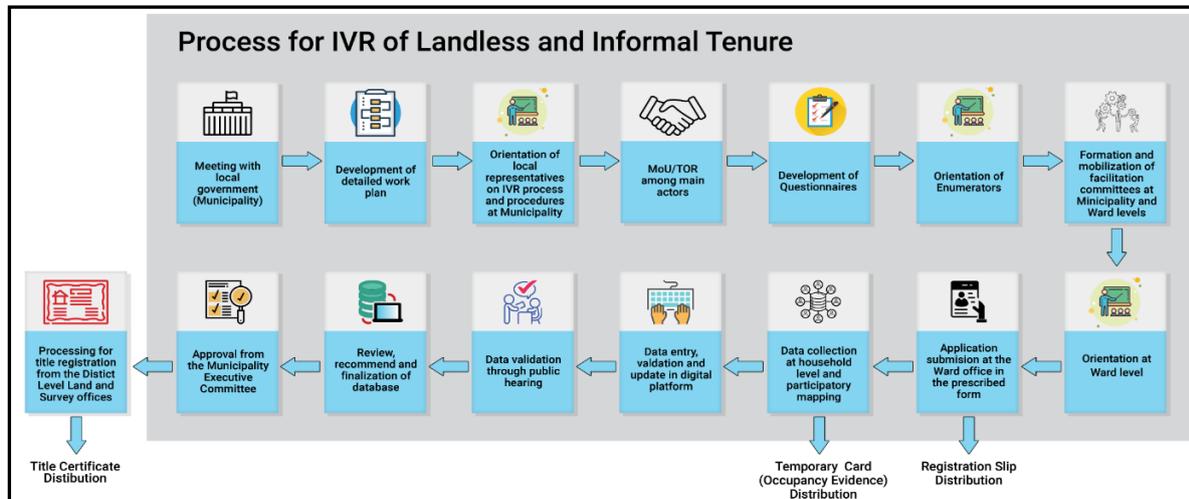


Figure 4: Schematic diagram of IVR process

5.3. Timeline and Human Resources

Whilst pilot studies were initiated earlier, the formal work for enumeration and mapping was initiated in late 2020 after the legislation, guidelines and standards were finalized and the signing of an MOU between the municipality and the then Land Issues Resolving Commission (LIRC) was finalized. This was later owned by the reconstituted National Land Commission. Total human resource engaged at the Municipality were 46 personnel consisting of 27 enumerators, 12 Survey personnel, 6 data entry operators and one Coordinator which were trained together with the orientation of members of the Ward level and the Municipality level facilitation committees who support fully during the whole process.

5.4. No False Claim and Leave No One Behind

The built-in process confirms that no false claim is entertained and no legitimate claim is omitted. There is a provision in the law that any false claimant and the recommender is strictly penalized. For the purpose the following activities are undertaken:

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023



Figure 5: Enumeration at the door step



Figure 6: Public meeting at site

- Regular public notice is posted, public meetings are conducted and necessary information on the legal matter is disseminated
- The enumerators reach the door-steps of each beneficiaries
- The public meetings are held on sites
- The two tier facilitation committees represent all interest groups
- Strict legal provisions are in place for penalizing those who make false claims as well as those who recommend them, which is well publicised
- Multi-tier verification process at the Ward, Municipality, and District Committees are conducted.

5.5. Survey, Data Entry and information system

For the survey of parcels under informal tenure to be undertaken, the first step is the adjudication of boundary based on participatory process. The parcel boundary may be among neighbors or in some cases the boundary may be with the registered parcels belonging to the same household. It is also necessary to confirm whether it is not part of the already registered parcel. Therefore, comparison with the existing cadastral maps and records is conducted. Where visible boundary is ambiguous, boundary markers are affixed in the presence of neighbors and the representatives of Ward committee.

For mapping and database creation, an Open source central database system NALCIS was utilized which provide access to monitoring and verification of data from different tiers from the Ward committee upto the National Land Commission central office.

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

5.6. Data Validation

The whole process is built on a multi-level data validation system which among others consist of the following:

- Validation of personal information through undertaking by the respective person and attested by the neighbors and facilitation committees at the Ward and the Municipality levels.
- The claim on landless *Sukumbasi* confirmed through comparison with the national database of registered landownership.
- The information is scrutinized at multiple levels by the Ward Committee, the Municipality Committee and the Survey and the land registration officials.
- The NALCIS system is accessible to officials for review at different tiers.

6. RESULTS

The period after the signing of the MOU by the Municipality for starting the IVR process of enumeration and mapping in late November 2020 was not conducive for field work due the influx of COVID pandemic in 2021 and two major general elections in 2022. The year 2022 witnessed the periods of elections for the local municipalities and also the general elections for the provincial and the national parliaments and the National Election Commission imposed code of conduct for several months which barred the NLC and the Municipalities from undertaking work of such nature. The elections resulted into the formation of new governments at all three levels- the federal, the provincial and the local levels which would disturb the pace of work undertaken by the previous government mainly at the Municipality levels. Despite that, commendable progress was achieved. The following tables show the overall progress showing the completion in the participatory enumeration, IVR and the mapping of land parcels. As of January 2023, enumeration of all 7,091-claimant households and mapping of the land parcels has been completed. Mapping of 8,778 parcels operated by the 7,091 households comprising 1034.7 hectares of land has been completed. Verification of all 5,368 households except at Ward No 4 and 7 total comprising 75,7% and issuance of land ownership certificates to 27 households in Kaltubari of Ward No 8 has been completed and the rest is currently under progress.

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

Table 1: List of Households Enumerated

Ward No	No of Landless Dalit Households	No of Landless Sukumbasi Households	No of Informal Settlers	Total No of Households
1	39	100	326	465
2	34	245	289	568
3	49	590	1110	1749
4	30	383	786	1199
5	52	370	860	1282
6	18	102	309	429
7	43	174	307	524
8	55	146	221	422
9	17	219	217	453
Total	337	2329	4425	7091

Table 2: List of Households Verified

Ward No	No of Landless Dalit Households	No of Landless Sukumbasi Households	No of Informal Settlers	Total No of Households
1	39	100	326	465
2	34	245	289	568
3	49	590	1110	1749
4	0	0	0	0
5	52	370	860	1282
6	18	102	309	429
7	0	0	0	0
8	55	146	221	422
9	17	219	217	453
Total	264	1772	3332	5368

Among the 27 households in Kaltubari of Ward No 8 where the Land Ownership Certificates has already been distributed, the households were operating the land as shack/slum-dwellers from a minimum 11 to the maximum 37 years without formal documents. Out of them 15 HHs were landless indigenous people from the *Satar* community, 5 HHs were landless *Sukumbasi* and the rest 7 HHs were informal settlers. Out of the 27 HHs, 17 HHs received Joint Land Ownership Certificates in the names of husband and wife, 3 women received single ownership, and the rest 7 received ownership in the names of male occupants.

7. CONCLUSIONS

The field work for enumeration and mapping in the Kankai Municipality has been completed in less than two years despite COVID pandemic and other challenges for field work, and with the verification and additional office work for land titling in progress, this is targeted to be completed by the next one year. The experience from the project shows that the policy, legislation, the institutional setup as designated and the guidelines, standards and methodology developed are workable. The NLC has made MOU with at least 640 out of 753 municipalities in Nepal, and similar processes are in progress though at different stages of progress. The experience shows that the application of participatory enumeration and Fit-for-Purpose land tools can speed up securing land rights of the landless and urban poor. In a period of less than two years laudable progress in the IVR of landless and informal tenure, mapping of land parcels, and processing for land titling has been initiated and issuance of land ownership certificates to several landless households has already been started. The study provides lessons to other municipalities in the country, and references to other countries looking for suitable tools for the

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

regularization of their informal tenure that is based on inclusive, participatory, and fit-for-purpose approaches.

However, the task is not free of challenges. Land and tenure issues are as well issues of political nature and therefore change of governments at different levels could affect the pace of work. With the policy, legislation and multi-stakeholder committees representing all political and civil society in place least negative effect was foreseen. However, coordination among multi-stakeholders in itself is a challenge- they all need to be educated and trained in the policy, legislation and the technology as adopted. Surveyors and land administration officials trained in the traditional technology are generally resistant to changes in the new way of working. It is also necessary to educate the community and the beneficiaries who are accustomed to the old way of land titling process and sometimes disbelieve if the Fit-for-Purpose process does work.

REFERENCES

ADS (2015); Agriculture Development Strategy (ADS) 2015 to 2035;
<https://faolex.fao.org/docs/pdf/nep171433.pdf>

Bhatta, J.R. (2023); Short Presentation on the Legislation, Guidelines and Standards related to National Land Commission Works (In Nepali)

Chhatkuli, R.R.; Dhakal, S.; Antonio, D.; Singh, S. (2019); Statutory Versus Locally Existing Land Tenure Typology: a Dilemma for Good Land Governance in Nepal.
https://www.fig.net/resources/proceedings/fig_proceedings/fig2019/papers/ts08g/TS08G_chhatkuli_dhakal_et_al_10021.pdf

Chhatkuli, R.R.; Joshi, J.R.; Deuja, J.; Panday, U.S (2021); Participatory Mapping as a Smart Survey Technique to Support Land Rights for All: Experiences and Expectations (Nepal)
https://www.fig.net/resources/proceedings/fig_proceedings/fig2021/papers/ts07.5/TS07.5_chhatkuli_joshi_et_al_11130.pdf.

GLTN (2019): <https://glt.net/2019/04/05/special-announcement-nepal-government-adopts-a-national-land-policy/>

Government of Nepal (2015): Constitution of Nepal, www.moljpa.gov.np/wp-content/uploads/2017/11/Constitution-of-Nepal-English-with-1st-Amendment_2.pdf Government of Nepal (2019): National Land Policy 2019 (In Nepali);
<https://molcpa.gov.np/department/page/242>

<https://nlc.gov.np/>

http://www.moljpa.gov.np/wp-content/uploads/2017/11/Constitution-of-Nepal-English-with-1st-Amendment_2.pdf

ICG, International Crisis Group (2005): Nepal's Maoists: Their Aims, Structure and Strategy;
<https://www.refworld.org/pdfid/43bd262c4.pdf>

NPC (2020); The Fifteenth Plan (Fiscal Year 2019/20 – 2023/24), National Planning Commission Secretariat, Kathmandu, Nepal

Panday, U.S.; Chhatkuli, R.R.; Joshi, J.R, D.; Deuja, J.; Antonio, D.; Deuja, .Enemark, S. (2021);
Securing Land Rights for All through Fit-for-Purpose Land Administration Approach: The

Case of Nepal: Land Journal <http://www.moljpa.gov.np/2073-445X/10/7/744>
Care of Nepal: Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023

- Shiwakoti, B; Bhandari, S; Shrestha, R; Panday, U.S; Chhatkuli, R.R. (2021): Comparative Study of Mapping Land Parcels with Fit-for-Purpose Tools and Conventional Techniques to Support Tenure Security for All
[https://www.researchgate.net/publication/355104765 Comparative Study of Mapping Land Parcels with Fit-for-Purpose Tools and Conventional Techniques to Support Tenure Security for All](https://www.researchgate.net/publication/355104765_Comparative_Study_of_Mapping_Land_Parcels_with_Fit-for-Purpose_Tools_and_Conventional_Techniques_to_Support_Tenure_Security_for_All)
- Unger, E-M; Chhatkuli, R R (2019); Fit-For-Purpose Land Administration in a Post Disaster Context: Lessons and Application from Nepal; UN-Habitat Report o4/2019; Nairobi, Kenya
- Upriy, L. P. 2021. Land Related Policies and Laws in Nepal: A Discussion Paper. Kathmandu, Nepal: Community Self-reliance Centre (CSRC), International Land Coalition (ILC) & NES-Nepal <https://csrnepal.org/wp-content/uploads/2021/07/Discussion-Paper.pdf>
- Wily, L.A.; Chapagain, D.; Sharma, S. (2009); Land Reform in Nepal Where is it coming from and where is it going?; The Findings of a Scoping Study on Land Reform for DFID Nepal.

BIOGRAPHICAL NOTES

Mr Raja Ram Chhatkuli is a land professional with long experience in land administration and management in Nepal. He is currently affiliated with UN-Habitat Country Office in Nepal. Email: raja.chhatkuli@un.org

Ms Ranjita Kattel is Head of Land Unit and coordinator of land tenure programme at the Kankai Municipality, Nepal. Email: ranjitakattel51@gmail.com

Mr Jagat Deuja is Executive Director of Community Self Reliance Centre (CSRC), a pioneer NGO dedicated to land rights. He previously served as an Expert Member at the Land Issues Resolving Commission in Nepal. Email: deujaj@csrnepal.org

Ms Hellen Ndungu is an Assistant Programme Management Officer at Land, Housing and Shelter, UN-Habitat, which is also the Secretariat for the Global Land Tool Network.. Email: hellen-nyamweru.ndungu@un.org

Mr Danilo Antonio is a Programme Management Officer at the Land, Housing and Shelter Section of UN-Habitat. He is currently the overall coordinator of the tool development work and country operations of the GLTN programme . Management Officer at the Land, Housing and Shelter Section of UN-Habitat. Email: daniilo.antonio@un.org

Mr John Gitau is a Programme Management Officer at the Land, Housing and Shelter Section of UN-Habitat. He supports tool development work and coordinates country operations of the GLTN programme in Kenya, Namibia and the Philippines. He is also the task manager responsible for the development of the STDM tool and provides technical oversight in its implementation in specific projects. Email: john.gitau1@un.org

CONTACT: Raja Ram Chhatkuli, UN-Habitat Jhamshikhel, Kathmandu, NEPAL

Tel. + 977 1 545 1091 Email: raja.chhatkuli@un.org Web site: www.unhabitat.org.np

Securing Land Rights of the Landless and Urban Poor from Policy to Practice: The Case of Kankai Municipality, Nepal (2015)

Raja Ram Chhatkuli (Nepal), Danilo Antonio, Hellen Ndungu (Kenya), Ranjita Kattel, Jagat Deuja (Nepal) and John Gitau (Kenya)

FIG Working Week 2023

Protecting Our World, Conquering New Frontiers

Orlando, Florida, USA, 28 May–1 June 2023