

Factor in Land dispute

- a. Technical deficiencies
- b. Institutional arrangement
- c. Conflicting laws regarding to Land administration and management

Contd...

- The *Cadastral Surveying (CS) is the foundation of land administration/management activities in Nepal.*
- *Inaccuracies and ineffectiveness in CS activities are the reasons for some of the cases of land disputes that exist in the Nepalese society*
- Cadastral Surveying mostly depend upon the **technology used and human resources involved**
- The cadastral surveying of whole the country was completed in **1997** leaving some dense areas, as village blocks, and government and public lands lying beyond the cultivated and residential area.
- In the mean time, **several commissions** constituted at different times by HMG/Nepal for distributing lands to landless people and establishing new settlements surveyed the public lands.
- **Various inconsistencies and incompleteness** in documentation in the surveys conducted by these commissions were realized

Contd...

- Some categories of land disputes related to cadastral map are identified as:
 1. **Improper demarcation** of parcel boundary on the ground.
 2. Errors in **trace copy of original cadastral maps** and **wear and tear** of documents.
 3. Errors in **file maps** prepared in larger scale from original maps.
 4. Problems with ownership in the land distributed by special commissions.
 5. Wrong survey of reality.
 6. Wrong marking of **parcel subdivision** on cadastral map.
 7. **Wrong interpretation** of the agreement mentioned on the deed document prepared at the time of transaction
 8. Transfer of ownership over public land by local authority beyond the legal provision.

Contd...

9. Mismatching of existing maps with new maps prepared by **cadastal resurveying**
10. Use of traditional technology in the days of availability of modern and advanced technology can be regarded as root of technical deficiencies in Nepalese cadastral surveying
11. Inaccuracy in **control points** used for mapping
12. Lacking of standardization and regular maintenance of instruments/equipments used for cadastral surveying
13. Manual technique of producing duplicate copy and file maps
14. The role of *Lekhandases (Lekhapadhibyabasayi)* is not clearly defined yet and their easy access to the maps and documents in Survey Offices has **supported the unauthorised manipulation** in maps and documents from third parties and malpractices during transaction.

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15. **External pressure**, basically from the persons affiliated to certain political party and officials holding administrative power, sometimes make the land surveyors and/or other officials involving in cadastral surveying activities to overlook the reality for their interest.

Types of land conflicts

- Conflicts occurring on all types of property
- Special conflicts over private property
- Special conflicts over common and collective property
- Special conflicts over state property

Conflicts occurring all types of property

- Boundary conflicts
- Inheritance conflicts
- Ownership conflicts
 - due to legal weakness
 - due to lack of proper land registration
- Limited access to land due to **discrimination by law**,
- **illegal evictions** by state officials acting without mandate
- Disputes over the payment/revenue for using/buying land

Special conflicts over private property

- Expropriation by the state without compensation
- Sales of someone else's private property
- Leasing/renting of someone else's private property
- illegal expropriations by banks
- Conflicts due to land reforms
- illegal/improper uses of private land

Special conflicts over common and collective property

- **Competing uses/rights** on common and collective land
- illegal/improper uses of common property
- **Unauthorised sales** of common or collectively owned property
- Disputes over the **distribution of revenue** from common land

Special conflicts over state property

- illegal/improper uses of state land
- Land grabbing by high-ranking public officials
- illegal sales of state land
- illegal leases of state land (including forests, mines, parks)
- Disputes over revenues from state land generated through lease, sale or transformation of its use
- Improper land privatisation (e.g. unfair land distribution or titling)

❑ Preventing land conflicts

- Raising awareness
- Promoting good land governance

❑ Land conflict resolution body

- Judiciary/**Special Land Courts**
- Political institutions
- Customary institutions
- Civil society
- Private sector mediators
- Land Title Adjudication Committee

❏ Land management tools for solving land conflicts

- Modern Surveying technique and good land registration system
- Land **readjustment** (land pooling)
- **Land use planning**
- Clarifying, legalising and securing property rights
- Proper state land management

❖ **Land use planning** is defined as the process of **allocating resources**, particularly land, in order to achieve **maximum efficiency** while respecting the **nature of the environment** and the welfare of community (UN/ECE, 1996).