



Land Commitments in Nepal’s Peace Process: An Update on Implementation
June 20, 2012

I. Introduction

Land is central to the livelihoods of many Nepalis, and political struggles over land and its equitable distribution have a long history. Land was also a central feature of Nepal’s decade-long conflict. In the then-Communist Party of Nepal-Maoist’s initial 40-Point Demands, issued in 1996, the party called for “land under control of the feudal system [to be] confiscated and distributed to the landless and homeless” and for land belonging to certain classes of people to be “confiscated and nationalized.”¹ To advance this agenda and to consolidate political control in their areas of strength, the Maoists seized land from larger landowners and from their political opponents during the conflict. The 2006 Comprehensive Peace Agreement (CPA) and subsequent political agreements committed the Maoists to return this seized land to its owners and also contained a range of government commitments to social transformation, including land reform.

In its June 2010 report, “Land Commitments in Nepal’s Peace Process: What Has Been Achieved to Date?”² The Carter Center found that these commitments had been only partially fulfilled. Observers found in 2010 that the Unified Communist Party of Nepal-Maoist (UCPN(M)) had returned much of the land it had seized in the hills, mountains, and parts of the Eastern and Central Tarai, although some outstanding cases remained in these areas. By contrast, most of the land captured in the Mid and Far-Western Tarai (where the largest number of seizures had reportedly occurred) had not been returned or had been returned only conditionally. Meanwhile, efforts to formulate land reform policies and make arrangements for landless people were stalled and largely unimplemented.

This report provides a brief update on the status of implementation of land commitments at the local level, and also includes an annex of 32 brief district descriptions. In particular the report focuses on the period since August 2011. Following the election of Prime Minister Baburam Bhattarai on Aug. 28, 2011, the government and the UCPN(M) recommitted to land return and reform, commitments which were codified in the Nov. 1, 2011, Seven-Point Agreement among major political parties. Carter Center observers have followed up at the local level to assess the impact of these commitments on the ground.

Given the current political context, in which the Constituent Assembly has been dissolved and the path forward on Nepal’s peace and constitutional processes remains unclear, it is unlikely that conflict-era land issues will receive much high-level attention at this time. Additionally, at the national level “the peace process” is sometimes considered to mean integration, rehabilitation, and retirement of Maoist combatants

¹ The 40-Point Demands can be found in: Deepak Thapa, ed., *Understanding the Maoist Movement of Nepal*, Kathmandu, Martin Chautari, 2003, p. 391. There is extensive literature on land issues in Nepal. Prominent works include: Mahesh C. Regmi, *Landownership in Nepal* (1976), Jagannath Adhikari, *Land Reform in Nepal: Problems and Prospects* (2006), and Liz Wiley, Devendra P. Chapagain, and Shiva Sharma, *Land Reform in Nepal: Where is it Coming From and Where is it Going?* (2008).

² The Carter Center, “Land Commitments in Nepal’s Peace Process: What Has Been Achieved to Date?,” June 22, 2010. http://cartercenter.org/resources/pdfs/news/pr/nepal-pr-land-rpt_062210-EN.pdf.

only, and some believe that once those processes are complete the peace process is over. However, there remain many significant commitments in the CPA outside of those related to Maoist combatants which are likely to continue to resurface in the medium to long term if not addressed properly in the short term. For this reason, The Carter Center believes there is value in continuing to publicly report on conflict-era land issues at the local level and to maintain an updated public record of the current status of such issues throughout the country which can be built upon in years to come. This update report is issued in this spirit.

A note on how to read this report: First, although both land reform and land return are important components of the CPA, this report focuses on land return at the district and VDC levels. Because land reform is a national-level process that has not yet begun, the Carter Center is not able to observe its implementation on the ground and thus is not able to report on it in depth. Land return, by contrast, is an observable, local-level process. As noted in its June 2010 report, The Carter Center believes that both reform and return are important to achieve the letter and spirit of the peace process and that the government and political leaders should move forward on both. Second, it is important to note that as recognized in previous Carter Center reporting and in the guiding documents of the peace process, conflict-era land seizures constitute only a narrow spectrum of land-related issues in Nepal.

II. Background and Context

Brief summary of key land commitments in Nepal's peace process

In the Nov. 2006 Comprehensive Peace Agreement, the Maoists and the then-Seven Party Alliance agreed that all land seized during the decade-long conflict would be returned while steps would be taken to develop policies for “scientific land reforms.” Specifically, both sides agreed to:

- “Create an inventory of governmental, public and private buildings, land and other properties occupied, locked up, or not allowed [for] use in [the] course of armed conflict and to return them immediately;”
- “Adopt a policy to introduce scientific land reforms by ending feudal land ownership;”
- “Adopt a policy to provide land and other economic and social security to the economically backward classes including landless, bonded laborers, and pastoral farmers;” and
- Ensure that “private property of any person shall not be seized or controlled except in accordance with the law.”³

Agreements in December 2007 and June 2008⁴ reiterated these commitments and established since-lapsed timeframes for Maoist land return and the establishment of commissions to study land reform policies.⁵

Summary of Previous Carter Center Observation Findings

In its first report on land commitments in Nepal's peace process, The Carter Center visited 11 districts to investigate the status of conflict-era land.⁶ Overall, observers found that land-related commitments had

³ Comprehensive Peace Agreement, Articles 5.1.8, 3.7, 3.10, and 7.5. Nov. 21, 2006.

http://www.peace.gov.np/admin/doc/CPA_eng-ver-corrected.pdf.

⁴ Both agreements can be found in *From Conflict to Peace in Nepal: Peace Agreements 2005-2010*, Asian Study Center for Peace & Conflict Transformation, Kathmandu, 2011, pp. 106-110 and pp. 124-129.

<http://www.aspect.org.np/uploads/pubdoc/document/Peace%20Agreements%20Compilation%20-%20English%20.pdf>.

⁵ A high-level land reform commission was established under the Maoist-led government in December 2008. Its report was released in 2011. A second commission was formed under the UML-government in October 2009. In May 2010, the commission submitted its report to the government for consideration. The 2008 report is available online at:

http://www.molrm.gov.np/downloadfile/Report%20Final_1317547371.pdf.

been only partially fulfilled. Interested readers are encouraged to review the June 2010 report, which contains more in-depth discussion of the issues covered in this brief update. The main findings of the 2010 report are summarized below:

i) Scale and status of conflict-era land seizures: Carter Center observers found in 2010 that the majority of land seized by the Maoists during the conflict was in the Tarai, with the Mid and Far-Western Tarai seemingly the most affected in terms of number of cases. No comprehensive credible and impartial records regarding the seizures existed, making it nearly impossible to accurately estimate the total amount of seized land, how much had been returned, and how much had yet to be returned. In some Tarai districts, much land seized by the Maoists during the conflict appeared to have been returned. By contrast, most land seized by the Maoists during the conflict in the Mid and Far-Western Tarai appeared not to have been returned. Nearly all land appeared to have been returned in four of five hill and mountain districts visited, with Sankhuwasabha being the exception.

ii) Issues surrounding conflict-era land return: In 2010, observers found that there was no clear, agreed, nation-wide formal process for land return. Maoist policy regarding whether to return land seemed to be largely determined by district-level representatives and, to a lesser extent, area or VDC-level representatives. Most land return appeared to have taken place at three different intervals: shortly after the signing of the CPA; just prior to the 2008 Constituent Assembly (CA) elections; and while the Maoists were leading the government from August 2008 to May 2009. In many cases where the Maoists had seized land from targeted individuals, land return was conditional whereby the landowner engaged in informal negotiations with local Maoists and farmers to gain some access to the land. Some landowners were also reportedly coerced into distress sales whereby the Maoists exerted pressure on them to sell their land, often well below market value. While some landowners approached the district administration for assistance, the majority were reluctant to pursue legal and administrative means, believing local authorities to be either unable or unwilling to address land seizure cases.

iii) New land seizures: Carter Center observers in 2010 found that there had been some new land seizures since the end of the conflict, mainly by the Maoists (UCPN(M)) and CPN(M)-Matrika Yadav. Both parties had supported a number of occupations of public or unregistered land by landless people and peasants. New occupations supported by the UCPN(M) in 2009-10 were often well-organized and apparently part of an overall campaign to build party strength and pressure the government at a time when the party was in opposition. There were also reports of symbolic land seizures by a range of actors, including the UCPN(M), CPN(M)-Matrika Yadav, armed groups, and other small or previously unknown outfits; these seizures often involved little more than raising a party flag.⁷

Summary of post-2010 developments

In the period between June 2010 and August 2011 there was little national-level progress on land issues. However, following the election of Prime Minister Baburam Bhattarai on Aug. 28, 2011, land return was again prominently featured on the national agenda. Prime Minister Bhattarai pledged that his government would implement all outstanding peace process agreements within 45 days. As part of this program, on Sept. 9, 2011, the government called for immediate return of land and property captured during the decade-long conflict. On Sept. 13, the government announced that the Prime Minister's Office (PMO)

⁶ These districts included: six Tarai (Dang, Dhanusha, Kailali, Kapilbastu, Morang, and Nawalparasi), three hill (Baitadi, Ramechhap, and Surkhet), and two mountain (Gorkha and Sankhuwasabha).

⁷ For more detailed discussion of post-conflict land occupations, see The Carter Center, "Land Commitments in Nepal's Peace Process: What Has Been Achieved to Date?," pp. 20-25.

had issued directives to District Administration Offices (DAOs) to immediately begin the process of returning seized property, starting with collecting data on all outstanding cases. The PMO also reported that central and district-level mechanisms would be formed to monitor implementation of the process and resolve local disputes related to land return. A ministerial-level committee composed of Finance Minister Barsaman Pun (UCPN(M)), then-Minister of Energy Post Bahadur Bogati (UCPN(M)), and then-Information and Communication Minister Jaya Prasad Gupta (MJF-Republican) was formed to monitor land return.

On Nov. 1, the UCPN(M), United Democratic Madhesi Front (UDMF), Nepali Congress (NC), and the Communist Party of Nepal-Unified Marxist Leninist (UML) signed a Seven-Point Agreement that reiterated major commitments in the peace process. The agreement was mainly focused on resolving issues related to integration, voluntary retirement, and rehabilitation of Maoist combatants, and made a significant step forward on this core peace process commitment. The agreement also included points on land return and land reform similar to those contained in previous accords. Specifically, the parties agreed:

- “UCPN (Maoist) shall return all property seized or occupied by the party to rightful owners within Nov. 23, 2011. With the return of the land, the owners will be given appropriate compensation;”
- “Farmers’ rights will be ensured as per the spirit of the CPA, Interim Constitution and scientific land reform system;” and
- “Local administration will monitor and implement the agreement pertaining to the return of the seized property.”⁸

To show national support for implementation of these land-related clauses, on Nov. 20 Maoist Chairman Pushpa Kamal Dahal, NC General Secretary Krishna Prasad Sitaula, and UML Vice-Chairperson Bamdev Gautam made a joint visit to Bardiya, one of the districts most affected by conflict-era land seizure. One outcome of the visit was the creation of an informal task force to move forward land return in the district. Similar task forces were formed in some other districts as well.

However, like several past agreements the full terms of these commitments have not been met. Reasons for the lack of progress include but are not limited to: the short period of time allotted for implementing return, significant pushback by Maoist cadres at the local level (especially those from the Baidya faction),⁹ the lack of clearly agreed principles and procedures for how to implement land return, a lack of clear alternatives for people currently tilling captured land, and most importantly insufficient political will to address complicated land issues at a time when central-level attention was focused on implementation of commitments related to Maoist combatants and making progress on outstanding constitutional issues.

The government also took several other steps on broader land issues during the last year. Most positively, in December 2011, the government formed a committee under the Minister of Land Reform and Management to study previous land reform recommendations, identify areas of overlap and difference, and issue recommendations for implementation of comprehensive land reform policy.¹⁰ The committee

⁸ Seven-Point Agreement, Nov. 1, 2011. Unofficial translation. <http://www.ekantipur.com/the-kathmandu-post/2011/11/01/nation/draft-of-the-7-point-agreement/227733.html>.

⁹ On June 18, 2012, a faction of the UCPN(M) led by Mohan Baidya announced its intention to split from the party and declared the formation of a new Communist Party of Nepal-Maoist. As data for this report was collected prior to the split, references to the “Baidya faction” have been retained throughout the report.

¹⁰ This paragraph is based on a Carter Center interview with a senior government official and committee member, Kathmandu, April 2012.

identified 13 major land-related issues and developed recommendations to address them, including suggested timeframes for implementation. Notably, the committee has recommended that the government conduct a comprehensive land census to assist with formulation of policies governing land use, land ceilings, redistribution, and other matters.¹¹ The committee's report was submitted to the government in April 2012.

Additionally, the government formed two commissions to deal with certain types of land issues. A High-Level Landless/Squatters Problem Resolution Commission was formed by the government in November 2011, with local committees in 25 districts. The primary mandate of the commission is to collect information on squatters/landless people and to issue identity cards to Nepalis verified as landless.¹² The government also formed committees at District Land Revenue Offices (DLROs) to convert unregistered land into registered land if current occupants meet certain strict conditions. Neither of these commissions appears likely to assist with resolution of conflict-era occupations, at least in the foreseeable future.

Finally, on Jan. 16, 2012, the Cabinet announcement that land dealings authorized by the Revolutionary People's Councils under the conflict-era Maoist People's Governments would be recognized and made legal. Reportedly, the government instructed District Land Revenue Offices to begin issuing land certificates to people on the basis of the conflict-era decisions. In some districts, People's Governments had issued hundreds to thousands of rulings on land-related issues during the conflict (Carter Center findings on this complicated issue are briefly addressed on p.11 of this report). The announcement was condemned by opposition parties including the NC and UML, who announced that they would boycott the legislature-parliament until the decision was withdrawn. On Jan. 19, the Supreme Court stayed the government from implementing the decision. Although the decision formally remained pending in the cabinet, on Feb. 9, 2012, Prime Minister Bhattarai addressed the legislature-parliament and promised that the government would not implement the decision in order to end the NC and UML boycott.¹³

Overall, the current context is one in which, over the last year, a variety of land issues have briefly received greater attention than ever before in the peace process. At the same time, this attention has not led to clear agreement on land return and reform at the national level or substantial progress on return of seized land at the local level. Given the focus at the central level on how to resolve the current constitutional impasse and resume the peace and constitution drafting processes, it is unlikely that there will be significant developments on land issues in the near term. This report is therefore intended to update the baseline established in 2010 and to suggest steps that could be taken over the short and long terms.

III. Methodology

Between September 2011 and February 2012, Carter Center observers asked a range of interlocutors in 32 districts about the status of seized land.¹⁴ As The Carter Center has previously noted, records of conflict-era land capture and subsequent return are poor, complicating efforts to evaluate progress in land return

¹¹ The formation of such a committee and the suggestion to conduct a land census are both in line with recommendations from the Carter Center's June 2010 land report.

¹² The Carter Center has not followed this commission in detail. However, in interviews at the central and local level, government officials believed that a high number of applicants, vague eligibility criteria, and poor standards for verification and enforcement would undermine the utility of this effort.

¹³ See "Controversy over conflict-era property deals," *The Kathmandu Post*, Feb. 9, 2012. <http://www.ekantipur.com/the-kathmandu-post/2012/02/09/top-story/controversy-over-conflict-era-property-deals/231381.html>.

¹⁴ Districts covered are: Arghakhanchi, Baglung, Baitadi, Banke, Bara, Bardiya, Chitwan, Dailekh, Dang, Darchula, Dhanusha, Doti, Ilam, Jhapa, Kailali, Kanchanpur, Kapilvastu, Kaski, Lamjung, Makwanpur, Morang, Nawalparasi, Okhaldhunga, Parsa, Rautahat, Rukum, Sankhuwasabha, Sarlahi, Sindhuli, Surkhet, Taplejung, and Udayapur.

and identify outstanding cases. In the absence of reliable records, observers spoke with a wide range of stakeholders at the district and village levels including landowners, tenants, occupants of seized land, civil society representatives, political parties, government and security officials, and other citizens to document conflict-era land disputes and obtain an update on the return process. In some of these districts, observers investigated individual cases to understand better the often-complicated dynamics of ongoing land returns and occupations. Brief district-by-district summaries are contained in an annex to this report.

IV. Detailed Summary of Findings

- 1. Similar to 2010, Carter Center observers found that in many districts most or all captured land cases have reportedly been resolved. However, in some districts – particularly in the Mid and Far-Western Tarai where the largest number of conflict-era seizures reportedly occurred – many cases remain outstanding.**

Observers continued to find that most or all disputes over land captured during the conflict have been resolved in many districts visited. Specifically, only 7 out of 32 districts visited between September 2011 and February 2012 were reported as having a significant number of outstanding conflict-era land cases, while in 14 districts a broad spectrum of interlocutors generally agreed that there were few to no remaining cases of conflict-era land capture and in an additional 11 districts interlocutors noted only a small number of outstanding cases.¹⁵ For example, in Dhanusha, nearly all conflict-era land cases have reportedly been settled. In districts including Rautahat and Parsa, most interlocutors agreed that relatively little land had been seized during the conflict and that most or all of this land had been returned after the CPA by mutual agreement between local Maoists and the landowners. In Dailekh, all interlocutors noted that most property seizure during the conflict had been of buildings, not of land, and that there were no remaining conflict-era land disputes. In Okhaldhunga, all interlocutors in the district agreed that all or nearly all of the captured land had been released and no one was able to describe any remaining cases of land seizure.

However, there continue to be cases of unreturned land throughout the country, and in some districts there remain a large number of unresolved cases. The largest number of unresolved cases remains concentrated in the Mid and Far-Western Tarai, particularly in Bardiya, Dang, Kailali and Kanchanpur where, as in June 2010, observers reported that a large amount of land remains under varying degrees of capture by the Maoist party or its cadres. Of districts visited for this report, in the Central Tarai there appears to be a large number of unresolved cases in Bara and Chitwan. Observers in Morang also noted that several conflict-era cases filed at the DAO during the conflict remained outstanding. In the Eastern hills and mountains, observers found significant outstanding cases in Sankhuwasabha and a smaller number in Udayapur.

In addition, there are prominent cases of outstanding land capture that do not involve exclusively the UCPN(M) or its cadres. Observers have noted cases of captured land – particularly captured public and Guthi (temple) land – involving squatters affiliated to parties including the NC and UML, as well as to organizations such as the National Land Rights Forum. In the Mid and Far-West, some freed Kamaiyas reside on plots of captured public land. Observers also found a small number of cases of land captured by

¹⁵ Specifically, few to no remaining cases of captured land were reported in five of 17 Tarai districts, 7 of 11 hill districts, and two of four mountain districts visited. Observers deliberately visited some districts where seized land was known to have been an ongoing problem, so this sample may not be fully representative. More detailed findings by district are contained in an annex at the end of this report.

CPN-Matrika cadres. For example, in Siraha, a small plot of land seized by CPN-Matrika after the CA elections reportedly remains captured and is occupied by 5-10 formerly landless Dalit families.¹⁶

2. Also similar to 2010, Carter Center observers found that land continues to be returned through informal negotiations between the Maoists, landowners, and tillers, rather than through a formal, state-led process.

In the absence of a formal, state-led process for land return, informal negotiations on conflict-era land cases continue to take place and to result in a variety of outcomes. These outcomes range from the landowner regaining all powers over the land, to conditional return in which the landowner is able to collect some share of the harvest from tenants but without other rights (such as the ability to sell the land or change the tenants), to the landowner resolving the issue by selling the land, sometimes at below-market rates. Political party members, landowners, farmers, and government officials sometimes apply the term “return” flexibly to describe all these dynamics.

For example, in at least three VDCs of Dang, UCPN(M) cadres facilitated a settlement between landowners and tillers, in which the tillers were to receive legal title to a certain percentage of the land, ranging from 22 to 50 percent. The chair of the Maoist-affiliated All-Nepal Peasants Association-Revolutionary described the arrangement as an “interim solution” in the absence of comprehensive government land policy. In Makwanpur, one landowner joined the UCPN(M) in order to regain his land.

In Bardiya, observers noted continued informal and conditional return of land over the past year, nearly all of which was the outcome of personal negotiations.¹⁷ One landowner in the district explained, “I do not believe in using the administration. They cannot return the land and if they forcefully do so that could cause poor relations with my tillers. I believe I can solve this by a personal approach.” Some landowners and tillers reported that they began sharing one-half of the paddy harvest beginning this year, which is often described as a kind of “return.” Tillers in one VDC with many cases of capture confirmed to observers that they had begun giving crops to the landowner because they assessed that they would be at risk of removal from the land if they did not. A government official in the district noted that unconditional return was not yet possible but that the informal agreements for tillers to provide a share of crops to the landowners represented an improvement. Observers noted that many owners of seized land in Bardiya continue to reside in the district or in neighboring Banke, and are therefore able to visit their property frequently and maintain contact with the tillers, UCPN(M), police, and administration. This may be an important factor in explaining continuing informal return in the district over the past year.

3. Some land “return” also continues to take place through coerced sales, in which Maoist cadres or party-affiliated brokers allow the landowner to sell the land but at below-market rates.

In some districts, Carter Center observers heard credible allegations that local Maoists are benefiting financially from transactions of conflict-era seized land, for example by purchasing the land at low rates from landowners and then reselling it at market prices. The Carter Center described a number of such cases in its June 2010 report. Such sales reportedly continue in districts including Dang and Siraha, and observers verified a case in Kailali in which land seized by the UCPN(M) was “returned” for the purpose

¹⁶ In a small number of districts visited, interlocutors also noted disputes over army or police use of private land dating from the conflict. Although landowners involved sometimes use the word “capture” to describe these cases, they more typically appear to be disputes over compensation for past use of the land, or over landowner demands for removal of trenches, structures, or possible unexploded ordnance. Carter Center observers were not able to investigate these cases in detail.

¹⁷ Observers in Bardiya found eight cases of ongoing or completed negotiations between landowners, the UCPN(M), tillers, and other stakeholders, outside of any formal process. Not all of these “returns” took place in the past year.

of being sold to members and sympathizers of the party. In Morang, one owner of seized land reportedly sold the property to a Maoist, who then resold some land in plots and distributed others to the occupants. Observers have also heard credible allegations that in some cases brokers linked to non-Maoist parties are also benefitting from such sales.¹⁸

- 4. Overall, the impact of the increased national attention on land return over the last year has been limited. Land return efforts have been hampered by national level factors such as the lack of clearly agreed principles and procedures for implementation, the generally short period of time allotted for implementation, and insufficient political will. At the local level, land return efforts have been hampered by: resistance by Maoists (especially the Baidya faction), a lack of initiative by landowners, fear on the part of some landowners, and a lack of alternatives for current occupants of land.**

Despite the November 2011 agreement and the government and UCPN(M)'s attention to land issues over the last year, the process of land return does not appear to have gained momentum. National factors, such as the lack of agreed principles and procedures, insufficient implementation time, and insufficient political will, are referenced throughout this report. However, local-level factors are also important. Resistance by Maoists affiliated with Mohan Baidya to land return increased following the government's September 2011 announcement and is commonly cited as one important factor explaining the lack of movement. Additionally, the increased attention does not appear to have encouraged many owners of remaining seized land to take extra efforts to regain their land, and a lack of alternatives for occupants of seized land continues to make it difficult to find solutions for return.

Hardliner resistance and party factionalism

In some districts – and notably in districts with many cases of unreturned land – resistance by hardliner Maoists is a major obstacle to land return. Local-level Maoists associated to Mohan Baidya's faction espouse points similar to their central-level counterparts: to ensure justice and promote equality, land reform should take place before land return, or the two should go forward simultaneously. In Morang, local Maoists said their main consideration was justice for the tillers and that remaining cases of seizure involved historic injustices that should be settled prior to any possible return. In Udayapur, a local UCPN(M) representative explained, "The government might have declared to return the land but we have no intention of doing so unless scientific revolutionary land reform is implemented... There are some lands in Shorung, Tamlida and Jogidaha VDCs whose owners own land beyond the ceilings, which will not be released."¹⁹ Similarly, in Nawalparasi, a senior Maoist and Baidya faction member told observers that land "should be dealt with case-by-case. The big landowners who earned their lands by exploiting Nepali people should not get their land back. Others could be returned." In Bardiya, a Tharuwan State

¹⁸ The UN Resident Coordinator and Humanitarian Coordinator's Office (RCHCO) also noted one such case in Banke involving a UML sympathizer. See RCHCO Field Bulletin Issue 26, "Land seizure in three Mid-Western Tarai districts," November 2011. <http://www.un.org.np/headlines/rchco-field-bulletin-issue-26>.

¹⁹ The land ceiling varies by region. New limits were adopted in 2001 but have not been enforced, initially due to legal challenge and subsequently due to lack of budget allocation. The 2001 limits are: 7.43 hectares/11 bighas (Tarai), 3.75ha/5.6 bigha (hills/mountains), and 1.5ha/2.24 bigha (in the Kathmandu Valley). The new ceilings reduced the maximum holdings allowed from the 1964 Land Act, most notably in the Tarai, where the previous limit was 17ha/approx. 25 bigha. Especially in the Tarai, it is commonly alleged that some individuals own land in excess of the legal ceiling. In some of these cases, large parcels of land have been formally subdivided among several members of a family but are still perceived to be controlled by a single person. In other cases, local interlocutors allege that certain holdings are indeed illegal. The Carter Center has not investigated the land records behind individual cases to determine which holdings are legal and which violate the law. For more extensive discussion of land reform efforts in Nepal, see Jagannath Adhikari, "Contentions and Prospects of Land Reform in Nepal: A Historical Review," *New Angle: Nepal Journal of Social Science and Public Policy*, Vol. 1, No.1, pp. 17-31. (One bigha of land in Nepal is equal to 20 katthas, 13.9 ropanis, 222 anas, 0.67ha, 8316.8 square meters, or 72,900 square feet. In qualitative terms, a bigha of land is slightly larger than an international regulation-sized football/soccer field).

Committee member and Baidya supporter complained, “Instead of giving something to the landless, giving back to the landowners started first, so we objected.” Interlocutors in Arghakhanchi, Chitwan, Kailali, Kanchnapur, Morang, and Sankhuwasabha also noted resistance by Baidya faction members.

In Bardiya, it appeared that different factions of the party were working at cross-purposes, with the establishment faction declaring land returned and the Baidya faction re-capturing the land shortly thereafter by planting party flags. A senior Maoist in that district noted that a formal party Central Committee decision endorsing land return would be helpful to move the process forward. In Bara, non-Maoist interlocutors believed that party factionalism would make land return difficult; they noted that the UCPN(M) was sending three separate factional representatives to all-party meetings, and that while the pro-return establishment faction was in the majority, Baidya faction supporters were also present. In Kaski, although Maoist officials denied that there remained any captured land, a senior party member noted that the government directive had caused serious debate within the party at the district level and exacerbated party factionalism.

During a visit to Kailali in late 2011, Carter Center observers noted that UCPN(M) members of all factional affiliations were enjoying the benefits of land capture, including access to surplus crops, commissions from land sales, and rent payments. However, factionalism within the party appeared to be disrupting the distribution of the benefits and contributing to intra-party conflict. For example, on each of two large captured landholdings in Dhansingpur and Chuha VDCs, five bighas of land were reserved by the UCPN(M) to be farmed and utilized exclusively by the party or its supporters. In Chuha, the allotted five bighas were planted before the factional divide had worsened. At harvest time there was disagreement over which faction would receive the party’s share of rice grown on the property, which included crops from the entirety of the captured land, not only the part reserved for UCPN(M) cadres. Observers noted that the struggle between the two factions showed the difficulties in returning land, given the financial interests of cadres of all factional affiliations in farming the captured land.

Continued lack of initiative by landowners due to lack of interest, unwillingness to accept an unsatisfactory deal, fear, or other factors

As noted, local negotiations and the personal involvement of landowners have been central to the process of land return to date. Interlocutors noted that some cases that could have been resolved have not been because of a lack of initiative by the landowners, who have often relocated to cities such as Kathmandu or gone abroad. It appears that the November 2011 agreement and the attention from Maoist leadership to land return have not encouraged many landowners to seek return of their land by engaging in local negotiations.

In Dhanusha, some interlocutors said that the owner of a 60-bigha plot used to visit the land during the harvest time but had not come in recent years and has made no effort to speak with tenants or local Maoists. In Okhaldhunga, an NC representative said the small number of cases of unreturned land were of landowners who had moved to Kathmandu and made no effort to regain their land. In Arghakhanchi, a human rights organization said they contacted owners of several pieces of seized land but they declined to return, saying they had nothing left in the village. In a second case in Arghakhanchi, the Maoists have reportedly offered to return a plot of land but the owner has said he will not accept it unless he receives compensation for the damage sustained to his property in his absence.²⁰

²⁰ According to media reports, this case was resolved in June 2012 after the government agreed to compensate the landowner. See “Maoist-padlocked house unlocked after 10 yrs,” *The Kathmandu Post*, June 20, 2012, p.4. <http://www.ekantipur.com/2012/06/20/national/maoist-padlocked-house-unlocked-after-10-yrs/355850.html>.

In some cases that involved the land of prominent lawmakers, UCPN(M) representatives alleged to observers that other parties were deliberately not making any efforts to resolve these cases so as to “tarnish the image” of the Maoists and avoid giving political credit for returning land. Maoist interlocutors made such claims in districts including Udayapur and Ilam.

Finally, in a few instances, local officials and landowners said continuing fear of Maoist cadres was one factor that explained a lack of landowner initiative. An official in a Far-Western VDC with outstanding cases of seizure noted that “nobody dares to speak out against the Maoists due to fear.” In Bara, some landowners complained of an environment of intimidation at the VDC level. In Lamjung, a senior representative of a party with members who had abandoned land or property during the conflict noted that some cadres may be reluctant to return to VDCs due to fear of Maoists, who have reportedly not invited them to return.

Lack of alternatives for occupants of seized land

In some cases, farmers tilling occupied land are the same tenants as before the land was seized. However, in other cases, the occupants of the land have changed, presenting questions as to what extent they should be guaranteed continued occupancy after any formal land return or be provided with alternative arrangements. As noted in other sections of this report, this issue was of concern to many interlocutors, including Maoists, advocates for landless people, district administrators, and Local Peace Committee (LPC) members. In some cases, the issue has been resolved through local negotiations, for example when returning landowners agree not to change tenants as a condition of the return. In other cases, local interlocutors believed that national-level action was required to identify options for resettlement, compensation, or employment for people currently occupying seized land.

5. Some cases are complicated by issues specific to very large plots of seized land, by conflict-era or older histories of problematic landowner-tenant relations, or by other factors such as poor records and disputed sales.

Although many cases of capture could likely be resolved given sufficient will, in some cases there are additional complicating factors. These factors include: complications around very large pieces of land with unusually large numbers of occupants; specific conflict-era histories; and issues of records and resale of captured land.

Large plots of seized land

Some very large pieces of captured land present special challenges due to the large numbers of occupants and, in some cases, social and physical infrastructure constructed by occupants. As noted in point 8 (below), some of these cases also pose a high risk of conflict if the government attempts to evict occupants by force.

On the site of a former sugar plantation in Banke, at least 600 families are occupying the site of a former sugar mill, which is a mixture of private and public land. With the assistance of grassroots civil society organizations, and reportedly the DDC and international aid organizations as well, these squatters have built roads, constructed two schools, established a social improvement committee, formed a savings and credit cooperative, and in other ways created a functioning community. Some of these squatters have constructed houses at considerable personal expense and demand that the government compensate them for their houses if they are relocated, in addition to providing land. Although some of the squatters are affiliated to the UCPN(M), many are not and came to the land independently, meaning that the Maoist party would have limited leverage in facilitating negotiations in this case. Many squatters are affiliated to the National Land Rights Forum and not to the UCPN(M), with some having moved to the site in the past year.

Similarly, in Morang, a plot of land totaling over 100 bighas had been split among several hundred families, many of whom were reportedly landless people who have since developed some level of affiliation to the UCPN(M). In another case in the same district, a 28-bigha plot of land was reportedly captured by local tillers during the conflict, and only later declared captured by the Maoist party. In Kaski, interlocutors noted that there were many squatter settlements around Pokhara, some with political backing of various parties and some without. Several areas in Lekhnath and Pokhara are occupied by large numbers of squatters. For example, around 3,000 squatters are believed to be living on land claimed by Pokhara University in Lekhnath, which the Maoists had declared open for settlement in 1999. Occupants claim that the university does not possess formal land ownership papers, and some occupants have papers from the UCPN(M) authorizing them to reside on the land. Identifying starting places for negotiation in these cases may be difficult.

Conflict-era histories

Other cases are complicated by conflict-era histories. In Dang, observers documented two separate cases in which tenants believed that landowners, in collusion with the state, were responsible for killings or disappearances during the conflict. In both cases, the tenants said they would physically resist the return of the landowner.²¹ Such cases may be most appropriately handled through a Truth and Reconciliation Commission or similar transitional justice mechanism. As with the case described in Banke, although the land is still considered captured by the UCPN(M), tenant links with the party in these cases are limited, and the ability of the party to facilitate return of the land is unclear.

Issues of documentation and re-sale of captured land

In some cases, tenants on captured land have reportedly “sold” the land to other farmers despite not having a legal land ownership certificate, raising the question of whether the new tenants ought to be compensated for the transaction if the legal landowner regains control. Observers heard reports of such cases in districts including Banke and Morang, and national media has reported on one such case in Kalikot.²²

Issues of documentation and legal ownership are also complicated in some districts by the issue of land-related decisions made by the Maoist Revolutionary People’s Councils of their People’s Government during the conflict. In some districts, People’s Governments made hundreds to thousands of land-related decisions during the conflict involving boundary disputes and land sales. The Carter Center has not followed this issue in detail. However, while some of these transactions appear to have been amicable between buyer and seller, others were reportedly made under political duress or without the knowledge of the legal landowner.²³ According to one Land Revenue Officer in a Mid-Western hill district, he believed that a majority of such transactions in the district were legalized after the conflict when both parties visited the Land Revenue Office to complete the paperwork; however, he believed that a significant minority of cases remained disputed or unresolved, creating problems especially for the buyers of land. According to multiple interlocutors in the district, the sellers have sometimes resold their land to others after the conflict or are demanding more money from the conflict-era buyer in order to facilitate the legal transfer of the land.

²¹ See The Carter Center, “Land Commitments in Nepal’s Peace Process: What Has Been Achieved to Date?,” p. 15.

²² In October 2011, national media quoted a senior Maoist in Kalikot as saying, “Our friends appear to have sold the land [in] pieces to farmers. Ordinary farmers have paid for the land. So, we are facing difficulty in immediately returning the land.” See “Maoists sold seized land in Kalikot,” *Republica*, Oct. 12, 2011. <http://www.aspect.org.np/news.php?id=574>.

²³ For a brief discussion of this issue in the Mid-Western region, see “Maoists ‘endorsed’ 12,000 land dealings,” *The Kathmandu Post*, Jan. 20, 2012. <http://www.ekantipur.com/2012/01/20/national/maoists-endorsed-12000-land-dealings/347513/>.

- 6. After government instructions in September 2011, Carter Center observers noted a renewed effort by District Administration Offices (DAO) to request people with captured land to submit the details of their cases. In a few districts visited, the DAO also made some effort to investigate submitted claims. However, to date no further action has been taken, reportedly due to a lack of further central-level instructions.**

Following the government's announcement in September 2011 that seized land would be returned, DAOs in many districts visited began collecting data on alleged seizures. However, DAOs reported having no further orders beyond data collection, and some DAOs said they had received no land-related instructions at all. In general, local government officials had not taken proactive measures to facilitate land return. Rather, in many districts they continued to see land return as a political process that required local and national political agreements prior to administrative action to move it forward.

In Dang and Kanchanpur, CDOs had instructions to collect data but no further details on the process. In Argakhanchi, the CDO asked political parties whether cases had been resolved but apparently had not received a response and had not taken further efforts to investigate. In Udayapur, the CDO intended to form a committee including the LPC coordinator and party representatives to collect data but had not taken any steps at the time of the observer team's visit. According to follow-up data collected by telephone, a subsequent field visit by the committee was cancelled, reportedly due to budget constraints, though in April the committee issued a new appeal for landowners to register any complaints. In Bardiya, the CDO joined a taskforce on land return that included two members each from the NC, UCPN(M), and UML, as well as the Superintendent of Police. However, the taskforce was not a body with legal authority, and the CDO did not have instructions apart from collecting data. During follow-up phone calls made in March 2012, NC and Maoist representatives both said that the task force was defunct.

- 7. Observers have noted a small number of instances of Local Peace Committees attempting to help resolve cases related to conflict-era seized land, mostly unsuccessfully.**

Observers found several instances of LPCs attempting to help resolve disputes over seized land. However, in most cases these efforts have been unsuccessful.²⁴ In Morang, although land return issues had been raised at the LPC, interlocutors described the committee as "powerless" to act. In Banke, the LPC had records of 47 cases of alleged seizure but had not been successful in returning any land; an LPC representative noted that there is no scope for meaningful negotiation, as the occupants have nowhere else to go. In Kailali, the LPC coordinator was a Baidya faction member and said that there was no scope for LPC involvement at the moment because land issues require a comprehensive, central-level solution. In Ilam, the LPC attempted to mediate one case of land seizure but was unsuccessful because the tenants were demanding "alternative arrangements" for land, which could not be arranged at the district level. In Jhapa, the LPC was involved in one case but no solution was reportedly reached because the landowner is now living abroad. Media reports have pointed to one possible case of successful LPC involvement in land return: the Salyan LPC reportedly participated in a monitoring team that facilitated an agreement between local Maoists and a tiller farming seized guthi (temple-owned) land.²⁵

²⁴ This is consistent with earlier Carter Center findings. In previous years, LPCs in Bardiya, Dang, and Surkhet had attempted to investigate and resolve alleged cases of land seizure. In Bardiya and Dang, the process was unable to move forward due to opposition by the UCPN(M). In Surkhet, a small number of cases had been filed but not yet investigated by the LPC. (In 2010, TCC investigated two of the three cases filed in Surkhet and found that both were complicated personal disputes rather than conflict-era land seizures).

²⁵ *Kantipur*, "Maobadi dwara guthiko jagga firta," Dec. 15, 2011. http://www.ekantipur.com/kantipur/news/news-detail.php?news_id=258709.

More commonly, LPCs have not been involved in land-related disputes. This is consistent with previous Carter Center findings that only a minority of LPCs have engaged in conflict mediation or resolution efforts.²⁶ In Bara, many interlocutors believed the LPC could in principle be a good forum to address issues related to land seizure but said the LPC was not functioning well enough to assume this role in practice.

8. Land return would likely lead to local conflict in some areas if pursued through forceful evictions.

Attempts to forcibly evict farmers tilling seized land would likely result in some, and perhaps many, cases of conflict between various configurations of farmers, landowners, security forces, local party cadres including Baidya faction members, and members of non-party-affiliated landless and squatters' groups. Of particular concern are large tracts of occupied public and private land, where hundreds to thousands of people farm small plots; many of these people claim to be otherwise landless or to own agriculturally marginal land in high hill districts and say they have no alternatives to farming captured property.

The UCPN(M), and particularly the Baidya faction, has assisted occupants of seized land in organizing resistance to potential eviction in several districts visited by observers. In Kanchanpur, the party issued a press release opposing the government's decision to return the land and pledging to act against any government attempts to forcibly remove the squatters. In Kailali, a squatters camp on captured private land in Shreepur VDC poses a potential conflict-risk between the state, Maoists, and squatters. A 25-member struggle committee under the Revolutionary Farmers Association has been formed in the camp, headed by a UCPN(M) member and long-term resident. The party also transported approximately 15 squatters to Dhangadhi to participate in a Dec. 4, 2011, rally against land return and reportedly hired two buses to bring occupants to a second rally on April 6, 2012. The struggle committee president pledged that "[The government] will not remove us. If they try, we will not hold back. We will face them, regardless of who is in government." Memories of the December 2009 incident at Dudejhari forest, in which squatters clashed with police resulting in four deaths, remain strong in the district. Security forces told observers that they strongly preferred not to use forceful methods to resolve the dispute. Finally, in the Banke sugar mill case described on page 10, occupants and their representatives said that there would be conflict if they were forced off the land without being provided with suitable alternatives.²⁷

9. Despite continuing disputes over land currently under occupation, there have been few reported cases of newly-captured land.

Interlocutors in most districts visited were nearly unanimous that there had not been any significant new land capture in the past one year. However, there have been scattered reports of re-capture or "seizure" of land already in dispute by members of the Baidya faction. For example, as noted by the United Nations Resident and Humanitarian Coordinator's Office (RCHCO), in December 2011, "Baidya faction leaders announced that they recaptured land in Baglung, Bara, and Dhanusha districts."²⁸ At least some of these cases were instances of symbolic "re-capture" of land already under occupation rather than cases of

²⁶ For more detailed Carter Center reporting on LPC activities and involvement in conflict mediation and resolution, see "Carter Center Update on Local Peace Committees," May 10, 2011 and "Brief Overview of Political Dispute Resolution at the Local Level in Nepal," Dec. 30, 2010. Both reports are available at <http://cartercenter.org/countries/nepal-peace.html>.

²⁷ According to a local citizen, Maoist-affiliated occupants of this land reportedly formed a struggle committee following a meeting with Baidya faction representatives in Nov. 2011. See also *The Kathmandu Post*, "Tillers to protest land return at any cost," Nov. 28, 2011. <http://www.ekantipur.com/the-kathmandu-post/2011/11/27/nation/tillers-to-protest-land-return-at-any-cost/228700.html>.

²⁸ See RCHCO Field Bulletin Issue 33, "2012: Potential risks to peace and development from the field," January 2012.

newly-seized land.²⁹ A senior Maoist leader and Baidya faction member in Baglung noted to observers in February 2012 that the statement was released only to put pressure on the government and involved land that was already under occupation by landless people, some of whom had been invited by the Maoists. Senior police and administration officials in the district said that there had been no complaints of new capture.³⁰

The one exception to this trend was in Kapilvastu, where observers received reports of several new cases of captured private land. The observer team followed up on one case, in which local Maoists admitted to becoming involved in a dispute over an allegedly fraudulent land sale, in which the landowner reportedly sold land to tenants without providing legal ownership documents and then re-sold the land to another buyer. Otherwise, nearly all land captured in the district during the conflict appeared to have been returned.³¹

V. Conclusions and Recommendations

Despite administrative and political attention to land return following the election of Prime Minister Bhattarai in August 2011 and the Nov. 1 Seven-Point Agreement, this attention has not resulted in significant new return of seized land. Much political effort following the November 2011 agreement focused understandably on the integration and voluntary retirement of Maoist combatants, constitutional issues, as well as ongoing factional disputes within parties. To date, there has not been sufficient political will and effort from any side to reach agreement on principles for land return and land reform and to design and enforce mechanisms for their implementation. Early steps by the government and some DAOs to collect data on alleged cases of capture were encouraging but were not accompanied by policies and procedures to move forward with resolution of outstanding cases or sufficient political consensus to move the process forward.

The complexity and specific histories of many land cases demand frameworks and principles that are sufficiently flexible to accommodate local realities, if conflict and injustice are to be minimized. At minimum, the government and political parties should be sensitive to the conflict potential around seized land. More proactively, national actors can look for opportunities to take small but realistic steps to move the return process forward in the future, including by continuing efforts to build and improve records of land ownership and alleged capture.

Over the long run, the phenomenon of land capture is closely linked with broader socioeconomic factors of population growth, availability of non-farm employment, and increasing scarcity of land. The Carter Center is encouraged by the creation of an action plan on land reform produced by the Ministry of Land Reform and Management and continues to encourage parties and the government to work toward comprehensive land policy and reform in addition to return of conflict-era land seizures. This is also consistent with the spirit of the CPA and Interim Constitution.

The Carter Center thanks the many government officials, security officials, political party members, civil society representatives, journalists, and other citizens across Nepal who offered their knowledge and concerns. This report, and the Center's work in Nepal, would not be possible without their support. The

²⁹ For example, in Dhanusha UCPN(M) cadres allegedly symbolically re-captured a piece of land by planting a party flag, which was reportedly removed by security forces. See RCHCO, Monthly Update, January 2012, pp.1-2.

³⁰ Similarly, according to media reports, a case of "seizure" by Maoist hardliners in Biratnagar in Feb. 2012 involved private land that was already occupied by landless squatters. See "Maoists seize land in Biratnagar," *The Himalayan Times*, Feb. 13, 2012. <http://www.thehimalayantimes.com/fullNews.php?headline=Maoists+seize+land+in+Biratnagar&NewsID=320224>.

³¹ RCHCO also noted one case of alleged new seizure by CPN(M)-Matrika Yadav in Bara on Jan. 26. See RCHCO, Monthly Update, January 2012, p. 2.

following recommendations are put forward in the spirit of cooperation and respect, and with the hope that they will provide useful discussion points for future action.

Future steps for consideration:

Refrain from provocative actions, such as forced evictions or encouraging confrontation between squatters and security forces. Observers have noted the potential for violence between occupants of seized land and security forces continues in some cases. Moreover, the complex dynamics underlying many cases would not be effectively addressed by an eviction-based approach. Similarly, political parties should refrain from using vulnerable populations for political ends, for example by encouraging violent confrontation between landless people and the state.

Continue efforts to create an official, credible, and impartial record of seized land nationwide. Inaccuracy of official data on land, including seized land, makes it difficult to determine how much land was seized during the conflict and how much remains unreturned. Steps by the government to solicit applications for return of land through District Administration Offices since September 2011 are encouraging and should be continued. These applications could be consolidated at the national level combined with other sources, and made public. Records established by the parliamentary monitoring committee formed in January 2009 could assist this process.

Designate or create an appropriate national-level body to determine principles and procedures governing land return. To move forward the land return process, the government would benefit from a body specifically designated to study outstanding cases of seizure and assess what steps may be needed for their resolution. The body should develop clear directives and principles for handling cases, and could begin by sorting cases according to complexity and beginning with simpler cases of alleged seizure.

In line with numerous commitments in the peace process, the UCPN(M) should immediately return captured property that remains under its control. The party should seek opportunities to facilitate return of captured property and to cooperate with the government and district administration to identify complex cases in need of outside support. To move the process forward, the UCPN(M) and its cadres could begin by identifying less complex or contentious cases of outstanding seizures and work with occupants, landowners, and administrators to facilitate the return of the land.

Review recommendations of the land reform committee report submitted in April 2012 and begin implementation of selected recommendations. The Carter Center commends the government for establishing a committee to review previous land reform proposals, a step in line with Carter Center recommendations from 2010. The Carter Center also commends the committee for promptly issuing its report. The findings and recommendations of this committee should be studied closely and steps taken by the government to begin implementation of approved recommendations.

Establish mechanisms to deal with complex land return cases that allow for a range of possible solutions, including, for example: compensation, resettlement, long-term government loans, or distribution of tenancy rights where appropriate. There are cases where landowners may be unable to return due to tenant grievances or unwillingness by long-term or resettled tenants to relinquish claims. A mechanism should be established to either resolve these issues through negotiation or refer the cases to a special legal or administrative body. A set of national principles could be agreed that would govern the possible options for resolution, and this strategy could first be piloted in a small number of districts and then expanded. Any such mechanism should not be tied to any particular government; to ensure continuity, it should have a fixed term, regardless of government formation.

ANNEX: Status of seized land, by district

Based on data collected from September 2011 to February 2012

How to read this annex: These descriptions are intended to be indicative of the overall scope and scale of land seizures in the districts visited by Carter Center long-term observers, as summarized by interlocutors in district headquarters and selected VDCs. The descriptions should not be considered comprehensive. Readers may also wish to review the more detailed case studies of the following districts, published in the Center's 2010 report "Land Commitments in Nepal's Peace Process: What Has Been Achieved to Date?": Baitadi, Dang, Dhanusha, Gorkha, Kailali, Kapilvastu, Morang, Nawalparasi, Ramechhap, Sankhuwasabha, and Surkhet.

The annex also provides the number of cases of alleged capture officially registered in each district, according to District Administration Offices (DAOs). These numbers should be read as indicative and not exact, and may have changed in some places prior to the publication of this report. In some cases, officials were unsure if particular cases had been formally registered. Furthermore, not all cases of alleged capture implicate the UCPN(M) or its supporters of involvement, not all allegations of capture are necessarily conflict-related, and some of the complaints may be related to other sorts of land disputes.

The division of districts within the annex is by alphabetical order within each of three categories: districts with a significant number of outstanding land captures reported; districts with smaller numbers of outstanding land captures reported; and districts with few to no outstanding captures reported. Several factors were considered in assigning districts to these categories including the assessment of various interlocutors of the number and seriousness of outstanding cases and the number of cases reportedly filed with the District Administration Office.

DISTRICTS WITH A SIGNIFICANT NUMBER OF OUTSTANDING LAND CAPTURES REPORTED

1. Bara

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Interlocutors generally agreed that more land was seized in Bara during the conflict than in neighboring Tarai districts, and there remained many outstanding cases of land capture. In addition to several prominent cases of large parcels of captured land, there were allegedly many cases of smaller capture still outstanding. Maoist representatives stated that 4000-5000 people were still living on plots of seized land. Landowners affiliated to the Nepali Congress and Sadbhavana Party claimed that over 100 bigha had been seized in the VDC, belonging to around 25 families. Owners of seized land complained of a continuing atmosphere of Maoist intimidation. The VDC with the largest ongoing conflict-era land issues was reportedly Gadhalal. Tedhakatti and Dumarwana VDCs were also reportedly affected. Where seized land had been returned, it reportedly was either to people with political connections or where individual landowners made private payments to the occupants. Observers confirmed one case in which a landowner had regained possession of his land by making a direct payment to the occupants.

2. Bardiya

Number of cases of alleged capture registered with the DAO: 259

General summary: Significant amounts of private agricultural land were captured in the district during the Maoist insurgency. The Rajapur area of western Bardiya was heavily affected. Although official data

from the DAO stated that 892 bigha of land were captured in 24 VDCs, political party and civil society estimates ranged from 1000 to 2100 bigha.

Following the Nov. 1, 2011, Seven-Point agreement, hardline leaders of the UCPN(M) prevented land return and demanded alternatives for tillers, landless, and squatters. District leaders from the establishment faction held similar views and said that a clear central committee decision should be taken by their party on the issue. A peasant struggle committee affiliated to the Baidya faction was formed at the district level to oppose land return in the district. Observers noted that personal negotiations had been taking place between some landowners and tillers. Landowners were not been able to regain full control over their land, but some have been able to receive a percentage of crops harvested. Some landowners said they did not want to involve district administration or police as doing so could affect their relations with the tillers. They considered the administration to be unable to enforce land return.

3. Chitwan

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: More than 150 bigha of land captured by the Maoists during the insurgency reportedly remained unreturned in the district. On Nov. 13, 2011, the UCPN(M)-affiliated All Nepal Peasants Association (Revolutionary) and All Nepal Landless Squatters' Association organized a press conference in Bharatpur and claimed that seized land in the district would not be returned until an acceptable alternative was provided to the squatters who resided on the land in question. The Baidya faction is influential in the district and has been demanding a suitable settlement for the squatters residing on captured land in Chitwan.

Interlocutors mentioned outstanding cases of land capture in Kumroj, Mangalpur, and Jutpani VDCs. In Mangalpur VDC, around 12-15 bigha of land had reportedly been captured by squatters backed by the Maoists after the signing of the CPA. More than 1000 houses had reportedly been built on the land – some proper houses, and some more temporary structures. Although efforts had been made by the district administration, political parties, and the owners to secure the release of land, return was blocked by the opposition of the UCPN(M)'s Baidya faction at the district level.

4. Dang

Number of cases of alleged capture registered with the DAO: Data not available

General summary: The All Nepal Peasants Association-Revolutionary (ANPA-R) estimated that the Maoists seized a total of 2,700 bighas of public and private land during the conflict. Of the public land seized, approximately 750 to 1,000 bighas belonged to Nepal Sanskrit University, and most of the rest belonged to Ratannath Temple Guthi, Sowrgadwari Temple Guthi (which straddles the Dang-Pyuthan border), and Mahendra Campus of Tribhuvan University.

There continue to be many cases of outstanding land capture but the number of cases and amount of land is unclear. Seizures were reportedly concentrated in 17 VDCs: Bijauri, Chaulahi, Dhanauri, Dhikpur, Halwar, Hapur, Hekuli, Lalmatiya, Manpur, Panchakule, Purandhara, Rajpur, Satbariya, Shreegaun, Sisahaniya, Tarigaun, and Udari, as well as in the municipalities of Ghorahi and Tulsipur. Of land that had been returned, interlocutors noted that the process had involved informal negotiations among landowners, Maoists and occupants rather than formal mechanisms.

5. Kailali

Number of cases of alleged capture registered with the DAO: 240

General summary: Land capture was identified as a serious issue by all interlocutors interviewed in Kailali. DAO and civil society representatives estimated that 2000 bigha of land was captured from around 240 families in the district during the conflict. Reportedly, little to no captured land has been fully returned. Most cases of alleged seized land were from the central and eastern part of the district, including Baliya, Chuha, Dhansingpur, Masuriya, and Narayanpur VDCs, as well as Tikapur municipality. Observers were informed about three outstanding cases where Maoists had permitted conditional return or sale of captured land. For example, the Maoists had conditionally returned land in Chuha VDC for the purpose of having it sold to members and sympathizers of the Maoist party.

The Baidya-led hardline faction, which is dominant in Kailali, has strongly opposed the government's decision to return the captured land. They demanded alternative arrangements for landless people currently residing on those lands, a sentiment that was also shared by the leaders from the establishment faction in the district. Several interlocutors believed that land return could present a challenge to future security. They cited the example of a struggle committee under the Revolutionary Farmers Association which was formed in the squatters' camp in Shreepur VDC to oppose possible eviction by the government. In the meantime, UCPN(M) members from both the establishment and hardline factions were enjoying the benefits of land capture, particularly access to surplus crops, commissions from land sales, and rent payments. However, factionalism within the party has apparently disrupted the distribution of benefits.

According to government and NGO sources, hundreds of Freed Kamaiya families who were not given land upon their emancipation have been living on public land at various sites in the district.

6. Kanchanpur

Number of cases of alleged capture registered with the DAO: 31

General summary: Most cases of alleged remaining seized land were from several VDCs in the eastern part of the district, including Krishnapur, Shankarpur, Shreepur, and Rampur-Bilaspur. Political party estimates of the amount of land seized during the conflict ranged from 27 bighas to 150 bighas. Multiple sources interviewed said that the largest piece of land still under seizure belonged to Kalyan KC and his family, totaling 36 bighas. Several non-Maoist interlocutors noted that the Baidya faction was influential in the district and would complicate return of seized land. UCPN(M) district leaders have stated publicly that they would attempt to block any government attempts to forcibly return land. In the past several years, UCPN(M) representatives have allegedly offered some owners of seized land the option to sell at below market rates.

The National Land Rights Forum reported that there were many landless people living on public land around the district. For example, around 600 landless squatters were reportedly living on 380 bighas of land belonging to Tikapur Multiple Campus. Landless affiliated to all three major parties – NC, UCPN(M), and UML – reportedly reside on this land. BASE reported that hundreds of Freed Kamaiya families had also settled on public land following their emancipation in 2000.

7. Sankhuwasabha

Number of cases of alleged capture registered with the DAO: 65

General summary: Land seizure was reported to be an ongoing issue in Sankhuwasabha. According to several interlocutors, there have been no changes in the status of the conflict-era captured land. The Baidya faction is influential in the district and its representatives were firmly standing against any land return. On Dec. 5, 2011, district-level Baidya faction representatives issued a press release claiming that they would oppose the return of captured land in Sankhuwasabha. They said that return of seized land

would be possible only after a scientific land reform commission was formed to address the plight of landless people. CPN-Matrika representatives in Sankhuwasabha reportedly released a statement expressing solidarity with the Baidya faction. Southern and eastern VDCs of the district were reportedly most affected by land capture. Many owners of captured land in the district reportedly reside in Dharan, Biratnagar, and Kathmandu.

DISTRICTS WITH SMALLER NUMBERS OF OUTSTANDING LAND CAPTURES REPORTED

1. Arghakhanchi

Number of cases of alleged capture registered with DAO: 5-6³²

General summary: There remain several cases of alleged capture in which landowners have outstanding complaints against the UPCN(M), some of which have been discussed in all-party meetings without clear outcome. One appears to involve a dispute over crop share while in a second a landowner is reportedly asking for compensation for damaged property before returning to his land. Maoist representatives stated that all captured land in the district had been released and that landowners were welcome to return.

2. Banke

Number of cases of alleged capture registered with DAO: 63

General summary: In spite of the relatively large number of cases filed at the DAO, nearly all interlocutors assessed that land capture was not a major political issue and referred to problems concerning captured land as being minor as compared with neighboring Bardiya. The number of actual outstanding cases of conflict-era capture was unclear. By far the largest plot of captured land is an approximately 300 bigha plot in Ward 2 of Udarapur VDC. It is the site of a former sugar plantation and mill and is a mix of public land and private land belonging to a prominent businessman. Observers could not ascertain whether other cases filed with the DAO were related to political or conflict-era captures, or other types of land disputes.

3. Dhanusha

Number of cases of alleged capture registered with the DAO: Data not available

General summary: Most cases of conflict-era land seizure have reportedly been settled either through unconditional return or through sale of the land. Some of the land sales were reportedly conducted at below-market prices with the involvement of Maoist cadres and/or members of armed groups. However, there remain a small number of outstanding cases. The long-term observer team confirmed one case of continued seizure of land in Dhanushadham VDC. The landowner currently lives in Kathmandu and has reportedly not returned to the land for some years; in the meantime, several families of Maoist-affiliated squatters are farming the land.

In addition, there is a prominent case of alleged capture of public forest land in Bharatpur VDC. Reportedly some 400-500 families have settled in the forested area, allegedly with some support from the UCPN(M). Observers were unable to visit the site. However, interlocutors in the district headquarters noted concern about the potential environmental impact of the occupation.

³² District officials informed observers that they had reviewed all cases previously filed and determined that 5-6 were still unresolved.

4. Ilam

Number of cases of alleged capture registered with the DAO: 3

General summary: All conflict-era seized land has reportedly been returned with the prominent exception of land belonging to Kul Bahadur Gurung, NC central leader and former party general secretary. Nearly all interlocutors said that other cases had been resolved, with any remaining disputes being personal or familial rather than political in nature. UCPN(M) representatives said they had relinquished their claim to Gurung's land and suggested that he engage in dialogue with the tenants. The LPC coordinator noted that the case had been forwarded to the central government and there were no recent developments.

5. Kapilvastu

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Although most interlocutors believed that most or all conflict-era captured land had been returned, there appeared to be some disputes involving allegedly unreturned land in Dubiya and Hatosha VDCs and newly captured land in Hatosha, Jahadi, Kopuwa, and Motipur VDCs. The status of those cases was unclear. Many of the disputes appeared to be linked to land sales.

6. Kaski

Number of cases of alleged capture registered with the DAO: 0-1

General summary: There are a small number of cases of alleged capture of private and public land, a number of which involve occupations by landless squatters. The extent of UCPN(M) involvement in these occupations was unclear.

7. Lamjung

Number of cases of alleged capture registered with the DAO: Data not available

General summary: Although land seizure was reportedly not a big issue in the district, some captured land remains to be returned. Around five to seven RPP members had approached the DAO to get an update on the status of land and property that they had abandoned during the insurgency. It was unclear whether these cases involved allegations of ongoing capture by UCPN(M) cadres.

8. Makwanpur

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Most cases of seized private land have been resolved, either through outright return or other locally-negotiated processes such as land sales. Some interlocutors mentioned a small number of cases of possible outstanding captures, which the long-term observer team was unable to independently verify. There are reportedly also a small number of outstanding cases of seized public land in Hetauda municipality and Manohari VDC being occupied by squatters.

9. Morang

Number of cases of alleged capture registered with the DAO: 5

General summary: Some land that was seized by the UCPN(M) during the conflict remains captured; reportedly, five cases were registered with the CDO office during the conflict and four of these remain unresolved. The largest piece of captured land belongs to the Dugar Group, in Govindapur VDC. Maoists in Govindapur were aware of the plan to return captured land but said that doing so in this case would be impossible unless arrangements could be made for the current tillers. They said they had redistributed the

land to Maoist cadres, old tenants of the Dugar family, and those considered deserving by the party (for example families of “martyrs”). Unless the Dugar group develops a plan for the tillers, such as offering jobs or other land, local cadres said they had no choice but to resist return of the land.

10. Nawalparasi

Number of cases of alleged capture registered with the DAO: DAO declined to provide data

General summary: The Baidya faction is reportedly strong in Nawalparasi and has prevented the return of seized land, though the amount of remaining captured land was unclear. A senior Maoist said that the captured land could not be returned easily and should be dealt with on a case-by-case basis. VDC-level Maoist representatives interviewed had not received instructions from their party on land return and had mixed views about land return. There were unconfirmed reports that the UCPN(M) had “returned” some seized land by selling it to the original landowners for large amounts of money.

11. Udayapur

Number of cases of alleged capture registered with the DAO: 4

General summary: It was unclear how much land had been captured and returned in the district. However, the UCPN(M) admits to keeping some land under capture and there are a number of widely-known outstanding cases. The most widely-mentioned cases involved the lands of the Tetar family in Jogidaha VDC. One of the family members is a senior member of MJF-R.

DISTRICTS WITH FEW TO NO OUTSTANDING SEIZURES REPORTED

1. Baglung

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Reportedly, most or all captured land has been returned in the district and no cases have been filed at the DAO. In December 2011, the Baidya faction in the district released a statement in which they claimed to have captured some land. However, a senior Maoist told observers that no land was currently under the control of party and said that the statement was intended to pressure the government to resolve the problem of landless people; police and administration officials also said they had not received any complaints of captured land.

There are reportedly some cases of landless people residing on public or private land; however, there was not clear indication that these were cases of capture or that the landowners had sought to remove the occupants.

2. Baitadi

Number of cases of alleged capture registered with the DAO: 7

General summary: Almost all seized private land and property had reportedly been returned to the original landowners by the UCPN(M). However, land of three prominent Panchayat-era leaders, including land belonging to a former prime minister, is occupied by Dalit and landless families who were settled there by the Maoists during the conflict. DAO and security officials said they have not attempted to remove those families as they have not received instructions from the government on their removal. Local Maoists denied having any control over the land but believed that the government should provide land to the current tenants.

Private land taken over by the Armed Police Force (APF) in 2002 at Siddheswor VDC has reportedly been returned to the original landowners. However, the owners claimed that they had not received rent owed by the APF from 2003 to 2011.

3. Dailekh

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Reportedly, very little land was seized in Dailekh during the insurgency. Most of the seizure was of private buildings. All seized land has reportedly been returned and interlocutors did not consider land capture to be an issue in the district.

4. Darchula

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Conflict-era captured land was reportedly not a major issue in Darchula and most captured land had reportedly been returned. Except for a small number of unconfirmed cases from Latinath and Tapoban VDCs, interlocutors reported that there were no significant cases of land seizure in the district.

5. Doti

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Land seizure was not a major issue in Doti and reportedly there are no significant outstanding cases of conflict-era captured land in the district. Although there were scattered reports of people living on municipal land and on guthi land in Kapalleki VDC, interlocutors did not consider these to be major issues. Reportedly the occupants had reached agreements to use the land in return for providing goods or services to the temple.

6. Jhapa

Number of cases of alleged capture registered with the DAO: 3

General summary: There were reportedly very few cases of land seizures in the district during the insurgency, and most captured land was reportedly returned after the signing of the CPA. A few interlocutors believed that some land was still occupied by Maoist cadres or settlers supported by Maoists but were unable to provide specific examples. A UCPN(M) representative and a human rights defender claimed that no land was under the party's control but that the party had been unable to return some land in Gauradaha VDC. The LPC had reportedly been involved to mediate the return of that land but the return was not possible as the landowner lived in Japan.

7. Okhaldhunga

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Interlocutors agreed that there were no outstanding cases of land seizure in the district and that most of the seized land had been either returned or abandoned by the Maoists after the signing of the CPA. An NC representative said that a few unresolved cases still existed in the district as the landowners lived in Kathmandu and had not reclaimed their land.

8. Parsa

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Interlocutors stated that not much land was seized during the insurgency and that captured land had reportedly been returned to the original landowners through mutual agreement. A journalist noted that the Maoists did not have a sufficiently strong presence in the district to build support for land seizure during or after the conflict.

9. Rautahat

Number of cases of alleged capture registered with the DAO: Data not available

General summary: All interlocutors agreed that land capture was not a big issue in Rautahat, as only a few small pieces of private land had been captured during the insurgency in the northern part of the district. A UCPN(M) representative claimed that all the captured land had been returned to the original landowners through either formal or informal means. A human rights defender concurred, and said that the disputes related to land seizure were absent in the district because the issue had been settled through informal negotiation between the landlords and Maoist cadres.

10. Rukum

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Most private land captured during the conflict had reportedly been returned. Outstanding cases included three bigha of land belonging to Digre Sahi Temple land in Syalapakha VDC.

The district was notable for the large number of property transactions handled by the “People’s Government” during the insurgency. A district-level task force comprising leaders from the UCPN(M), NC, and CPN-UML was formed in early 2011 to collect data on the number of cases that the parallel government had dealt with. The task force submitted its report to the Maoist party and LDO in mid-July 2011 but no action had been taken.

11. Sarlahi

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Most interviewees said that not much land had been captured during the insurgency, and that what cases there were had been resolved either through unconditional return or through sale of the land. In general, it appears that conflict-era land cases were resolved informally, without the involvement of the DAO or police. A police official noted that most current land disputes in the district were between tenants and landowners and were not cases of Maoist seizure.

12. Sindhuli

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: No significant outstanding cases of conflict-related land capture were reported. Land captures were reported to have been settled by negotiation between the Maoists and landowners following the CPA. Two prominent cases of occupation of private land reportedly involved long-standing family or interpersonal disputes and were not described as being primarily political in nature.

13. Surkhet

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Land seizure was reportedly not a major issue in Surkhet. Interlocutors reported that there were only two cases of land seizure during the conflict and that those had been resolved. However, there were reports of squatters and landless people occupying government and forest land.

14. Taplejung

Number of cases of alleged capture registered with the DAO: DAO reported no cases registered

General summary: Taplejung was reportedly one of the districts least affected by conflict-era land seizure. Interlocutors generally agreed that relatively little land was formally captured and that most or all of that land has been returned. The LPC Coordinator (a Maoist) explained that little land was officially seized; rather, the land was abandoned by IDPs and occupied by Maoists during their absence. No problems were reported for IDPs to return and reclaim their land. A senior UML representative agreed and said that there were few cases of Maoist seizure of private land. He noted that some public cardamom farms were seized but have been returned. A member of another party thought that a small percentage of seized private land was still in Maoist control but could not give specific examples.