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Statutory Versus Locally Existing Land Tenure Typology *A Dilemma for Good Land Governance in Nepal*

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COUNTRY BACKGROUND

Nepal Location and Topography:

On the lap of Himalayas; Mountain and rugged hills (75%)

Land Cover:

Forests coverage (41.9%); Arable land (27.3%)

Nepal Ancient History:

Legends date back to 30th Century BC

Kirat Dynasty: 8th Century BC to 4th Century AD

Lichhavi Dynasty: 4th Century till 12th Century

Malla Dynasty: 12th Century till 18th Century

Nepal Modern History:

Shah Dynasty:

Unification process 1743 & Founding of modern Nepal 1768 Treaty of Sugaulie: 1816

Rana Oligarchy: 1846

Democracy: 1951

Panchayat System: 1961

Restoration of democracy: 1989

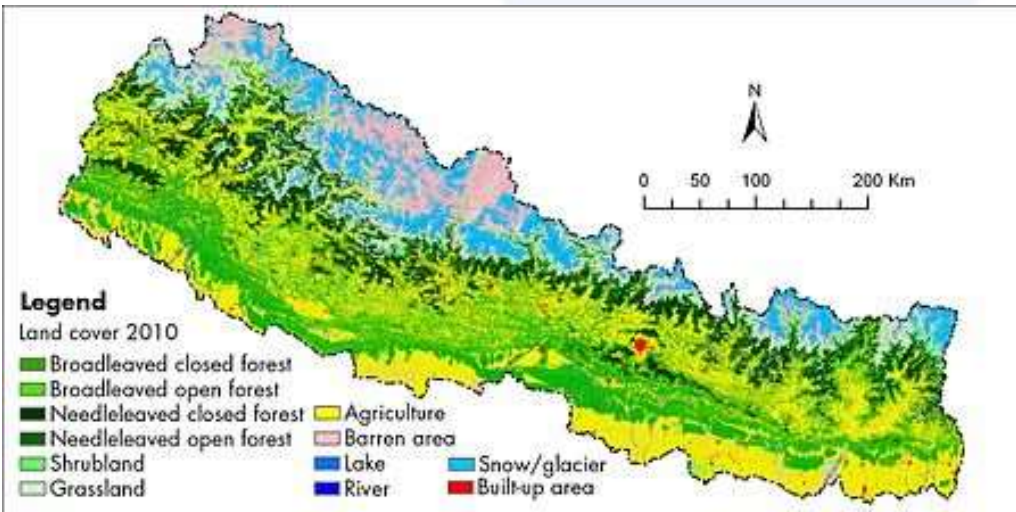
Armed Conflict: 1996- 2006

Federal Democratic Republic: 2008

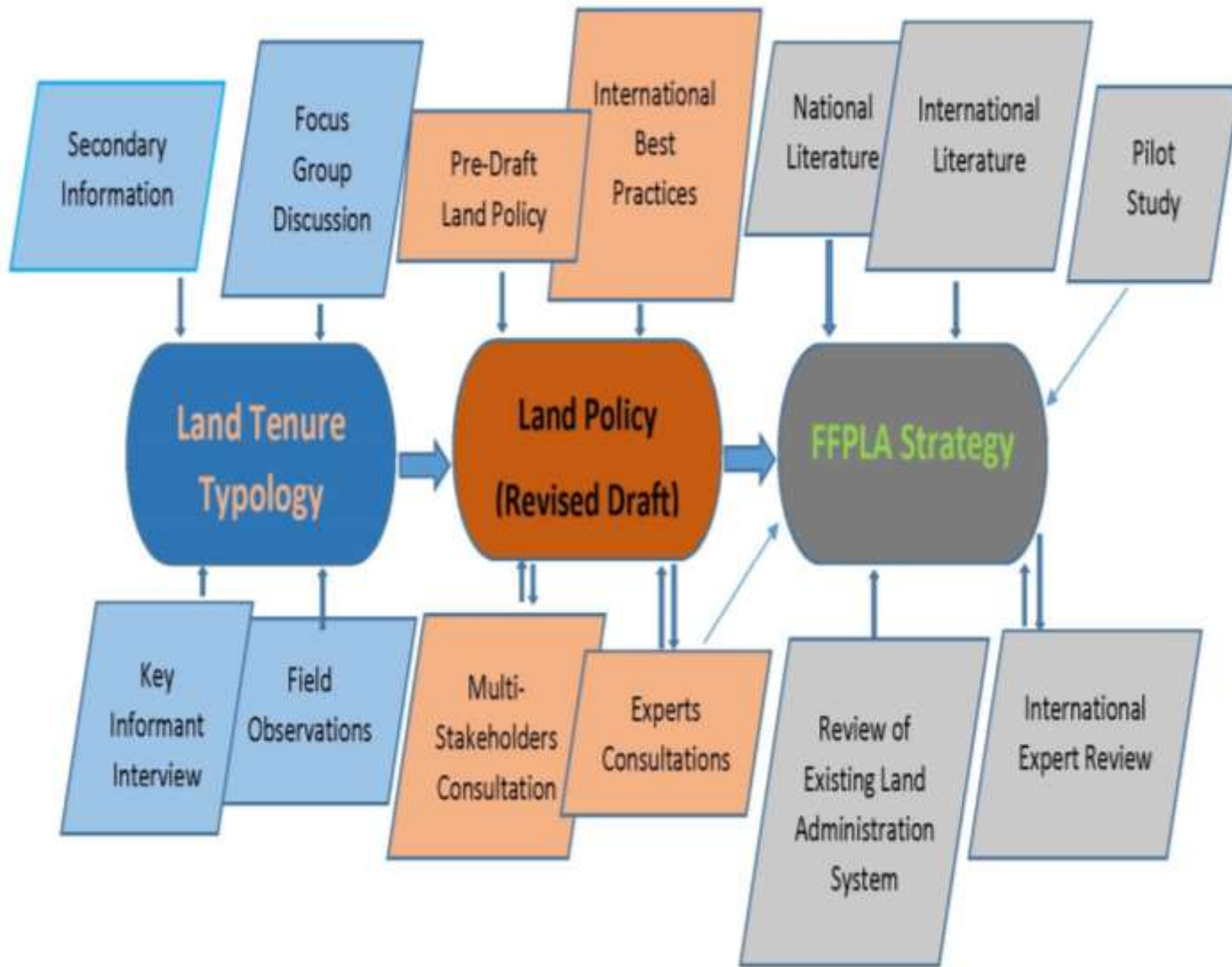
Gorkha Mega-Earthquake: 2015

Constitution of Nepal: 2015

**Political History
has a relationship
with the history of
evolution of land
tenure in Nepal**



PURPOSE OF THE RESEARCH STUDY



- Land Administration evolved through a feudal culture. History dates back to 5th Century Lichchavi King Manadeva.
- Land Reform programme of 1961 has not been able to deliver
- Land and tenure issues as one of the triggers of social and political conflict
- National Land Policy was proposed to be formulated
- Need for study and documentation of all tenure typology to informed land policy formulation

STUDY METHODOLOGY



- Literature Study
- Primary Data Collection
- Coverage 5 out of 7 provinces
- Methodology
 - Key Informant Interviews
 - FGDs
 - Informal Conversations
 - Expert Observations



FINDING (1) : FROM THE STATE TO THE PRIVATE LANDLORDISM

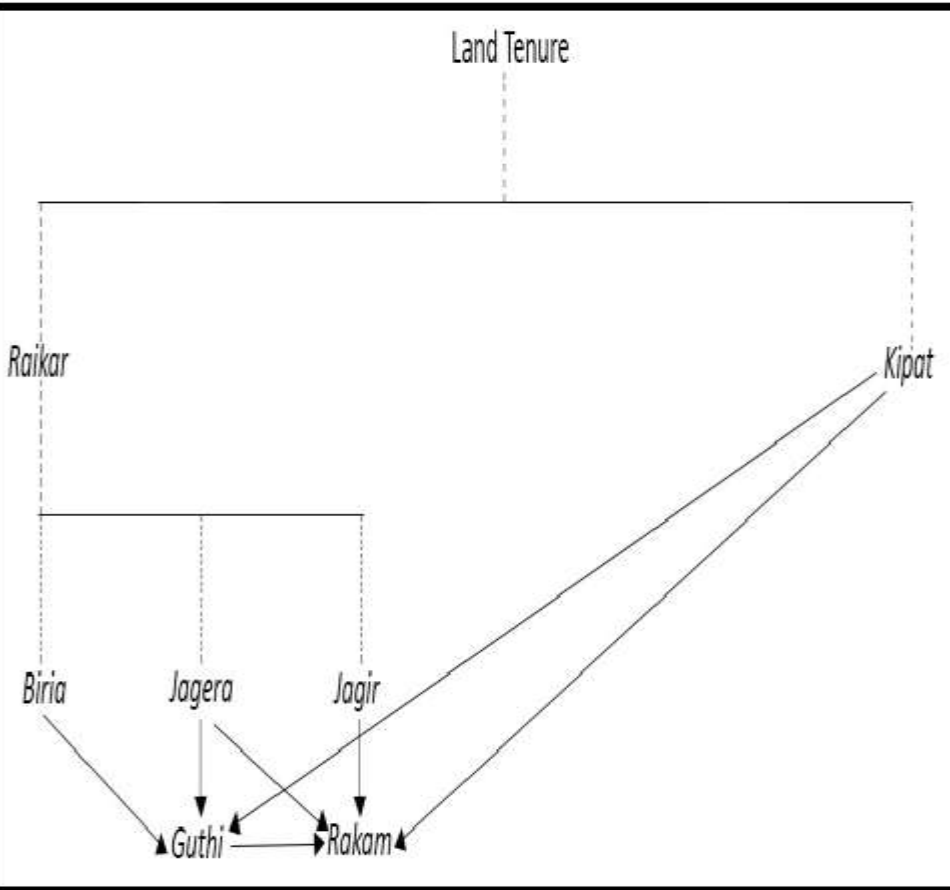
Historically till 1951: State the key landlord; Feudalism

- State will grant land on rent to the farmers (*Raikar* tenure)
- Rulers will grant *Raikar* land to their favorites (*Birta* tenure) or emolument to soldiers and civil servants (*Jagir* and *Rakam* tenure)
- State or *Birta* holders will gift land to maintain temples and other philanthropic use
- *Birta*- and *Guthi*-holders will let land for peasants on different tenure arrangements for agriculture (Evolution of tenancy, Bonded labour etc)

Birta tenure system: Evolution of private landlords

Guthi tenure system: Evolution of temples as landlords

Some ethnic community held community land (*Kipat* tenure)



In 1951:
Raikar (94%), *Guthi* (2%) and *Kipat* (4%)

FINDING (2) : DEMOCRATIZATION OF LAND TENURE SYSTEM



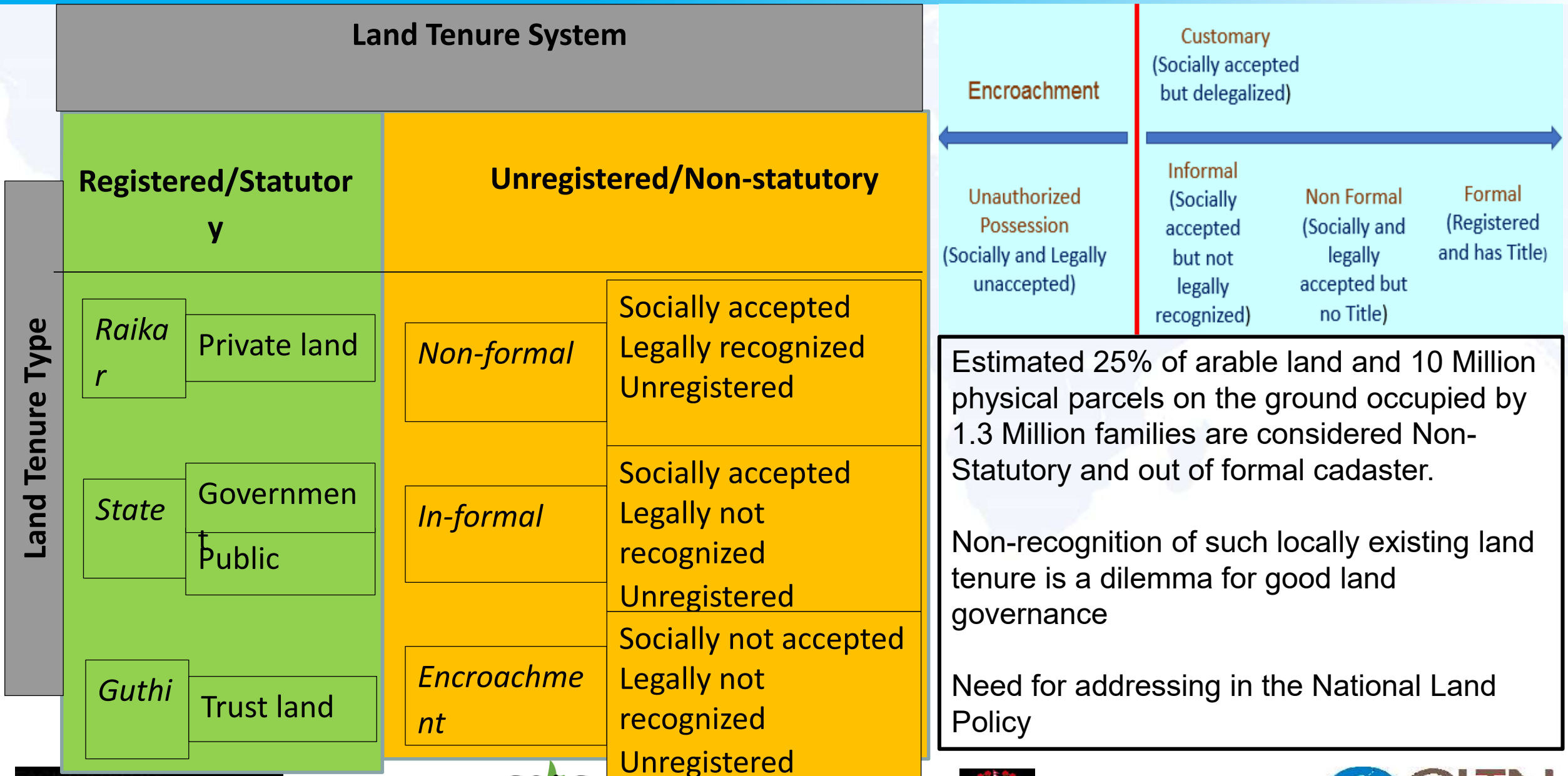
Towards abolition of feudalism (major events)

- Abolition of Jagir tenure system (1951)
- Abolition of Birta tenure system (1959)
- De-legalization customary tenure system and land tenure reorganization (1962)
- Statutory land tenure include *Raikar* (redefined as freehold), *Guthi* (Trust) , *Sarkari* (Government) and *Sarbaajik* (Public use)
- Systematic land titling starts (1963)
- Land Reform Program launched (1964)
- Abolition of *Kamaiya* bonded labour system (2000)
- Abolition of *Haliya* bonded labour system (2008)

FINDING (3) : LAND REFORM PROGRAMME (1964) FAILED

- 25% of cultivable land still out of formal cadaster
- 45% of rural farmers are landless or near-landless operating less than 0.5 ha of land
- Nearly 500,000 families
- No clear distinction between encroachment and informal tenure
- Beyond Statutory land tenure system, remnants of traditional feudal and customary tenure system locally existing, major classification based on
 - Ownership pattern
 - Farming/ Cultivation contract
 - Institutional contract
 - Customary and collective tenureship, etc
- Some cases of Community leaders holding land administration
- Land issues as one of the triggers of armed conflict (1996- 2006)
- High Level Land Reform Commission reports 1995, 2010, 2011 highlight policy reforms

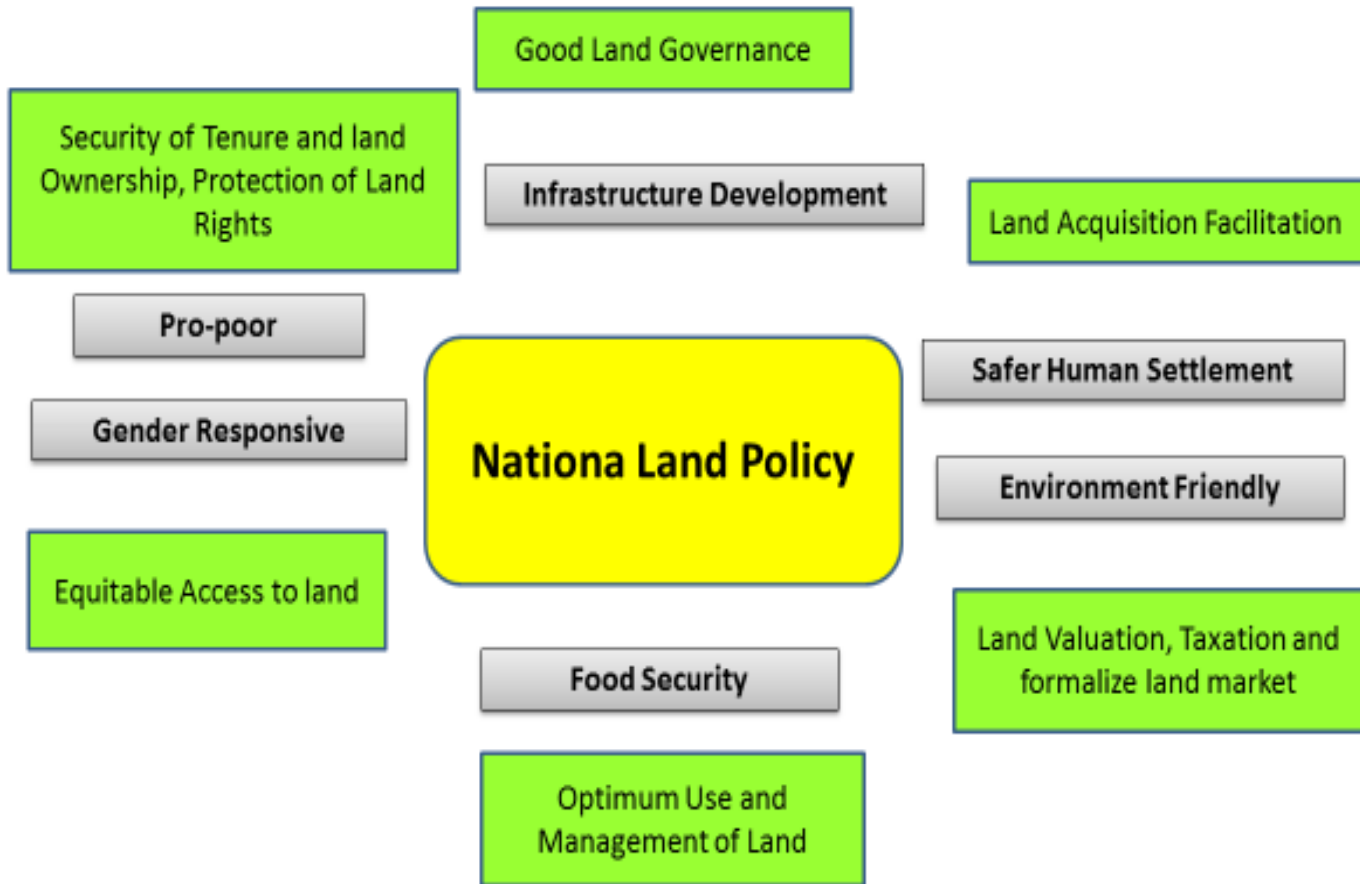
FINDING (4) : SUMMARY OF EXISTING TENURE TYPOLOGY



CONCLUSIONS

Policy Goal:

Sustainable Land Management, Prosperous Life and Development



- This study informed National Land Policy drafting.
- On March 21, 2019 Government of Nepal adopted the National Land Policy which commits to access to land, and recognition and security of all types of tenure among others
- A Fit-For-Purpose Land Administration Strategy was recommended for the implementation of the land policy

THANK YOU

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