



## Situation Update

### Serious Concern Over Eviction Of Landless People From Public Lands Without Following Due Process

#### Background

Terai Human Rights Defenders Alliance (THRD Alliance) expresses its serious concern over the ongoing eviction of landless marginalized and vulnerable people by the state authorities and non-state-actors, backed by the government authorities, without following international human rights standards and established good practices, such as providing alternatives to those affected.

The Constitution of Nepal (2015) brought changes in the governance system and devolved a wide range of powers to three-tiers of government. It incorporates many human rights guaranteed under the International Covenant on Economic, Social and Cultural Rights (ICESCR), including the right to an *adequate standard of living for himself and for his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions*. The Committee on ESCR has stated clearly in its General Comment 4 that all persons should possess a degree of security of tenure, which *“guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups”*.

It was expected that people will benefit from having the government at their doors and service delivery would improve and bring in positive changes in the lives of marginalized and vulnerable communities, including landless people, Dalits, Muslims, Madhesi, women and elderly people among others. It was also expected that such governments would ensure and protect the rights of such people.

Articles 17 (1) and (2), 18, 37 and 40 of the Constitution of Nepal (2015) have ensured the right to “appropriate housing”, against forced evictions, for equality, and right of Dalits respectively. However, instead of upholding these rights, all levels of government have been misusing their powers against these communities. State authorities in various places of the Terai/Madhes made landless people homeless and forced them to stay under open sky in the chilling cold without providing any alternative housing.

Recently, the state authorities demolished the houses and huts of landless people in Butwal Sub-metropolitan City, Bhairahawa district, Janakpurdham Sub-metropolitan City in Dhanushaand in Siraha district.



## Case Details

### Case-1

On June 30, 2019, Butwal Sub-metropolitan City evicted 16 landless Muslims and Dalit families from Ward No. 1 where they had been living in front of Jame Masjid for the last 50 years. The Sub-metropolis evicted the families from the public land stating that a covered hall will be built on this public land used by the landless people. However, the local authorities failed to follow due process, including by providing them alternative housing and other means of livelihood.

Following that the landless people, who had been evicted from the public land, started protest against the decision of the local body. They started a hunger strike against the sub-metropolis.

According to the Terai Human Rights Defenders Alliance's field representative, the hunger strike resulted in an agreement between the Butwal Sub-metropolitan City and the landless people after 34 days.

As per the written agreement, the sub-metropolis provided Rs 25,000 to each family in return for the landless people stopping their strike. The sub-metropolis also agreed to provide them with a house or 5 *dhoor* of land for each family in Ward No. 1 to 13 of the sub-metropolitan city within one year under the People's Housing Programme (Janata Awash Karyakram).

Human rights defenders, journalists, political leaders among others played active roles behind the agreements.

However, as of mid-January 2020, it has already been six months since the sub-metropolis agreed to provide the landless people with the house or land but nothing has been done yet, as per the recent observation of the THRD Alliance's field staff.

Article 18 (3) of the Constitution of Nepal (2015) stated that "the State shall not discriminate citizens on grounds of origin, religion, race, caste, tribe, sex, economic condition, language, region, ideology or on similar other grounds."

Provided that nothing shall be deemed to prevent the making of special provisions by law for the protection, empowerment or development of the citizens, including the socially or culturally backward women, Dalit, indigenous people, indigenous nationalities, Madhesi, Tharu, Muslim, oppressed class, Pichhada class, minorities, the marginalized, farmers, labours, youths, children, senior citizens, gender and sexual minorities, persons with disabilities, persons in pregnancy, incapacitated or helpless, backward region and indigent KhasArya.



Currently, the landless people have been forced to rent houses or rooms or be guests at their relatives' places hoping that the sub-metropolitan city will abide by the agreement.

## Case-2

On December 21, 2019, the Trust of Hanuman Temple demolished three houses of landless Dalits, who were residing on land owned by the Trust of in Jatahi-12, Janakpurdham Sub-metropolitan City, Dhanusha district. Members of three Dalit families were compelled to stay under the open sky.

The state authorities have not shown any mercy on landless Dalits, despite their right to equality, land and housing being guaranteed by the constitution.

After the Road Department demolished houses of Bhilai Das, Dinesh Das and Uday Das to expand the Janakpur-Jatahi road, they started living on the land of the trust near Hanuman Temple. Since the families are financial weak, elderly people, children and women of the families have been suffering in the cold season, as they have no alternative housing.

Similarly, article 37 (1) stated that *"every citizen shall have the right to an appropriate housing."*

On the other hand, article 40 (5) mentioned that *"the State shall once provide land to the landless Dalit in accordance with law,"* while Article 40 (6) stated *"the State shall, in accordance with law, arrange settlement for the Dalit who do not have housing."*

Currently the landless families are residing in the Dharmashala owned by the Hanuman Temple.

## Case-3

On January 11, 2020, THRD Alliance's intervention and Mayor's bold decision saved houses and huts of 17 Dalits in Bideh Municipality-1, Thathijhitha in Dhanusha district.

The 17 Dalit families were residing on the land of the Janakpurdham Trust for last 50 years. but the Dhanusha District Court ordered to evict the public land by November 2019.

Local resident, Ram Sagar Thakur, who is the brother of Ward President Ram Briksha Thakur, filed a case in Dhanusha District Court claiming that the 17 families had captured land of trust and had been living there for last 50 years building houses and huts. The Ward President tried to



evict the landless people by demolishing their homes with a bulldozer without offering or arranging any alternative housing for them.

Victim Hiralal Daha told THRD Alliance that the Area Police Office had time and again threatened them that their house would be demolished before the incident happened. The landless people had built houses and huts on 1 *dhoor*, 2 *dhoors*, 3 *dhoors* and 4 *dhoors* of lands.

However, due to the intervention of THRD Alliance, which also coordinated with the National Human Rights Commission, journalists, the mayor of the municipality and other stakeholders, the eviction work has been halted until alternatives either land or housing are found.

#### Case-4

On December 21, 2019, landowner Damodar Pradhan with the help of personnel of Nepal Police vandalized houses of Dalit community who were residing at Siraha Municipality-6, Baspitta, Siraha district.

Family members of Mahara community had been living there for more than 50 years. But Mr Pradhan evicted them from the land without prior consultation with the landless people, who had no other alternative housing to live in.

Although the victims, with the help of THRD Alliance, sent applications asking for housing and other means of livelihood to the Ward Office, Municipality and District Administration Office. But the state authorities did not do anything for the landless families rather gave verbally commitments that houses will be built for them if public land is found. However, the victims have been forced to live in tents.

Earlier, in December 2018, Dalits of Fulbariya Maharatole of Mirchaiya Municipality, Siraha and others were shocked when a settlement inhabited by Dalits for three generations was sold due to wrong recommendation provided by the Ward Office.<sup>1</sup>

A real estate entrepreneur bought the land after Ward Chair Ram Kumar Yadav issued a recommendation saying the land had no human settlement.

On the other hand, the Dalits claimed that they paid money for the land to the land owner where they have been residing for the past 90 years.

#### Call to Action

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<sup>1</sup><https://thehimalayantimes.com/nepal/dalit-settlement-sold-after-ward-chair-errs/>



THRDA Alliance calls on the government authorities to abide by the Constitution and international treaties, and ensure rights of the landless, Dalits, Muslims, Madheshis, Tharu, women, children, elderly people, among other marginalized and vulnerable groups and sections.

The organization also demands that the state should provide alternative accommodation for the settlements of landless people before evicting them from the public land or from other lands where they have been residing for decades, and sometimes generations.

The state authorities should also do genuine consultation with the affected person, provide them with adequate and reasonable notice prior to the scheduled date of eviction, inform them about the proposed evictions, whether alternative arrangements have been made or not and reasonable time for alternative arrangements.

Likewise, the state authorities should also keep in mind that eviction should not take place during unfavourable weather or at night without getting proper consent from the affected persons and should also provide legal aid to persons who are in need of it to seek redress from the courts.

THRDA also urges the concerned authorities that evictions should not result in individuals becoming homeless or vulnerable to the violation of other human rights. The state authorities should also take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.