

Collaborative Forest Management in Nepal: Tenure, Governance and Contestations

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Abstract

Collaborative forest management (CFM) is a 'community-based' forest tenure regime that works in partnership between the central government, local government and local forest user groups in Nepal's Terai, particularly in the management of large, contiguous forests. It has been in practice since the early 2000s in the form of 'pilot initiatives' and is gradually receiving greater legal attention. Through our own experiences, available literature and review of policies, we document the evolutionary history of Terai forest and CFM's current issues. We found that the management aspects of Terai forests have been weak throughout its history. We also found a number of issues and challenges in the implementation of CFM. Some of the prominent issues include ambiguity in tenure rights and security, lack of appropriate and uncontested policy provisions for cost and benefit sharing among collaborators, limited decision-making space for forest-managing communities and local governments, and limited capacity of collaborators for the productive management of forests. We suggest tenure reform in terms of legal, institutional, technical and financial arrangements, so as to make CFM an effective forest management model in the Terai.

Key words: Benefit sharing, collaborative forest management, forest governance, tenure, Terai

INTRODUCTION

Collaborative forest management (CFM) is a forest tenure regime that works in partnership between the central government, local government and local forest user groups in Nepal. While community forestry (CF) was gaining momentum in the hills in the early 2000s, Nepalese government introduced the concept of CFM for the management of state-controlled forests in Terai. The major purpose of CFM is to manage large contiguous forests in Terai for multiple benefits, such as timber production, revenue generation, coordination among various actors and inclusion of distant households in forest resource governance through collaborative efforts of multiple actors

(GoN 2016). Initially, CFM was backed by the revised Forestry Sector Policy of 2000 and initiated in the form of 'pilot projects'. Gradually, the Government of Nepal (GoN) has put tremendous efforts, including legal provisioning, institutional arrangement, and programmatic support into this regime. The second amendment of the Forest Act 1993 legalised the CFM in 2016, which provisioned the establishment of the District Forest Sector Coordination Committee (DFSCC), Collaborative Forest Management Group (CFMG) and Program Management Committee (PMC). Virtually, the District Forest Office (DFO) controls these institutions.

While the government-managed, national forests are rearranged in the form of CFM, a major question is: to what extent has the forest tenure been improved in reality from the perspectives of CFMG and the local government? To answer this question, we examine CFM processes and ramifications through historical transect, political economy of tenure reform, and attendant governance issues. We assume that these three premises are crucial to shape the outcomes and deliveries of forestry governance, including sustainability of forest ecosystems, optimum forest benefits and equitable sharing of rights and resources (Pagdee *et al.* 2006). Pivotal to these premises is the tenure arrangement of any forest management regime (Anderson 2012). As forest tenure cannot be understood in vacuum, we need to be clear on two basic questions: whose tenure and for what purposes (Jhaveri and Adhikari 2015), while debating about forest tenure. We build our argument on the basis that the tenure should support the objectives of the forest-managing individuals or groups. In CFM, it is therefore necessary to examine the tenure implications on three major actors: the central government, the local government and the local communities.

While the tenure arrangement for the central government is clear, it is complex and contested in the case of CFMG and local government. The concept of tenure in the context of CFM should be situated and assessed through the lens of CFMG and local government, as they are supposedly assigned and delegated with the authority and responsibility for forest management by the central government. In order to examine the tenure contexts, processes and outcomes of CFM, this paper

highlights how and why CFM emerged in Terai, and explores its political economy as well as several issues associated with its implementation, particularly tenure security and rights of local government and communities over forest management, decision-making and distribution of benefits accrued from forest resources.

The paper is structured as follows. Following the introduction, section 2 provides a brief overview of the contexts for emergence and evolution of CFM. Section 3 examines the political economy of forest governance reform and CFM contestations by assessing various interrelated components, including the issues related to the bundle of rights and tenure security. Section 4 discusses key issues and challenges associated with the implementation of CFM. Finally, the paper is concluded with some possible ways forward.

EMERGENCE AND DEVELOPMENT OF CFM IN NEPAL: A BRIEF OVERVIEW

Experiences show that, throughout the modern history of Nepal, there has always been a tension between the local people and the state in relation to controlling the local forest resources (Regmi 1978). In particular, contestations over access, use and control of forest resources have featured more prominently in the Terai's history (e.g., Satyal and Humphreys 2013; Satyal 2004, 2010). Lately, dominant discourses on Terai forestry have been based on conceptualisation of different pilot models but without proper development and implementation. As Schoubroeck and Karna (2003) highlighted, different models of Terai forest management (e.g. parks, community forestry, scientific forestry)

were designed and proposed as promising management modalities but failed to address the problems of deforestation.

The forest conservation and management in Terai has been more challenging compared to rest of Nepal. Despite the implementation of different forest management modalities in Terai for the last fifty years, net deforestation and forest degradation continues (DFRS 2015). For instance, more than 75,000 hectares (ha) of Terai forests was illegally encroached from 1990 to 2001 (DoF 2005). A number of factors such as large-sized high-value forests, uneven pattern of forest resource and population distribution, high migration from across the border from India and Nepalese hills, increased user group heterogeneity (indigenous Tharus, Madhesis and hill-origin people) resulting into ethnic tensions (in recent years), issues of proximate and distant users, and continued illegal logging and cross-border smuggling engender challenges in the management of forests in the Terai (Satyal 2004, 2010; Satyal and Humphreys 2013).

An increasing rate of deforestation and forest degradation remains unabated in Terai despite the implementation of CF, which has had positive outcomes in terms of halting deforestation and forest degradation in the hills (DFRS 2015; REDD-IC 2017). To address this problem, in mid-1990s, the government attempted to manage Terai forests by endorsing district level Operational Forest Management Plans (OFMPs) across the Terai districts; but these plans were never implemented (Dhungana 2007). Baral (2002) reported that forest management plans were never implemented fully despite the fact that they were prepared and institutionalised from the 1970s.

Nepalese government introduced revised forestry sector policy through a cabinet decision in May 2000 (HMGN 2000) to address the increasing rate of deforestation and forest degradation in Terai. Special feature of this policy was the introduction of an alternative model for block forest management to increase forest productivity by adopting appropriate silvicultural system, fulfill the growing needs of forest products, conserve biodiversity and generate employment (Bampton *et al.* 2007; Bhatta *et al.* 2007). For the effective implementation of the policy, government also endorsed the CFM Directives, 2003 (MoFSC 2003) and established CFM as pilot initiatives in Bara, Parsa and Rautahat districts through a Dutch-funded Biodiversity Sector Programme for Siwaliks and Terai (BISEP-ST). Based on the learnings and experiences from the pilot program (2001-2006) the government formally launched and expanded CFM. In 2011, a revision was made to the CFM Directives 2003, which provides guidance on the procedural aspect of CFM in the region (Mandal and Bhattarai 2014). Likewise, Forest Policy 2015 and Forestry Sector Strategy 2016 have elaborated the community access to and control over forest resources in the Terai (MoFSC 2015). These policies, along with the most recent (in 2016) amendments of the Forest Act 1993 provides legal basis for the development and implementation of CFM, including legal recognition of CFM stakeholders. However, CFM is yet to be included in Forest Regulations 1995 that guides the governance of the tenure regime in detail.

Currently, CFM has been practiced in 11 districts of the Terai: Morang, Dhanusha, Sarlahi, Mahottari, Rautahat, Bara, Parsa,

Nawalparasi, Rupandehi, Kapilvastu, and Kailali. Till now, there are 26 CFM groups that have been formed across these Terai districts and are managing around 67,000 ha of national forests under the CFM regime (DoF 2016). The users of a single CFMG are distributed across several villages, and more than 8.5 million households have been benefitted from CFM implementation in the Terai (DoF 2016).

Theoretically, CFM is loosely defined as a 'working partnership between the key stakeholders in the management of a given forest - key stakeholders being local forest users and state forest departments, as well as parties such as local governments, civic groups and non-governmental organisations (NGOs), and the private sector' (Carter and Gronow 2005: 2). In that sense, CFM is conceptually an inclusive approach in its design in terms of stakeholder engagement in forest management. However, the CFM debate is highly polarised in Nepal and different stakeholders hold diverse views, which we elaborate in the next section.

POLITICAL ECONOMY OF FOREST GOVERNANCE REFORM AND CFM CONTESTATIONS

In order to understand the evolution and development of CFM in Terai, it is important to look into the political economy of forestry policy reform in the country, linking it with the historical contexts of forest governance and tenure issues, institutional arrangements, and the relationships between the key actors (including the dynamics of contestations). This section provides an analysis of forestry sector reform in relation to Nepal's socio-

political and historical contexts, focusing on the impacts of Terai forestry on forest governance, tenure security and contestations between different actors.

Bundle of Rights and Tenure Security

Forest tenure can be regarded as 'a bundle of rights', including rights and specific benefits derived from forests (access, withdrawal and benefits), management (overall decision-making including rights of exclusion), and alienation (ownership, right to compensation, right to sale) (Schlager and Ostrom 1992; REDD-IC 2016). Debates on forest people's bundle of rights are therefore related to land rights (tenure), use rights, and rights to manage or protect and conserve (Springate-Baginski and Blaikie 2007; Sikor *et al.* 2010). These rights include both individual rights to be cultivated land in forestland and collective or community rights over common property resources. Besides the substantive rights (such as to life, personal security, health, adequate standard of living, education), forest peoples' rights are also related to undoing the 'historic injustice' done to them (Sikor 2014). Historically, state ownership and control of forests and their management through centralised forest departments worldwide have resulted in the consolidation of power over forests and forest-dependent people by the state, forest bureaucracy or local elites. Past interventions through state-controlled forest decision-making had also seriously eroded tenure security, as they restricted local communities' access to and control over forestlands.

While applying the concepts of bundle of rights and tenure security in the contemporary forest management

modalities, issues of forest rights relates to the role of the state, policy provisions, nature of forest administration, and decision-making processes. To understand the forest rights and tenure security, one should know the policy provisions, and state's roles and practices in relation to contestations of interests, values and power among a variety of actors competing for access to and control over resources. Ideas on forest rights and tenure security therefore need to be understood in the context of constantly articulated, re-articulated and transformed forest politics and policies in response to wider changes in the political, economic, social and natural environments (Satyal 2006, 2010; Satyal and Humphreys 2013).

If we look into the history of forest governance in Nepal, the state's approach to the management of land and forest resources of Terai has shifted several times in history: as a maintenance of forested barrier against potential British invasion (until 1816); the appropriation of forest land by the state as part of economic and political-bureaucratic expansion (until 1951); followed by the nationalisation of private forests and lands (1957); partial decentralisation of forest governance (since the late 1980s); development of community-based forest management (CBFM), including CF (late 1980s) and CFM (late 1990s); and emergence of forestry projects based on carbon and payment for environmental services (since 2010). These changes in forestry policies and practices had different impacts in terms of communities' forest rights and tenure issues.

Despite the changing policy and practice, a closer look into the political economy of Nepal from a historical perspective

suggests that only a few ruling elites at the centre, and local elites created thereafter as a result of the autocratic political system and feudal social structure, were allowed to benefit from the Terai forests (Satyal 2006, 2010). For example, Nepal's forestry sector was historically an inequitable domain that benefited the state and the ruling elites whereas common people did not get a fair share of benefits. This resulted in loss of local people's entitlements to land and forests. Upper-hand of the Nepali state in forest control meant that revenues from forests were used to consolidate power and position during the *Shahs* (post-1768), *Ranas* (1846-1951) and *Panchayati* system (1960-1990) (Satyal 2006, 2010; Satyal and Humphreys 2013). In the early 1980s, decentralisation of forest governance initiated with recognition of community ownership and management of forests, mainly through the development of CF in the hills that continued till date. CBFM has become a popular policy idea in Nepal (Gilmour and Fisher 1991), with expansion of its variants in the form of buffer zone management (outside protected areas) and CFM in the Terai.

Amid the challenges of historical legacy of state control of Terai forests, volatile politics and continued transition, CBFM has evolved as one of the major components of Nepal's forest development strategy in Nepal (Acharya 2002). However, progress in implementation of CBFM (CF or CFM) in the Terai has been very slow. Similarly, the historical legacy of the state in forest politics and policy, the superseding of local subsistence needs by national commercial interests and resistance to change in the forest bureaucracy with its tacit support for the status quo in Terai forestry, also hindered forest governance reforms for years. Such hindrances not only increased

the mismanagement and corruption in the forestry sector but also promoted illegal logging, deforestation and forest degradation in the region.

Terai forest management problems are in contrast to the successful experience of CF in the mid-hills (Satyal 2004). Among others, increasing forest-related contestations, particularly between the state, local people and various other stakeholders over the control, management and use of forests has been one of the reasons for this (Bampton *et al.* 2007). While an attempt by the government to bring Terai forests under alternative management plans (such as the CFM) has been favoured by some (e.g. distant users, local governments, some donor agencies), it has faced strong oppositions from the CF lobby. Forest management policies in the Terai have been a complex, and politically controversial issue in Nepal. While the civil society groups such as the influential Federation of Community Forestry Users Nepal (FECOFUN), which represents more than 19,000 community forest user groups (CFUGs) across the country, want the expansion of CF regime in the Terai, the government wants to advance the development and implementation of CFM. Lately, CFM groups have also been federating themselves to form the Association of Collaborative Forest Users Nepal (ACOFUN) and have been pushing the agenda of CFM implementation in the Terai. The multilateral and bilateral donors active in Terai forests were also divided during CFM initiation: some directly or indirectly supporting CF (e.g. USAID, GIZ and DANIDA), whereas others (e.g. Dutch) supporting CFM (Satyal and Humphreys 2013).

Social Inclusion and Distant Users in the CFM Debate

The issue of distant users has been central in contemporary debates on how Terai forests should be managed (as evident in the polarised arguments between the two dominant policy models of CF and CFM) (Satyal 2004, 2010; Satyal and Humphreys 2013). Arguing that the CF regime as demanded by the forest user groups and the FECOFUN, favours only the proximate users at the expense of the distant users, the GoN has been advocating CFM which, it argues, could address equity issues with more proportionate distribution of benefits to all users, including the distant ones. The rising political struggles by various *Madhesi* and *Tharu* groups and rising ethnic tension, particularly after 2006 have further politicised these debates, with *Pabadis* (hill-origin people) supporting CF and *Madhesis* favouring the CFM.

The CFM seeks to develop, albeit in abstract forms, appropriate mechanisms for sharing rights, responsibilities and benefits with 'considerations of social, gender and ethnic equity' and 'mechanisms for distribution and marketing of forest products' (MoFSC 2003; Mandal 2007). It is envisioned with an idea that everyone should have a stake in national forests; it considers national government, local government and local users as the main stakeholders (See tenure arrangements and bundle of rights under CFM in Table 1). While the CFM plan seeks to distribute revenues collected from Terai forests at different levels (among the central government, local government and local users), as the CF lobby argues, considerations of more powerful stakeholders (i.e. national and

local governments) in the claim of benefits make the sharing of income and forest products to the local users less fair in comparison to the provisions under CF regimes. In CFM, forest products such as timber and fuelwood are distributed between the national government (40%) and local government (10%) and local users (50%). Although the CFM regime sets aside priority for the fulfillment of forest product needs of the users involved, the rights over use of forest products are limited to only fodder, lops and tops, and small woods (which are not always free of charge) (MoFSC 2003). Although CFM is practicing distribution of 50 per cent of the shared timber among their members, the supply is not sufficient to meet the demand. Additionally, due to

the reduced income available in the users' fund and a large number of households involved (e.g., 33,000 in Sabaiya of Parsa district) and, hence, reduced opportunities for involvement and participation of users in the decision-making process, the implementation of CFM has experienced oppositions and contestations from the CF lobby. Although local government bodies (e.g., the then District Development Committees - DDC and Village Development Committees - VDC) and Collaborative Forest Management Committees (CFMC) can participate in the political processes by which forest management decisions are made, large number of people involved can make the participatory process limited to a mere ritual controlled by an influential few.

Table 1: Tenure Arrangements, Bundle of Rights and Right Holders in CFM (adapted from REDD-IC 2017)

Bundle of rights	State/ government	Community/ user group	Household/ individual	Indigenous groups and other forest people
Access and benefit (use right)	Tenure is unlimited, 50% benefits from the forest (forest product - especially timber and firewood) go to the state. According to the revised provisions on Forest Act, 40% of income gained from the sale of forest products goes to the national government, 10% to local government, and 50% to the local communities.	The communities are granted access and withdrawal rights. Local government and communities get 60% of the harvested products (firewood and timber) not the revenue.	Little space for individuals and household members to determine benefit sharing modality.	Indigenous peoples and other groups are not explicitly recognised, however there is a provision to include them in CFM group and committee (according to CFM Directives).

Management (control right)	Approve management plan and forest is managed through an annual scheme or 5-10 year plan.	Involvement of both nearby and distant forest users, and is coordinated through the DFSCC (mainly in the approval phase of the management plan) dominated by the DFO.	Individuals and household members involved in planning but they have little voice in how CFM areas are to be managed.	Indigenous peoples and other groups are not explicitly recognised (they have to be consulted during the preparation of management plan but it is not always practiced).
Alienation (transfer right)	Revoke rights, can change land use.	NA	NA	NA

Policy Reform and Contested Views of Actors on CFM

The other major question to explore is: what implications the major policy processes and outcomes, including the revised Forestry Sector Policy 2000, amendments to the Nepal's Forest Act 1993, CFM Directives 2011, Forestry Sector Strategy 2016 and Forest Policy 2015 have in terms of the opportunities and challenges of implementing CFM? As argued earlier, CFM was first introduced through a provision in the revised Forestry Sector Policy 2000 that envisioned CFM as an alternative to the dominant regime of CF, including the distribution of benefits and revenues between the central government, local government and local users. The revised Forest Policy of 2000 also aimed to resolve the critical issue of inclusion of distant users, which the community forestry policy and practice would not otherwise address.

The section 2 of the revised Forest Policy 2000 provisioned for pilot initiatives through Dutch-funded BISEP-ST project in eight Terai districts and DFID-funded Livelihoods and Forestry Programme

in three districts. Major interest groups supporting CFM have been: some organisations (e.g., donors, INGOs, and NGOs), CFMGs, ACOFUN, forest bureaucrats, local government and distant users (including the Madhesi users, who live far from the forests). However, opponents, mainly CF activists, saw this policy merely as a tactic to consolidate government control over the revenue generated from the forests. They make the case that the CFs in Terai, which were handed over to communities before the state elaborated the CFM policy, are well protected and managed and are much better than under earlier government control, and are also in several cases benefitting the poorest groups. These arguments and counter-arguments with regard to Terai forestry policy, in due course, have been transformed from polarised conceptual debates to occasional field-level conflicts.

As advocated by many CF activists, there are some practical challenges to translating and emulating the success of CF as practised in the hills into the Terai. Unlike the hills, the Terai did not have experience in collective action for common pool forest resource management, let alone a history of community forest management.

Hence one fundamental challenge is to support the creation of new institutions of forest user groups. Larger forest sizes, recent settlements, heterogeneous social structure, problems in identifying and organising user groups, the existence of attractive timber markets nearby, together with widespread and organised illegal timber felling, all create additional obstacles to community management in this region (Satyal 2004). The equity concerns among proximate users (mainly the *Pahadis*) and distant users (mainly the *Madhesis* and *Tharus*) also present a complex and pressing issue.

While neither CFM nor the CF regimes gathered real momentum in the Terai, Nepalese government brought CFM Directives in 2011 that provide procedures to allocate forests for CFM in the country. Besides providing guidelines for implementation of CFM in the Terai, it aims to address concerns of nearby and distant users for distribution of forest products, with a provision of benefits from productive forests to be distributed throughout the country, including urban populations and local and central governments. There are also other relevant policies that guide CFM implementation such as the Gender and Social Inclusion Policy 2008, which provide specific attention to gender equality and promotion of social inclusion in CBFM, including CFM. For example, the social inclusion process focuses on providing opportunities to the poor and marginalised groups for their participation in CBFM (REDD-IC 2016).

The Nepalese government brought a new Forestry Sector Strategy 2016 to provide strategic direction and guidance for the next decade, as the mandate of the Master

Plan for the Forestry Sector ended in 2011 (MoFSC 2015). This strategy aims to expand the scale of CBFM (including CF, CFM, buffer zones, and leasehold forestry) to cover 60 per cent of Nepal's forest area by 2025. In particular, it envisions of covering 4 per cent of Nepal's forest area under CFM by 2025 (from 0.9% coverage in 2015). Based on participatory land-use planning and identification of potential areas from District Forest Support Programmes, the Strategy aims to expand CFM in the residual blocks of national forests in the Terai and inner Terai. It also aims to undertake a comprehensive review with a view to reforming the CFM modality covering: decentralised and inclusive institutional structure, managerial and financial autonomy, transparent and accountable decision making, equitable benefit sharing (within the CFMG), benefit sharing from CFM between government (central and local) and local people, and technical aspects of forest management planning. Additionally, the Strategy aims to promote gender equity, inclusive development, and social and economic enhancement of the marginalised people, including poor, women, Dalits, and indigenous people in CBFM planning and implementation (MoFSC 2014).

Another policy document developed in line with the vision of the new Forestry Sector Strategy is the Forest Policy 2015. Among others, one of the characteristic features of the Forest Policy 2015 is its focus on equitable distribution of benefits from community and other forest governance arrangements (MoFSC 2015). It also focuses on institutional capacity building for promoting good governance, inclusion and social justice in the management. Similarly, the 2016 amendments to the

Forest Act 1993 provide legal basis for the recognition and implementation of CFM in the country.

Dynamics of Ongoing Reform and Evolving Political Economy

Amid latest reform initiatives and policy developments in the forestry sector, the success of CFM regime depends on whether there are sufficient provisions and mechanisms for participation of diverse actors in forest management decision-making processes. More importantly, clarity of land tenure, ownership and use rights is vital, given the unclear provision of tenure security in CFM, particularly for user groups and local government (Jhaveri and Adhikari 2015). Hence, it is important to assure stronger and more secure tenure rights to the communities in all CBFM types and empower and safeguard tenure security for users of different kinds to access, manage, and use forest resources. Equitable sharing of benefits, resources and responsibilities between the local communities, local government and national government is also important.

Reflecting the democratisation of the political processes as well as the forestry sector in recent years, CFM development and implementation seems to adopt a generally broad-based actor landscape, enabling the participation of different actors. Multi-stakeholder participation has increasingly become the norm, rather than exception, in forestry deliberations, including CFM debates and processes that provided an enabling environment for the CFM design and implementation. However, it is too early to judge the

implications of these latest policy reforms and processes with regard to CFM, as it is still in its initial phase. Similarly, whether and how CFM addresses issues of tenure, governance and contestations at the local level is a difficult question, as there are several interrelated issues pertinent to access to and control over forest resources. Such issues might have been realised differently by different groups of people based on ethnicity, social grouping, economic status, political influence, habitation pattern, resource dependency and use pattern, physical location and power relations.

CFM may continue to face contestations given that forest tenure and other aspects of forest people's rights are debated in forest policy making. Additionally, ongoing contestations regarding the control over forest between the central government, local governments (including future federal states and local bodies), local community, and between communities, has also become politically charged in the recent years. Moreover, divided civil society and political parties, often taking opposed and polarising positions, have shown exclusionary tendency of actors themselves. There is also a considerable trust deficit between and within actors in government agencies, donor-funded projects, local NGOs, federations (and civil society organisations) as well as political parties that are involved at various degrees in decision making processes (Satyal 2017). The resolution of these challenges and contestations depends on the future course of Nepalese politics (including resolution of Madhesi agitation, federal restructuring and demarcation of states).

KEY ISSUES AND CHALLENGES IN CFM IMPLEMENTATION

Policy and Regulatory Issues

Key policy actors in the Terai forestry at the national level are: Ministry of Forests and Soil Conservation (MoFSC), Ministry of Local Development, FECOFUN, ACOFUN, forest contractors and their association, research institutions, and the judiciary. A major issue regarding policy formulation is a lack of coordination and trust between these stakeholders, which creates confusion and misunderstanding. There is also a lack of transparency and tendency of top-down approach at times, for example, government imposed ban on green felling and harvesting of certain species (e.g. Khair – *Acacia catechu*). This results in inconsistencies in policies, thereby creating confusions among different stakeholders regarding policy provisions and their interpretations (Bhatta et al. 2007). There are unclear provisions of tenure security in CFM, particularly for CFMGs and local governments. In addition, provision about the carbon rights is missing in CFM (MoFSC 2015). Other policy and regulation related issues at the national level include: unclear rights and responsibilities; inadequacy of rights definition (including ownership and usage rights); unpredictability of rights arrangements hampering tenure security; and limited consultative processes. There is also a lack of political will for genuine policy reforms. In fact, *Niti* (policy) vs *Niyat* (attitude) could be a useful analytical aspect of understanding CFM processes in Nepal. As Yadav et al. (2009) argue, even though the *Niti* is good, the *Niyat* of

the implementer is not encouraging, and most often the tendency is to avoid rather than putting real efforts into management improvement.

Social and Institutional Issues

There are some inherent social and institutional issues within existing CFM structures and processes. For example, CFM groups are often very large and heterogeneous; they also have weak social binding due to diversity (as compared to relatively homogeneous CFUGs). CFM groups are mainly working with and linked to the DFO, their networking with other organisations and institutions at the national level is therefore weak. Similarly, at the local level, although different structures exist such as at the ward, VDC and CFM committee levels, these have not been fully institutionalised yet. Other social and institutional issues include: lack of adequate social mobilisation activities; limited awareness and perceptions on tenure among the stakeholders; lack of incentive for reform implementation (e.g. by DFO); and limited spaces and opportunities for participation (due to large number of members involved). Local level issues and challenges include: lengthy group formation process; inactive and non-functional committees at the ward and VDC levels; capacity deficit among the committee members and existence of discriminatory social structures. Furthermore, limited production of forest resources that is often insufficient to meet the need of the CFMG members have been one of the crucial factors creating additional misunderstanding in the distribution of resources/benefits among the users.

Technical Issues

There are technical issues related to management of high value forest resources (e.g. Sal – *Shorea robusta*) within the CFM regime. For example, DFO and CFMGs have expressed concerns over the availability of particular products (especially *Shorea robusta*) in some forests. *Shorea robusta* forests are vulnerable to degradation owing to improper silviculture practices (e.g. overuse, big gap in different age group or diameter class). In general, Terai forests have never been managed systematically or even according to basic sustainable forestry principles, despite the presence of enabling background condition such as access to road and market, and availability of productive land (Satyal 2004, 2010). The attempts for active forest management in CFM are often *ad hoc* and erratic, and fail to realise the productive potential of the forest (Yadav *et al.* 2003). CFMGs have not been fully convinced of the importance of block-wise rotational forest management, particularly due to lack of proper forestry extension. As a result, there is a ‘passive blocking’, i.e. blocks have been divided on paper as per the requirement of CFM guidelines, without delineating real blocks in the forests. Management is limited to collection of dead, dying and fallen trees (Bampton *et al.* 2007). Most of the management plans are not based on silviculture system, which in turn limits the production and supply of forest products. Other issues and challenges include: lack of knowledge and skills on application of silviculture system among the CFM actors; challenges in preparation of technically sound management plan (e.g. with right balance among regeneration, tending and felling); weak technical capacity of CFMGs and DFOs for implementation of plan; and lack

of technical support, financial investment and enabling environment.

Issues Related to Access, Supply and Distribution of Forest Products

Following the establishment of CFM, only limited extraction is undertaken in order to allow regeneration in the initial years, especially where the forest is degraded. As the resource improves over time, product extraction levels can be increased, particularly from the forests where more active management is adopted. Prior to CFM, most households had been dissatisfied with the lack of effective controls on forest product extraction. Now the majority of households seem to be relatively satisfied with forest product distribution arrangement and also anticipate that the forest product could be better accessible institutionally. However, production and availability of forest products could be an issue. Moreover, there are some cases where timber and fuelwood are decaying in depot due to complicated auction and distribution systems. Due to lack of production of sufficient forest products, less numbers of forest users are benefiting. Particularly, the access and supply of timber to poorer households is an issue. This has also resulted in limited opportunities for community development and discouraged local people’s participation. Furthermore, the role of local government to the management of forest is also not clear, although they share benefits and income from CFM. Other issues include: lack of well-established supply and delivery system for forest product processing and distribution; forest products (e.g. logged timber) not meeting the needs of the local users; and lack of provision for selling sawn timbers in the CFMGs.

Procedural and Bureaucratic Issues

A major challenge lies in integrating CFM policy and practice with democratic governance and livelihood imperatives (Kanel and Kandel 2004). As CFM is still in its initial stage of (wider) implementation, it requires effective administrative setup for operationalisation and institutionalisation of policies. The periodic change (generally a short rotation of time) of the key officials, particularly DFO, and CFMG executive members has limited the smooth functioning of CFM. There are not adequate systems to keep institutional memory and handover mechanism in these organisations. As the CFM activities are widening in both areas of forest management and community development, there are still outstanding issues of governance among the CFM institutions at the district and local level. Also, the institutional space for other actors such as NGOs, ACOFUN, consulting agencies and private sector organisations are limited, constraining the potential of these institutions in complementing or facilitating some of the procedural aspects of CFM implementation.

Financial and Budgetary Issues

There are several activities in CFM (e.g. related to forest management such as regeneration, tending and felling; capacity building; and community development) that require funding. However, there is as such no system of allocating adequate annual budget according to plan, particularly by two main collaborators of CFM. While the central government allocated budget for CFM activities is not enough to implement planned activities, 50 per cent of the financial resources

received from the sale of forest products by the CFMG is not adequate either. Also, there is no explicit way to draw financial support from the local government. The forestry sector in the Terai region is financially constrained, despite the fact that sustainable harvesting of timber is estimated to potentially yield around US\$ 150 million annually (Hill 1999). Other associated issues include: complicated procedure of fund disbursement; inequitable proportion of investment; limited capital for investment in value addition; and inadequate budgetary support.

CONCLUSION AND RECOMMENDATIONS

We argued that CFM regime was introduced without any clear legal backing and tenure arrangement but with an aim to address participation issue in government-managed forests in the Terai. The discussion around 'collaborative' mode of forest management emerged in Terai in the late 1990s, particularly in the aftermath of the failure of implementation of OFMPs. The idea was later synthesised as a concept for managing large blocks of Terai forests in the Revised Forest Policy of 2000. Later multiple reasons were put forward to justify the introduction of CFM, including but not limited to: the need for revenue generation from Terai forests, inability of the Department of Forest (DoF) to enforce government-managed forests without community engagement, limitation of CFs in the given policy-legal framework to manage large chunks of forests and the need to address demand of population living away from forest frontier particularly in the down south (Bampton *et al.* 2007; Bhatta *et al.* 2007; Satyal 2004, 2006, 2010; Sinha 2011;

Satyal and Humphreys 2013; Jhaveri and Adhikari 2015). Experimenting CFM and debating around it for over one and a half decade, this forest management modality was finally included in the Forest Act in 2016. We argued that CFM tenure regime is one of the series of state interventions in the broader political economy of Terai forests right from pre-formation of modern Nepal till date. The tenure arrangement in terms of bundle of rights is very complex, while there are also a number of policies, legal, social, institutional, technical, bureaucratic and financial issues around CFM regime.

Despite the argument in favour of CFM as a 'community-based' regime, the tenure has been in a complex situation in terms of legal identity, authority assigned to CFMGs and local government, tenure enforcement mechanism and conflicts among the parties over decision making. Despite the inclusion of CFM in Forest Act, tenure identity of the regime is not as clear as other regimes, such as community, leasehold, religious or protected forests. In one hand, the regime is recognised as a separate tenure as CFM, while on the other, it is described as a 'part of government-managed forest' (GoN 2016). As per the legal provision, the management plan of the regime is prepared by the DFO and is approved by the DoF. The implementation and management authority is assigned to the DFOs only, while the CFMGs and local governments are authorised as passive recipients of 50 per cent and 10 per cent benefits, respectively. CFM tenure regime was initially supposed to manage contiguous large blocks of forests in the Terai. However, as CFM users started working in a rights-based approach, such as collective lobbying for more share of the benefit sharing and meaningful space

in decision making processes, the block forests are now meant to be managed solely by the government (or in partnership with private sector) in the 2016 amendment of Forest Act (e.g., GoN 2016). Therefore, among the three partners, the tenure right of user groups and local government over CFM is severely restricted with several limiting clauses.

The ongoing federal restructuring process seems to complicate CFM most in comparison with other tenure regimes, since central and local governments are the two key parties out of the three in partnership equilibrium. When the proposed Provincial Governments are constituted, the structure of the CFM will be highly affected, so will the benefit sharing mechanisms. It is because another tier of the government will obviously emerge as a new powerful actor to claim its stake in the partnership. It is also likely that the proposed stronger form of local government than the previous one (local entity) can bargain with a powerful position for more proportion of rights and responsibilities than other parties.

We recommend the following tenure related reforms in CFM regime in terms of legal, institutional, technical and financial arrangements.

- First, the CFM should be clearly recognised as a separate 'partnership' tenure regime or 'community-based' regime beyond the overarching framework of 'government-managed' forestry in forest laws. The current provision for CFM in Forest Act is ambiguous - seemingly it is a partnership model, but legally it is recognised as a part of government-managed forest. Once it is clear, the likely complicating effects of federal restructuring would also be mitigated.

- Second, roles, responsibilities and authorities of CFMGs and the associated local governments should be clearly articulated and enforced since they are the ones who represent local communities and manage the regime in reality. Additionally, the rights of the CFMGs and local government to jointly participate in the preparation and implementation of CFM plans should be established.
- Third, the technical skills and authority for forest management in the CFM should be rolled out to CFM groups from the current arrangement, where the DFO is recognised as the sole authority in deciding and applying silviculture systems in CFM.
- Finally, the cost and benefit sharing mechanisms in CFM should be revised in a way that more shares are allocated to CFMGs for institutional and financial sustainability of this tenure regime.

REFERENCES

- Acharya, K.P. 2002. Twenty-four Years of Community Forestry in Nepal. *International Forestry Review*, 4(2): 149-155.
- Anderson, K. 2012. CIFOR's Research on Forest Tenure Rights. Centre for International Forestry Research, Bogor, Indonesia.
- Bampton, J.F.R., Ebregt, A. and Banjade, M.R. 2007. Collaborative Forest Management in Nepal's Terai: Policy, Practice and Contestation. *Journal of Forest and Livelihood*, 6(2): 30-43.
- Baral, J.C. 2002. Depleting Forests, Silent Spectators: Who should Manage Nepal's Terai Forest? *Journal of Forest and Livelihood*, 2(1): 34-40.
- Bhatta, B., Karna, A.L., Dev, O.P. and Springage-Baginski, O. 2007. Participatory Forest Management in the Nepalese Terai: Policy, Practice and Impact. UK: Earth Scan Publication.
- Carter, J. and Gronow, J. 2005. Recent Experience in Collaborative Forest Management. Center for International Forestry Research, Bogor, Indonesia.
- DFRS. 2015. State of Nepal's Forests. Department of Forest Research and Survey, Ministry of Forests and Soil Conservation, Kathmandu, Nepal.
- Dhungana, S.P. 2007. Forest Management in the Terai: Contests, Processes and Issues. ForestAction Nepal and Centre for International Forestry Research, Kathmandu, Nepal.
- DoF. 2005. *Forest Cover Change Analysis of the Terai Districts (1990/1991-2000/2001)*. Department of Forests, Government of Nepal, Kathmandu, Nepal.
- DoF. 2016. *Database of Collaborative Forests in Terai*. Department of Forests, Government of Nepal, Kathmandu, Nepal.
- Gilmour, D.A. and Fisher, R.J. 1991. *Villagers, Forest and Foresters: The Philosophy, Process and Practice of Community Forestry in Nepal*. Kathmandu: Sahayogi Press.
- GoN. 2016. Second Amendment to Forest Act of 1993 Nepal Gazette, Part 2 (Vol. 66, pp. 42-53). Ministry of Law, Justice and Parliamentary Affairs, Government of Nepal, Kathmandu, Nepal.
- Hill, I. 1999. Forest Management in Nepal. Economics and Ecology. Technical Paper No. 445. Washington DC: The World Bank.
- HMGN. 2000. Forestry Sector Policy. His Majesty's Government of Nepal, Kathmandu, Nepal.
- Jhaveri, N. and Adhikari, J. 2015. Nepal Land and Natural Resource Tenure Assessment for Proposed Emission Reductions Program in the Terai Arc Landscape. Washington, DC: USAID Tenure and Global Climate Change Program.
- Kanel, K.R. and Kandel, B.R. 2004. Community Forestry in Nepal: Achievements and Challenges. *Journal of Forest and Livelihood*, 4(1): 55-63.
- Mandal, R.A. 2007. Collaborative Forest Management User Formation and Scheme Preparation Process: An Experience of Mahottari District. *Hamro Kalpabrikchhya*, 17(183): 10-15.
- Mandal, R.A. and Bhattarai, B. 2014. *Collaborative Forest: Issues, Challenges and Possible Solutions*.

- Kathmandu: National Forum for Advocacy Nepal and Association of Collaborative Forest Users Nepal.
- MoFSC.** 2003. Collaborative Forest Management Directives 2003. Ministry of Forests and Soil Conservation, Government of Nepal, Kathmandu, Nepal.
- MoFSC.** 2014. Forestry Sector Strategy for Nepal (2014-24) – Final Draft. Ministry of Forests and Soil Conservation, Government of Nepal, Kathmandu, Nepal.
- MoFSC.** 2015. Forest Policy 2015. Ministry of Forests and Soil Conservation, Government of Nepal, Kathmandu, Nepal.
- Pagdee, A., Kim, Y.S. and Daugherty, P.J.** 2006. What Makes Community Forest Management Successful: A Meta-Study from Community Forests throughout the World. *Society and Natural Resources*, 19(1): 33-52.
- REDD-IC.** 2016. National REDD+ Strategy of Nepal (Draft). REDD Implementation Centre, Ministry of Forests and Soil Conservation, Kathmandu, Nepal.
- REDD-IC.** 2017. Proposed Forest Reference Level for Nepal (2000-2010). REDD Implementation Centre, Ministry of Forests and Soil Conservation, Kathmandu, Nepal.
- Regmi, M.C.** 1978. *Land tenure and taxation in Nepal*. New Delhi: Adroit.
- Satyal, P. and Humphreys, D.** 2013. Using a Multilevel Approach to Analyse the Case of Forest Conflicts in the Terai, Nepal. *Forest Policy and Economics*, 33: 47-55.
- Satyal, P.** 2004. *Forestry Sector in Nepal: A Country Profile Report*. Cambridge: Forests Monitor.
- Satyal, P.** 2006. A History of Forest Politics in the Terai, Nepal: A Case of Equity or Ecology? Paper Presented at the ECPR Summer School in Environmental Politics, Keele University, UK, 25 June-7 July, 2006.
- Satyal, P.** 2010. Looking Back to Move Forward: Understanding History of Forest Politics to Explore Consensual Forest Management Model in the Terai, Nepal. *Global Environment*, 6: 98-123.
- Satyal, P.** 2017. Operationalising the Ideas of Justice in Forest Governance: An Analysis of Community Forestry and REDD+ Processes in Nepal. *The International Journal of Environmental, Cultural, Economic and Social Sustainability-Annual Review*, 13: 1-19.
- Schlager, E. and Ostrom, E.** 1992. Property Rights Regimes and Natural Resources: A Conceptual Analysis. *Land Economics*, 68(3): 249-262.
- Schoubroeck, F.V. and Karna, A.L.** 2003. Initiating Co-ordination Platforms for Forest Management in the Terai. *Banko Jankari*, 13(1).
- Sikor, T.** 2014. *The Justices and Injustice of Ecosystem Services*. London: Routledge.
- Sikor, T., Stahl, J., Enters, T., Ribot, J.C., Singh, N.M., Sunderlin, W.D. and Wollenberg, E.** 2010. REDD-plus, Forest People's Rights and Nested Climate Governance. *Global Environmental Change*, 20: 423-425.
- Sinha, D. R.** 2011. Betrayal or 'Business as Usual'? Access to Forest Resources in the Nepal Terai. *Environment and History*, 17(3): 433-460.
- Springate-Baginski, O. and Blaikie, P. (Eds.).** 2007. *Forests, People and Power-the Political Ecology of Reform in South Asia*. Quicksilver Drive, Sterling: Earthscan.
- Yadav, N.P., Yadav, K.P., Yadav, K.K. and Thapa, N.** 2009. Facilitating the Transition from Passive to Active Community Forest Management: Lessons from Rapti Zone, Nepal. *Journal of Forest and Livelihood*, 8(2): 51-66.
- Yadav, N.P., Dev, O.P., Springate-Baginski, O. and Soussan, J.** 2003. Forest Management and Utilization Under Community Forestry. *Journal of Forest and Livelihood*, 3(1): 37-50.