



## OVERVIEW OF NEPAL'S TENURE REFORM, 1992-2012

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The 1992 Earth Summit, convened in Rio de Janeiro, Brazil, paved the way for global agreements on conventions on biodiversity, climate change, and combating desertification. Since then, various follow-up global conferences have been held and commitments have been made; for example, all countries and the world's leading development agencies agreed, in 2000, to the Millennium Development Goals to be achieved by 2015. The aims of the 2012 Earth Summit, also known as Rio+20, are to secure renewed global commitment for sustainable development; assess the progress and gaps in the implementation of the outcomes of major summit commitments on sustainable development; and address new and emerging challenges.

Significant changes have occurred in Nepal in the name of sustainable development since the 1992 Earth Summit. The Government of Nepal has prepared a status paper<sup>1</sup> on the objectives of Rio+20 and the three pillars—economic, social, and environmental—of sustainable development. Well-managed forests can contribute to all three pillars and hence to improving rural livelihoods and assisting local development. To do so, however, requires institutional reform that provides local people with rights and responsibilities in the conservation and use of those resources.

Nepal is simultaneously undergoing a political and constitutional transition after a prolonged armed conflict. Political negotiations under way among major parties and the transformation from a unitary system of governance to a federal republic will have broad implications for resource management in general, and community forest management in particular.

This case study describes the emergence and evolution of forest tenure and governance reform in Nepal from 1992-2012. It highlights the achievements and challenges of community forestry, which is the country's dominant forest tenure and governance model. It stresses that the potential of forests can only be tapped and sustained if institutional reform on tenure and resource governance is undertaken so that people living in the hinterlands and those who depend on forests in rural areas are given forest management rights. For such reform to take place and achieve success, the entrenched idea that forest conservation can only be ensured through government control must be overcome. This is best done through the mobilization of grassroots networks of community organizations, such as the Federation of Community Forest Users of Nepal (FECOFUN), active in the forest sector. Rio+20 should promote community rights over forest resources as an important strategy for sustainable development.

### Forest tenure reform

Land has been a strategic resource in Nepal since its unification in the late 18<sup>th</sup> century.<sup>2</sup> Successive governments of various political persuasions have used both private and public land (including forests) to serve their political constituencies and as a source of patronage. In 1951, about 75 percent of forest land was owned by the ruling Rana family. When this family oligarchy was overthrown late in that year, forests were nationalized so as to deprive the family of its land. In the late 1970s, a World Bank study of Nepal's forest sector and an emerging theory of Himalayan environmental degradation<sup>3</sup> created debate over the need to move forestry from this technocratic model through institutional reform.<sup>4</sup> As deforestation continued, the government initiated a dramatic series of reforms: forest-sector analysis and planning in 1989, democratization of society in 1990, and renewed global interest in conservation in the wake of the 1992 Earth Summit eventually led to the formulation of a new Forest Act in 1993 and new forest regulations in 1995.

### **Paradigm shift—master plan**

The aforementioned World Bank study identified increasing demand for and a declining supply (due to overharvesting) of fuelwood as the major “gap”, or crisis, facing Nepal. In the context of increasing global recognition of the importance of forests and the country-level Tropical Forest Action Plan, the Government of Nepal commenced the formulation of a Master Plan for the Forestry Sector (MPFS), in effect from 1986 to 2011.

In preparation for the MPFS, a rigorous three-year study of the forest sector was conducted. This study proposed a new system for the management of land and forest resources, with at least four components:

1. Instead of managing forests through the centralized bureaucratic authority (i.e. the Department of Forests), forests should gradually be handed over to local community forest user groups (CFUGs) for their management and use.
2. Community forest users should have rights of forest access, exclusion, extraction, and management.
3. The role of forest officials should be changed from custodian to advisor.
4. An extensive program of training and reorientation should be undertaken so that forest officials could shed their old roles and take up the new roles effectively. Similarly, training should be given to community members to enable them to sustainably manage the resources they now controlled.<sup>5</sup>

A multiparty political system was restored through a people's revolution in 1990,<sup>6</sup> when the MPFS was technically ready to be presented to the national authorities. The change in political regime led to modifications of some parts of the MPFS, but not its core principles. The incoming government facilitated the formulation of a new forestry law, the Forest Act of 1993, which provided further scope for community forest management.<sup>7</sup> This act, and the associated 1995 forest regulations, assigns specific rights and duties to CFUGs, which include the rights of access, extraction, use, and management of designated forest resources.

## **Revision of legislation related to protected areas**

The National Parks and Wildlife Act, 1973, is a comprehensive law regulating the management of national parks, reserves, and other protected areas (collectively termed PAs in this study) in Nepal. Since most rural households living in or around PAs depend on them for their livelihoods, the Act was amended in 1993 to enable households to obtain benefits from the use of PA buffer zones. According to provisions of the Buffer Zone Management Regulations, 1996, communities are eligible for 30–50 percent of the revenue generated in PA buffer zones. A buffer-zone council comprising representatives of communities and the PA authority decides on the allocation of revenue to community development, conservation activities, and other livelihood promotion. There is also a provision for allocating forests surrounding PAs as community forests. So far, 83 buffer zone forest management groups have been formed to manage over 40,000 hectares of forest. These groups can use the forests for their own purpose, but unlike the provisions of the Forest Act and regulations they cannot sell the forest products to outsiders. Moreover, the groups are not autonomous—the member secretary of the buffer-zone council is the warden of the PA nominated by the government.

## **The Forest Act and Regulations**

The aim of the Forest Act of 1993 is to enable forest management based on various institutional regimes. Since the goal of 1992 Earth Summit was to mainstream environment into development interventions, the Act also factors conservation into development based on the principle of multiple-use forests. The Act defines forest management as the production of forest products and services to meet the needs of the people, and allows the use of income from community forestry for development and livelihood support. Under the Act, and based on the ownership of the land on which trees stand, forests are categorized as National Forests or Private Forests. National Forests are those forests owned by the state. In the case of Private Forests, both the land and the forest belong to a given private entity. National Forests are further categorized as Community Forests, Leasehold Forests, Religious Forests, Protected Forests, and Government-management Forests, on the basis of the entity responsible for their management. The distinction between ownership and management or tenure regime is a significant innovation in Nepalese forestry. In Community Forests, for example, even though the land still belongs to the state, the right to manage and derive income from the use of products accrues to CFUGs.

## **Community Forests**

The introduction of community forestry created a new institutional arrangement by which local communities, as organized groups, become the body responsible for managing their local forests. The Act unbundled the all-inclusive functions of the state forest administration. CFUGs assumed forest management functions and became the advisory and regulatory body for forest administration. Their rights and roles are specified in the Act and its regulations. The forest administration and the CFUGs must work together in a partnership with at least five attributes:

1. Incorporation (with a charter) of the local community as a CFUG registered at the district forest office (DFO). The community should be near to a forest and traditionally use the forest. It should have an interest in and capacity to manage the forest.
2. The undertaking of inventories and assessments of the local forest by the CFUG, with the assistance of DFO staff.
3. The preparation of an operational (management) plan for the forest for a length of 5–10 years, with the joint agreement of the CFUG and the DFO.
4. The creation of a CFUG fund from the sale of forest products, used for forest industry development, community development, and livelihood promotion.
5. The monitoring of the forests and the CFUG fund by the DFO, which also plays the role of a gatekeeper —action can be taken against CFUGs contravening the provisions of the Forest Act and its regulations, or the operational plan.

These legal provisions and their implementation in the field have transformed Nepal's landscapes and the livelihoods of millions of people. More than 30 percent of the Nepalese forest estate has been handed over to local communities. The shift in focus from state-dominated to community-managed forestry has ushered in a new era of development in Nepal through the social mobilization of local people.

CFUGs have access, extraction, exclusion, and management rights over Community Forests based on the prescriptions laid out in the operational plan. One of the unique characteristics of community forestry in Nepal is that CFUGs are independent, autonomous, and self-governing institutions responsible for forest management. They can also undertake any other development activities in association with any other stakeholders. CFUG members have equal rights over decision-making and benefit-sharing. Group members hold general assemblies, at which they make decisions on managing forests, sharing the benefits of such management, the use of CFUG funds, and other issues. Each group elects an 11-member Executive Committee, which implements the decisions of the general assembly and is tasked to remain accountable to all CFUG members

CFUGs are forbidden to extract forest products beyond an annual sustainable yield based on forest inventories and forest growth rates.<sup>8</sup> They cannot change the forest to another land use, but they can use the land for agroforestry - intercropping trees with agricultural products. The DFO can withdraw a previously conferred Community Forest if a CFUG is engaged in activities detrimental to the environment, is unable to implement the operational plan, or does not comply with the provisions of the Forest Act, 1993, and its regulations. However, these constraints have not proven to be serious impediments to promoting community forestry.

As per the provisions of the forest regulations, CFUGs must spend at least 25 percent of their forestry income on forest protection and management.<sup>9</sup> The latest Community Forest guidelines require that CFUGs spend at least 35 percent of their income (fund) on promoting the livelihoods of poorer households. Even though CFUGs are legally independent of the state forest administration, they must work closely with DFO staff in the field. Although CFUGs are entitled to manage forests and extract

forest products for their members' benefit, the ecological services derived from these forests accrue beyond the communities.

### **Other models of forest tenure reform**

**Leasehold Forests:** The Forest Act, 1993, and its regulations have provisions for allocating land as Leasehold Forests to households living below the poverty line. However, such households must organize themselves into groups of 10 or thereabouts. Households with Leasehold Forests have the right to use bare or degraded forest land without paying rent on that land. The objective of the strategy is to increase the livelihood options of poor households and also to restore forests; however, attempting to work on such unproductive lands places poor households at a disadvantage from the start. However, households with Leasehold Forests can also become members of CFUGs and are therefore able to receive benefits from both forest management regimes. To date, about 6,700 Leasehold Forest groups have been formed, involving 62,700 member households and a total area of about 40,000 hectares. Unlike Community Forests, Leasehold Forest groups and their members do not have rights over existing forests, but they do have rights over the forest or agricultural produce they develop themselves. A recent evaluation of the Leasehold Forest program indicated that it has had mixed results: some Leasehold Forest groups have been successful in restoring forests and promoting livelihoods, but others have been less successful in fulfilling one or both of these objectives.<sup>10</sup>

**National Forests:** In the National Forest Model, predominately implemented in the lowland region known as the Terai, eight collaborative forestry committees are formed, representing local forest users, local political bodies, and the government. Local users have limited rights because the mechanism for creating collaborative forestry committees is presently guided by the decisions of the Ministry of Forests and Soil Conservation (MoFSC) rather than by the Forest Act, 1993.

**Protected Forests:** In the last two years, the government has also declared—without with the consent of local communities—seven Protected Forests covering 128,000 hectares. Parts of these Protected Forests were previously Community Forests, but their declaration as Protected Forests effectively abolished communities' rights. Moreover, how these forests are to be managed is not clear in the Forest Act, 1993, and its regulations. Therefore, conflicts have arisen between the government and the local community over the tenure and management of these forests, and is likely to continue into the future.

### **Achievements from tenure reform**

A review of the community forestry program shows that substantial progress has been made in devolving forest management rights and responsibilities over a large area of former National Forests to locally-organized CFUGs. Community forestry in Nepal has been successful in designing and implementing policies in part because it has been governed by local practice and pragmatism. Communication among CFUGs, civil society groups, and the government has helped the program to adapt to changing circumstances.

The status paper prepared by the Government of Nepal for submission to Rio+20 describes community forestry as a “successful program in restoring degraded land and greenery, increasing and conserving biodiversity, increasing supply of forest products, empowering rural women, poor and the disadvantaged groups, promoting income generation and community development activities, and improving livelihoods of people in rural areas”.

Lessons from community forestry are being disseminated elsewhere as well. Programs in soil conservation and watershed management, for example, are now being implemented through community development groups. Similarly, the concept and practice of user groups and user committees is being replicated in the management of forests and other resources in PA buffer zones. Such devolution of authority has enabled local communities to coordinate their collective activities, resulting in more sustainable resource management. Communities can now use nearby forests in the ways they need, within the framework of operational plans prepared by them. This has created incentives for villagers to use forests sustainably. Hence, the impact of community forestry can be interpreted in terms of enhanced forest rights to rural households, better forest conservation, and improved rural livelihoods and development, each of which is addressed below.

### **Enhanced forest rights for rural people, and their empowerment**

The Forest Act, 1993, and associated regulations specify the rights of forest users. Each member of a CFUG has equal rights in decision-making and benefit-sharing. Once registered with the DFO, a CFUG becomes an independent, self-governing, and autonomous body – it is not an organ of the Department of Forests. Each CFUG must hold an annual general assembly meeting, which is open to all CFUG members. Major decisions on forest management and fund use are debated by these assemblies. Each assembly elects an executive committee to make day-to-day decisions based on the decisions of the general assembly. Thus, the executive committee is accountable to the users themselves.

The operational plan is also prepared by the CFUG with the assistance of forest officials, and the authority for implementing it lies with the CFUG. The harvested products are distributed among the users at a nominal price and the surplus is sold in the market.<sup>11</sup> All money generated from the sale of these products accrues to the CFUG and is deposited in its account (“the fund”). The CFUG is responsible for the use of the fund—at least 25 percent must be spent on forest management and 35 percent on livelihoods,<sup>12</sup> and the remainder must be spent on community development activities. CFUGS can manage the forests as per the operational plan but cannot sell the land on which the forests stand.

Regular interactions and meetings between forest users and forest officials, and facilitation of the process by other civil society organizations, have empowered CFUGs to devise operational rules that are democratic and relevant. Community forestry has helped to promote local-level institutions (social capital) and better governance at the field level. Despite ongoing challenges, further improving the accountability, transparency, participation and equity of CFUG governance, as well as CFUGs’

relationship with government units and other stakeholders, ensures that the rules crafted at the operational and policy levels are more responsive and predictable.

Nepal has more than 6,000 civil society organizations, a significant number of which is involved in promoting community forestry. In many cases, government attempts to curtail the rights of forest users have been nullified due to the proactive role of these civil-society organizations. For example, FECOFUN was established in 1996 with a view to promoting community forestry in Nepal and beyond and to ensure the rights of forest users. Presently, more than 80 percent of CFUGs are FECOFUN members. Similarly, the Himalayan Grassroots Women's Natural Resource Management Association (HIMAWANTI) was established to promote the rights and commitment of women in the management of forests and other natural resources. Forest Action, another civil society organization, is engaged in community forestry research and is also active in community forestry policy processes in Nepal.

The Community Forestry Division of the Department of Forests holds national community forestry workshops every 4–5 years that are attended by government officials and representatives of many civil society organizations. To date, five such workshops have been held; their recommendations have been instrumental in setting the national agenda for policy reform and practice.

There are now approximately 180,000 elected CFUG members (of which 25 percent are women), who make day-to-day decisions about forests, funds, and other development activities. Leadership capacity has increased substantially; as a result, many CFUG members have taken leadership positions in various political bodies and civil-society organizations. The national-level CFUG database, which is updated daily by the Community Forestry Division, shows that there are more than 1,000 CFUGs whose committee members are exclusively women. These women-only CFUGs manage more than 44,000 hectares of Community Forest. Thus it can be said that community forestry is contributing to the promotion of gender equality and the empowerment of women through social mobilization.

### **Improvement in forest conservation**

The Community Forest Division maintains a database of the area of forest handed over to CFUGs; Figure 1 shows how over time, these designations has increased in number. As of April 2012, about 17,700 CFUGs had been formed nationwide, governing an area of 1.65 million hectares of forest (about 30 percent of Nepal's total forest area) and 2.18 million households (38 percent of all households in Nepal). 18 percent of the total Community Forest designated area is in the Terai region; the remaining area is located in the mid-hill and Himal regions.

**FIGURE 1      CHANGE IN THE NUMBER OF CFUGS IN NEPAL, TO 2011**

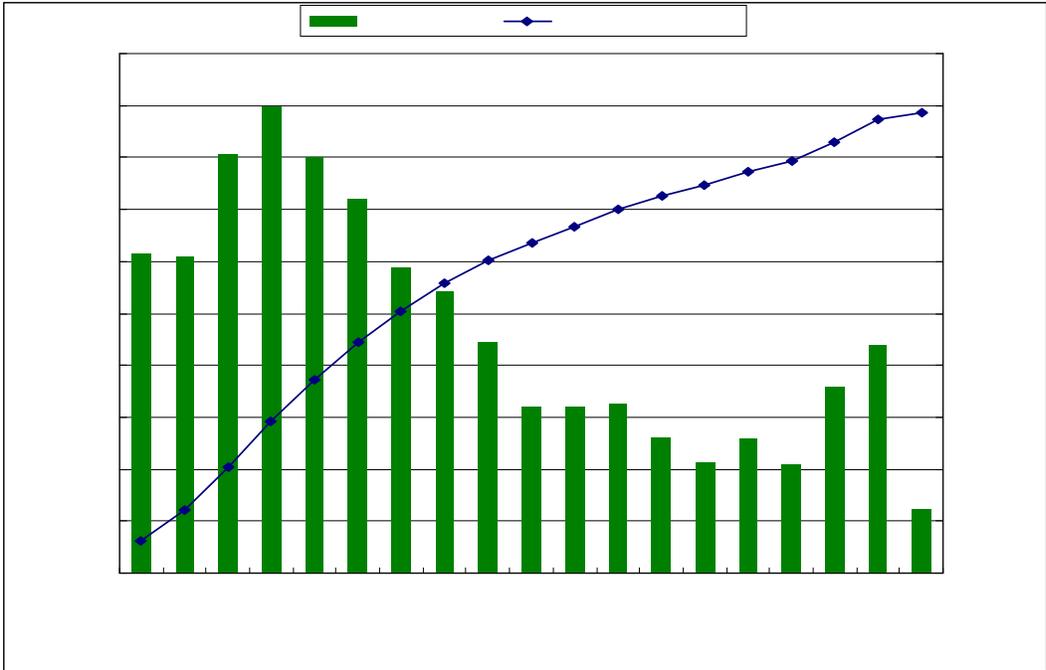


Figure 1 shows that the handover of forests to CFUGs was slow in the initial period following the Forest Act, 1993 and increased during the 1990s. It has now started to plateau, for several reasons: most accessible forests in the hills and mountains have already been allocated; the government has restricted forest handover in the Terai to scattered patches from large blocks of forest; and the Maoist conflict (1996–2006) hindered group meetings and field-level visits by forestry staff.<sup>13</sup>

Observations made during field visits and in case studies<sup>14</sup> indicate that the physical condition of Community Forests has improved substantially over time.<sup>15</sup> A recent study by Niraula et al. assessing land use change,<sup>16</sup> for example, focused on the three clusters of Dolakha District covering a total area of 27,902 hectares and encompassing 10 village development committees. It showed that forest density improved between 1990 and 2010 in all three clusters and the rate of conversion of sparse forest to dense forest ranged from 1.13–3.39 percent per year. Similarly, forest area increased in two clusters by 1.96 percent per year between 1990 and 2010. The study also compared patterns of forest-cover change between different management regimes. It showed that the rate of conversion of non-forest areas to forest in Community Forests was higher than that in Government-managed Forests and Private Forests. The increase in forest area and the higher density of trees in Community Forests indicate that people have more incentive to conserve and manage forests (mainly through natural regeneration) in Community Forests than in Government-managed Forests. Some Private Forests were converted to forest, but much more were retained as agricultural land.

In a separate study, the Department of Forests analyzed forest-cover change in 20 Terai districts in the period 1991 to 2001. Previously, the rate of deforestation in these districts was 1.3 percent per year, but

during the 1990s it declined to 0.08 percent per year. This decline in deforestation was attributed by study authors partly to the expansion of Community Forests in the Terai. It can therefore be argued that the deforestation rate would have declined even further had the government not put a freeze on handing over parts of large blocks of forest to local communities.

Such studies show that an expansion of community forestry can conserve and improve forests while providing local communities with tangible benefits. However, the Government of Nepal continues to propose expanding the network of PAs and Protected Forests by withdrawing the tenure rights of local people.

### **Rural livelihoods and development**

More than 85 percent of the Nepalese population lives in rural areas and practices farming as a way of life. Because of the high rate of forest cover throughout Nepal, forest management is integrated with farming systems. A variety of forest products is collected, used, and sold by the members of CFUGs. Many poor households still depend on forests for their livelihoods. Forest products are used as inputs to agriculture and for energy, construction, and medicine.<sup>17</sup>

In 2003 the Community Forest Division conducted a rapid appraisal of the forest-product use, income, and expenditure patterns of 1,788 CFUGs in 12 districts in the mid-hills and the Terai.<sup>18</sup> It found that CFUG funds are used mainly for forestry and community development activities. The value of forest products harvested and used was calculated by aggregating both user and stumpage prices. User price refers to the actual amount received by CFUGs for the sale of forest products within and outside the groups. Stumpage price refers to the economic value (weighted for different products) of these products at the site. The total annual income from the sale of forest products from Community Forests was estimated at about 747 million Nepali rupees (Rs; about US\$10 million). However, the annual value of forest products used within the CFUGs, valued at the market rate, was about Rs 1.8 billion (US\$25 million).

Forest products are the major source of CFUG income, constituting around 84 per cent of total income, but CFUGs also earn revenue from sources such as grants, membership and entrance fees, and fines.

A recent study commissioned by the Ministry of Forests and Soil Conservation shows that, on average, CFUGs earned a total income of Rs 260,000 per CFUG, per year (over the last three fiscal years), which amounted to US\$49.1 million per year for all 14,571 CFUGs combined.<sup>19</sup> The average annual expenditure per CFUG was Rs 179,000, which amounted to US\$30.3 million per year for all CFUGs combined. The average balance per CFUG was Rs 81,000, which amounted to US\$13.7 million for all CFUGs combined, or US\$137 per household per year (including reinvestment in the forest and some costs for running the CFUG).

Based on a rapid appraisal conducted in 2003 by the 2003 Community Forestry Division, community development—including school support, road construction, and other community infrastructure development—constitutes the highest proportion of CFUG expenses (36 percent). CFUGs spend about 28.5 percent of their income on forest protection and management. This is higher than the mandatory level (25 percent) set in the Forest Act, 1993, and its regulations.<sup>20</sup> CFUGs also spend money directly on pro-poor programs. For example, a 2008 survey of 100 CFUGs in the Western Hills region found that, on average, CFUGs spent about 22 percent of their fund income on livelihood supports.<sup>21</sup>

## Challenges

New challenges are emerging in the expansion and management of Community Forests. These are mostly related to the allocation of forests among the various management regimes in the southern region of the country, comprised of Terai and Churia. This region has commercially valuable subtropical forests, and identifying the rightsholders to rent accrued from forest management – or mismanagement – has become a contentious issue. In southern Nepal, large blocks of forests are located to the north of most population settlements, which extend all the way to the border with northern India. The decision-making and benefit-sharing mechanism in the management of these forests has become a politically sensitive and controversial issue. Thus, the challenge in the Terai lies in resolving what has been called the “distant users” dilemma. Handing over forests to villagers living near the forest creates problems for people living further away who claim they are also forest users since they do not have alternative sources of forest products. Moreover, the government has a major stake in the collection of revenue from the sale of forest products in this region.

The national elections for Parliament and a Constituent Assembly, held in 2008, forced political parties to form coalitions. Amid this ensuing uncertainty and during this transitional state of affairs, significant areas of Terai forests were harvested illegally, mostly during 2010, leading to a national outcry. A parliamentary committee was formed to investigate the reasons for this accelerated deforestation, and recommended that the rights and authority of CFUGs should be curtailed in the Terai and that the income accruing to CFUGs from community forestry should be reduced, since most CFUGs in the Terai were dominated by local elites. These elites, in collusion with private contractors and forest administration staff, were claiming valuable timber products (mostly *Shorea robusta*) for their individual benefit. The parliamentary committee’s recommendations compelled the Ministry of Forests and Soil Conservation to propose reducing the authority of CFUGs, increasing the authority of forestry officials, and curbing the share of income accruing to CFUGs from Community Forests. However, there was no empirical evidence showing that Community Forests were more vulnerable than Government-managed Forests to illegal harvesting; in fact, given the aforementioned evidence and testimony following this claim, the reverse is more likely to be true. It seems that the government is seeking a higher share of revenue from these forests than it can obtain through the existing community forestry model. As stated by Dumber Tembe, a long-time worker in community forestry, the Ministry of Forests and Soil Conservation “is more interested in capturing revenue from the Terai forests than in handing it over to CFUGs”.

As Nepal's system of governance moves from a monarchy to a federal democratic republic, authority and power is meant to be shared among the central (federal), state (provincial), and local governments. Some regional political parties now represented in the Parliament and the Constituent Assembly, intend to curtail the rights of forest users. Once federalism is established, each state will have more say on how forests within its jurisdiction are managed. Some political parties prefer collaborative forest management to community forestry in the Terai, and favor Protected Forests in the Churia. Both the collaborative forest management and Protected Forests regimes drastically curtail the rights of local communities in forest management, despite clear evidence, both in Nepal and elsewhere, which concludes that communities protect and conserve forests better than government, even in PAs. For example, a recent meta-analysis of outcomes in 40 PAs and 33 community-managed forests suggests "that community managed forests presented lower and less variable annual deforestation rates than protected forests".<sup>22</sup> In Nepal, however, the government appears to be eager to expand PAs by withdrawing the rights of communities.

Since the new constitution will be crafted based on compromises among major political parties, there is a real danger that the rights and authority now enjoyed by forest users in the management and use of Community Forests will be curtailed. This would have major implications for Nepal—and also for global movements aimed at ensuring forest rights for local people, who have been inspired by what has happened in Nepal in the last 20 years, claiming the success of Nepalese community forestry as a shining example of rights-based forest management.

Although FECOFUN and many other civil society groups protested a proposed revision of the Forest Act,<sup>23</sup> influential government actors still intend to revise it and sign it into law, thus reducing the rights and authority of CFUGs. Since the Constituent Assembly and Parliament are busy with the constitution drafting process, revision of the Forest Law is not a current legislative priority. Nevertheless, the move to revise this law has created uncertainty and frustration among CFUGs and their members. Moreover, the allocation of Community Forests to CFUGs in Terai and Churia has been put on hold, creating further conflict between forest users and the government.

Another challenge lies in the governance of CFUGs themselves. As the mid-hills forests have become more valuable, and road access to those areas has increased, some CFUG executive committees have become more assertive than their users, leading to elite capture of the benefits accruing from community forestry and related decision-making and the further marginalization of disadvantaged CFUG members. Some members of executive committees form, in collusion with forest contractors and forest officials, a nexus, or what could be termed a "wooden triangle", to extract rent from forests and capture the benefits for themselves. How to address this governance, equity and accountability issue at the CFUG level is a significant challenge.

The increasing investment by CFUGs in public and community goods such as school-building, drinking water, and roads raises another question: what is the role and responsibility of CFUGs in using the income earned from community forestry for public financing? Should not the income from community forestry be spent more on livelihood promotion than on public goods? What is the role of local political

bodies in public financing at the local level? Moreover, should not CFUGs be somehow linked to these local political bodies in the provision of public goods?<sup>24</sup> These are some of the questions that are emerging and will become more pressing as the country moves from a unitary system of governance to federalism.

In recent years the Government of Nepal has allocated about US\$60 million per year to the forest sector, more than 90 percent of which is used for administration and operational costs. Most investment in forestry is made by foreign donors, who mostly appear interested in community forestry. The MPFS recommended that 47 percent of forestry investment be allocated to the community forestry program but, over the years, government allocations do not seem to have conformed to this recommendation. A high dependency on donor funding may not be sustainable in the long term: if donor priorities change, for example, community forestry may become the victim of a budget squeeze.

An increase in the formal role of forests in climate change mitigation through reduced emissions from deforestation and forest degradation (REDD) could lead to a reduction in the sustainable harvest of forest products by local users, and ultimately a reduction in their incomes. There is suspicion among forest users that REDD may lead to attempts to recentralize forest control. Ensuring that REDD does not reduce community rights to forests, and indeed that it strengthens such rights and increases the benefits that accrue from them, is another challenge for community forestry in Nepal.

### **Looking forward**

Nepal's community forestry program is an institutional innovation which was motivated in part by the impetus for sustainable development initiated by the 1992 Rio Earth Summit. Nepal formulated a unique law to resolve the *de facto* open-access problem through an incremental approach of learning by doing. This approach has allowed the gradual devolution of forest management and user rights to locally organized groups of forest users. The program has led to the deepening and expansion of forest cover and the building of democratically-elected local institutions responsible for forest management and the use of funds generated through forestry for livelihood promotion and community development. However, social and political issues remain in Nepal's community forests, many of which have yet to be resolved by the movement and associated action.

The strategy for reform involves channeling benefits from the community forestry program to poor and disadvantaged groups. It also involves holding members of CFUG executive committees accountable to forest users. CFUGs alone cannot protect the forest if the state does not assure and provide protection against threats to community forests and their users' well-being, including armed groups committed to the illegal harvest of forest products.

National-level community forestry workshops involving forestry officials, civil society members, and political party representatives can be one of the important platforms for fostering dialogue and reducing conflicts in the formulation and implementation of community forestry policies and practice. Many policy-related disagreements originate more from perception than reality. Multiple face-to-face interactive forums reduce conflicts among the major stakeholders (including political parties).

Ensuring that “distant users” receive some of the benefits of forest management could help resolve tensions surrounding community forestry in the Terai. Interventions to promote pro-poor community forestry could include the provision of integrated assistance packages, the promotion of pro-poor enterprises with marketing facilities, and inter-planting in forests to bolster production of non-timber forest products. It is also necessary to carry out adaptive and collaborative research on sustainable forest management and to monitor the impacts of community forestry projects and programs at the macro level in order to feed information to policymakers. Moreover, forestry coordination committees should be established at the district and village levels to increase the transparency and relevance of community forestry programs at the field level.

Nepal has more people-centric forest policies than many other South Asian countries, in part because Nepal was never colonized and therefore has not been bounded by the legacy of classical, state-run forestry. Moreover, Nepal has focused on institutional reform in forest management rather than on technical interventions. India has adopted a joint forest management (JFM) system, but this does not provide forest users with full rights and autonomy, nor do forest users receive all income from the management of JFM forests. More recently, India enforced the Forest Rights Act (2006), to do justice to the tribal and Indigenous people living in forests, but its implementation is facing significant hurdles.

Other countries in the region have social forestry programs that tend to focus on creating forests in areas outside previously designated forest zones, with benefits shared between government and select local organizations. Bhutan is a special case because it is implementing both social and community forestry programs. However, most social forestry programs do not transfer rights to local people to the extent that this has happened in Nepal.

According to the most recent assessment of forest tenure in South Asia,<sup>25</sup> India and Nepal are much further along the path of forest tenure reform than other South Asian countries. However, tension between government and communities over forest tenure reform persists, as shown by the attempted roll-back of community rights in Nepal – the proposed amendment to the Forest Act, 1993 – and difficulties in enforcing the Forest Rights Act in India. Civil society networks such as Orissa Jungal Manch in India, FECOFUN in Nepal, the Nursery Association in Bangladesh, and SAFI in Pakistan are actively engaged in promoting the rights of local communities to forest resources.

The lessons on forest tenure and governance reform in Nepal are no doubt an inspiration to others, but they do not offer a blueprint for imitation. National forest policy must be formulated based on context – the local culture, the historical legacy of forest management, traditional systems of forest management, and the space the government provides for innovation in forest policy.

Rio+20 should promote rights-based forestry, as it has been shown to foster both conservation and development in developing countries. The potential benefits of forest tenure and governance reform are significant, as demonstrated in Nepal. International debates on this theme could also reinforce to Nepalese policymakers the multiple benefits of continued forest tenure reform and the folly of rolling back established community forestry rights.

**TABLE 1 LIST OF PEOPLE INTERVIEWED FOR THIS CASE STUDY**

<b>Name</b>	<b>Background</b>	<b>Telephone</b>	<b>Email</b>
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<sup>1</sup> National Planning Commission. 2011. Nepal status paper for the United Nations Conference on Sustainable Development 2012 (Rio+20): Synopsis. Kathmandu: Government of Nepal.

<sup>2</sup> Those who hold land in Nepal also hold political power. Even today, about two-thirds of the population in Nepal is engaged in farming. The redistribution of private land is still an important policy issue.

<sup>3</sup> This theory, first postulated by Eckholm (1976), held that villagers in the hills of Nepal were overharvesting forests because of a fuelwood shortage, leading to accelerated erosion in the mid-hills, which, in turn, was causing serious flooding and sediment deposition in prime agricultural land in India and Bangladesh. Suggestions were made to control this deforestation through strict legal action against villagers. Eckholm, E.P. 1976. Losing ground. New York: Worldwatch Institute and W.W.Norton.

<sup>4</sup> More on this can be found in: Kanel, Keshav Raj, and Dhruv Acharya. 2008. Re-inventing forestry agencies: institutional innovation to support community forestry in Nepal. In Patrick Durst, et al. (eds.) Reinventing forestry agencies: experiences of institutional restructuring in Asia and the Pacific. Bangkok, Thailand: FAO Regional Office for Asia and the Pacific.

<sup>5</sup> Kanel and Acharya (2008), as cited in endnote 4.

<sup>6</sup> A political change in 1990 reduced the power of the King. The parliamentary system of government with a constitutional monarchy was restored.

<sup>7</sup> Various factors led to the formulation of this law. A community forestry workshop attended by many senior foresters recommended a change in the law in favor of community forestry in the hills. The democratic change in 1990 also created aspirations among the people for an extension of rights in resource management, and donors were eager to invest in community forestry. These and other factors are enumerated in Kanel and Acharya (2008), as cited in endnote 4.

<sup>8</sup> A community forest inventory guideline describes the participatory process of estimating growing stock, annual growth rates, and the annual yield or annual allowable cut for a Community Forest. A separate environmental impact assessment has to be done only for Community Forests larger than 500 hectares in area.

<sup>9</sup> CFUGs must submit an annual report to the relevant DFO showing the amount of forest produce harvested, income generated, and funds spent on various activities, including investment in the forests themselves. However, discussions with forest officials indicate that only about half of all CFUGs annually submit these reports to DFOs. A DFO cannot take any action if a CFUG does not submit its annual report, as per the Forest Act, 1993, and its regulations.

<sup>10</sup> For example, 94 percent of households reported problems in exercising exclusion rights. For 38 percent of Leasehold Forest households, the heavy transaction costs imposed by these problems made effective Leasehold Forest tenure economically unviable. Due to the high transaction costs and an absence of attractive economic incentives such as income from non-timber forest products, the incentive to invest labor and capital was too low. Moreover, about 44 percent of Leasehold Forest households were still in "absolute" poverty after about nine years of Leasehold Forest tenure. Sharma, Bishnu P. 2011. Contribution of household income and poverty alleviation in Nepal. Ph.D. Thesis in Economics Submitted to Tribhuvan University.

<sup>11</sup> In the Terai and adjoining districts, 15 percent of the sales value of timber of two species (sal and khair) must be deposited with the government.

<sup>12</sup> As per the revised Community Forest guidelines of 2009.

<sup>13</sup> Kanel, Keshav Raj. 2008. So far so good: next steps in community forestry. In: Ghate Rucha, Narpat S. Jodha, and Pranab Mukhopadhyay (eds.) Promise, trust, and evolution: Managing the commons of South Asia. New York: Oxford University Press.

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- <sup>14</sup> The outcomes of these case studies are provided in HURDEC Nepal and Hobley in prep. and Kanel 2008 (as cited in endnote 13). HURDEC Nepal and Hobley, Mary. In prep. CF impact study persistence and change: Review of 30 years of community forestry in Nepal. A study commissioned by the Ministry of Forests and Soil Conservation. Draft for comment.
- <sup>15</sup> However, no macro-level, in-depth study has been undertaken to assess the magnitude, at a national scale, of improved forest conditions under the community forestry regime.
- <sup>16</sup> Niraula, Rabin R. and Surya Kumar Maharjan. 2011. Forest cover change analysis in Dolakha District (1990-2010). A study report submitted to Nepal Swiss Community Forestry Project, Kathmandu, Nepal.
- <sup>17</sup> Richards M., K. Kanel, M. Maharjan and J. Davies. 1999. Towards Participatory economics analysis by forest user groups in Nepal. Kathmandu, Nepal: Overseas Development Institute in collaboration with the Nepal–UK Community Forestry Project.
- <sup>18</sup> The findings of the rapid appraisal are reported in Kanel (2008), as cited in endnote 13.
- <sup>19</sup> HURDEC and Hobley (in prep.), as cited in endnote 14.
- <sup>20</sup> About 17 percent of CFUG expenditure is categorized under miscellaneous headings and is therefore not clearly identified.
- <sup>21</sup> Pokharel, Ridish K. 2008. Do Community forestry funds target the poor ? A study from Nepal. Policy Brief. Kathmandu, Nepal: SANDEE.
- <sup>22</sup> Porter-Bolland, Luciana, Edward A. Ellis, Manuel R. Guariguata, Isabel Ruiz-Mallén, Simoneta Negrete-Yankelevich, and Victoria Reyes-García. 2011. Community managed forests and forest protected areas: An assessment of their conservation effectiveness across the tropics. *Forest Ecology and Management*. In press.
- <sup>23</sup> FECOFUN coordinated a major nationwide protest in April 2011 and continues to protest the unilateral revision of the Forest Act, 1993, without the participation of forest users and other members of civil society.
- <sup>24</sup> Resham B. Dangi, Joint Secretary of the Ministry of Forests and Soil Conservation, suggests that it would be better to tie CFUGs to their respective village development committees to reduce the role of forest officials in community forestry and to better coordinate the public financing of public goods.
- <sup>25</sup> Dahal, Ganga Ram and Krishna Adhikari. 2011. South Asia forest tenure assessment. Environment and climate series 2011/3. Lalitpur, Nepal: HELVETAS Swiss Intercooperation.