

Webinar report on forest tenure and governance under Nepal's new federal system

April 2023

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RESTORE – Global Knowledge Hub for Resource Tenure and Ecosystem Restoration

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Forest tenure and governance under Nepal's new federal system: A critical analysis and reflections from experiential research

Date : 19th April, 2023, Wednesday (Online)

Time : 2:00 - 3:30 PM (NPT), 6:15 - 7:30PM (AEST), 9:15 - 10:30AM (GMT)



Dr. Ganga Dahal
Co-chair, RESTORE,
IFSD



Presenter

Dr. Bharat Kumar Pokharel
Natural Resource Governance Expert

Nepal's new federal system is impacting forest tenure and governance in several fundamental ways. In this presentation, Dr Pokharel will draw on his more than three decades of research, development practice, and policy engagement to highlight how different regimes of governance are facing new challenges and opportunities. He will also share globally relevant policy insights for creating lasting impacts on both forest ecosystems restoration, resource sustainability and community livelihoods.



Dr. Basundhara Bhattarai
Co-chair, RESTORE,
IFSD

RESTORE Global Knowledge Hub is hosted and managed by Institute for Study and Development Worldwide (IFSD), Australia

Photo credit - Kamal Farajali from Getty Images

Overview

On 19 April 2023, the Institute of Study and Development Worldwide (IFSD) organised the first webinar focused on Nepal as part of the RESTORE Global Knowledge Hub webinar series. The aim of RESTORE is to foster sharing knowledge and insights on inclusive ecosystems restoration and build a global community of practice that champions equitable governance and tenure reforms and resource sustainability.

The webinar was held virtually with 25 people attending from across Asia and featured a presentation by Dr. Bharat Kumar Pokharel, a Natural Resource Governance Expert, who provided an overview of the current state of forest management under community, public and private regimes under the Nepal's federal set up. He drew on his more than three decades of experience to provide valuable insights into the opportunities and challenges regarding forest tenure and governance.

The webinar was co-chaired by Dr. Ganga Ram Dahal, Senior Fellow – Land Tenure and Governance and Dr. Basundhara Bhattarai, Senior Gender and Social Inclusion Expert. Dr. Hemant Ojha, Principal Advisor, all affiliated with IFSD, highlighted key takeaways of the webinar.

Welcome and introductions

Dr. Basundhara commenced the webinar by welcoming everyone and provided a brief overview of RESTORE Global Knowledge Hub. She explained that RESTORE aims to promote knowledge sharing and capacity building on ecosystem restoration in the Global South. The main objective is to foster an equitable and societal approach to inspire noble actions towards ecosystem restoration. This will be achieved by bringing together experts and professionals from different countries to share their knowledge and experiences which encompass different contexts related to ecosystem restoration. She invited Dr Ganga Ram Dahal to co-chair and moderate the session.

Presentation and discussion

Dr. Ganga Ram Dahal chaired the presentation session. He started with a brief remark on the global context of ecosystem restoration, emphasizing that the issue of resource governance and tenure has often been overlooked. He further added that recent studies have indicated that it is a critical area that requires immediate attention. He noted that despite several initiatives such as the Bonn Challenge, the Millennium Ecosystem Assessment, New York 2. Declaration, and the Africa initiative, the impact of restoration efforts remains insufficient. As a result, the United Nations has officially declared 2021-2030 as the decade of ecosystem restoration to restore degraded and destroyed ecosystems around the world.

Presenter: Dr. Bharat Kumar Pokharel

Presentation Title: Forest Tenure and Governance under the Nepal's new Federal System: A critical analysis and reflections from experiential research

Dr. Pokharel provided a thorough critique and assessment of Nepal's recent transition to a federal system of governance. The presentation was structured into three main sections, forest governance in Nepal's federal set up, forest tenure system and performance of government, community, and privately managed forest resources in terms of their contribution in forest restoration, social and economic impact. Additionally, Dr. Pokharel discussed a range of forest governance and tenure related issues, including policies, legal and institutional arrangements, and put forward potential solutions and recommendations for moving forward.

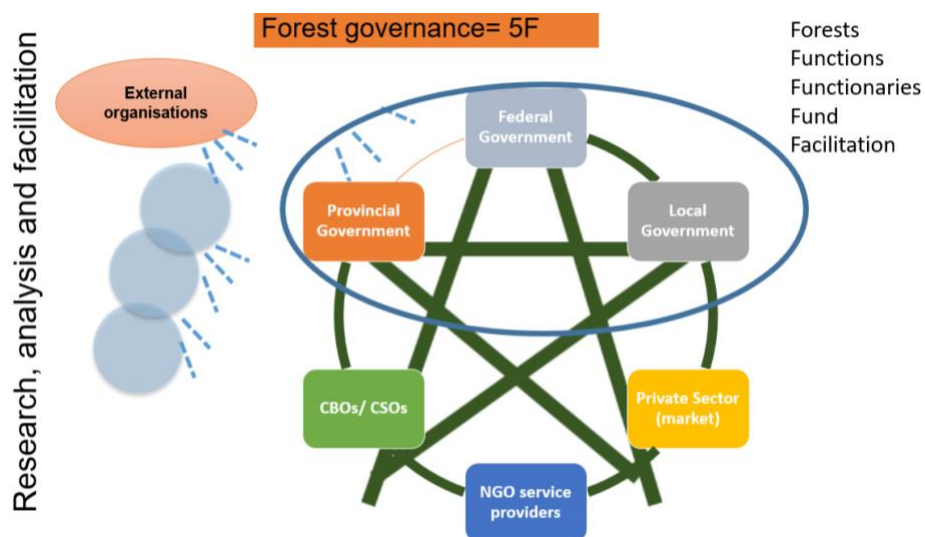
Nepal's forest governance under the new federal system

Dr. Pokharel began the presentation by contextualising the current state of forest tenure and governance in Nepal. He highlighted that under the current federal set up, the major challenge is the coordination and cooperation among the three levels of governments (federal, provincial, and local). With Nepal rapidly urbanising, the country suffers from youth migration and relies on a remittance-based economy, fragmented land ownership, food insecurity, and malnutrition. Moreover, the country also has limited access to financing, unsafe drinking water, inadequate

sanitation, healthcare, and is not yet fully digitised to the extent it should have been to be able to be smart enough in service delivery mechanism.

He also observed that constitutional rights for local communities and the relationship between them, indigenous groups, and the state are not explicitly outlined and annexed in Nepal's constitution. While the governance system has changed, the mindset of Nepalese society, political and bureaucratic leadership remains rooted in the old unitary system. This continues to pose a significant challenge to the current federal institutional setup. Additionally, there is very limited space for local communities, private sector investors and market players, and virtually all basic services of state and non-state functionaries at the local level are far inadequate and ineffective.

Furthermore, he shed light on the power and responsibility sharing arrangements among the three levels of government (federal, provincial, and local), civil society organisations, and the market stakeholders is not balanced and equitable. The Federal level enjoys allocating and administering most of the functionaries and funds, whilst the provincial and local level of governance have limited workforce and the financial resources available. Although the constitution directly or indirectly recognises 22 different types of communities such as women, *dalits*, *adhibasi*, *janajati*, madhesi, farmers, youth and so on, it fails to mention local communities as self-governing entities, a crucial element of the power-sharing structure for the protection, management and use of natural resources that they have been operating with local rules and regulations. He also provided an analysis of Nepal's forest governance based on the 4F framework (forests, functions, functionaries, and funds), highlighting that there is a clear mismatch between function, functionaries, and funds distributed among federal, provincial and local levels (GoN, 2017). Forest land and its availability for local communities are now more politically contested, as local governments struggle to find forest land. This immediately brings them into conflict with local communities, who hold management control over forest land.

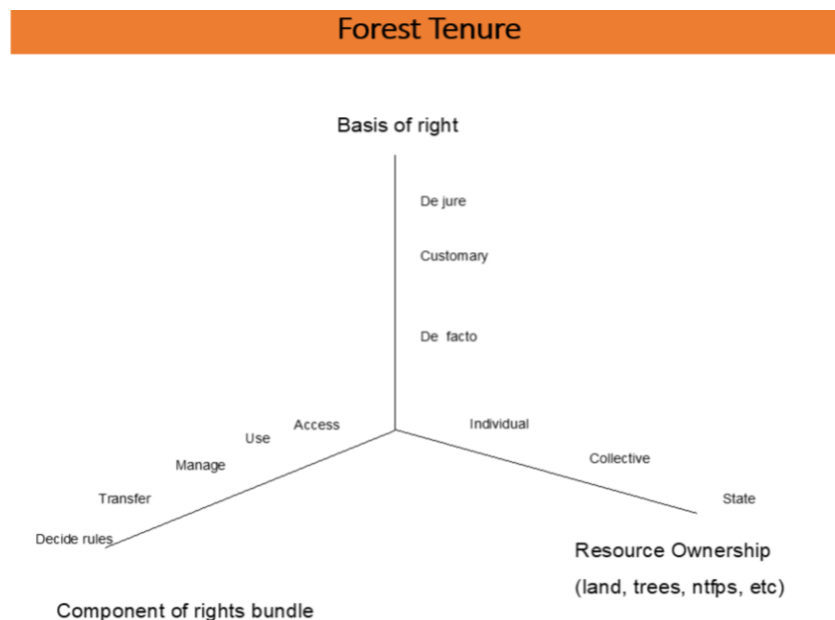


(Hobley & Malla, 2022)

Analysis and reflections of Nepal's forest tenure

Dr. Pokharel identified three main elements relevant to forest tenure: rights, resource ownership, and the components of the rights bundle (as shown in the figure below). He highlighted that Nepal has two types of regimes: national and private, and that community forests fall under the national regime. However, there are issues of equity, as forests are not equally distributed throughout the physiological regions, with hilly regions benefiting the most from community forests. Additionally, an analysis based on districts with poverty index showed that wealthier districts have also benefited more from community managed regimes than other districts.

Nepal's efforts of transferring tenure rights from government to local communities have been going on for the last three decades and the pace of handover process has declined. Dr. Pokharel provided insights into a number of political events and policy changes that enabled or disabled the speed of the community forest handover process. It was assumed that community forestry process would bring positive change to forest restoration. Therefore, in the 90s, the forest handover process was the main priority of the government and several donor-funded community forestry projects were designed and implemented through the Department of Forests. In result, community managed forest regimes got recognised as the better performing model of forest management to meet the objective of forest land restoration. In this context, Dr. Pokharel highlighted the outcomes of a comparative analysis of the performance of different regimes during the period of 1990-2010. He stated that community forests have performed better ecologically, while the private sector has performed better economically. Government managed forests have been found to be less effective both for ecological and social outcomes. However, he emphasised the need for holistic research in this area to gain a comprehensive understanding of forest tenure under different regimes and their performance.

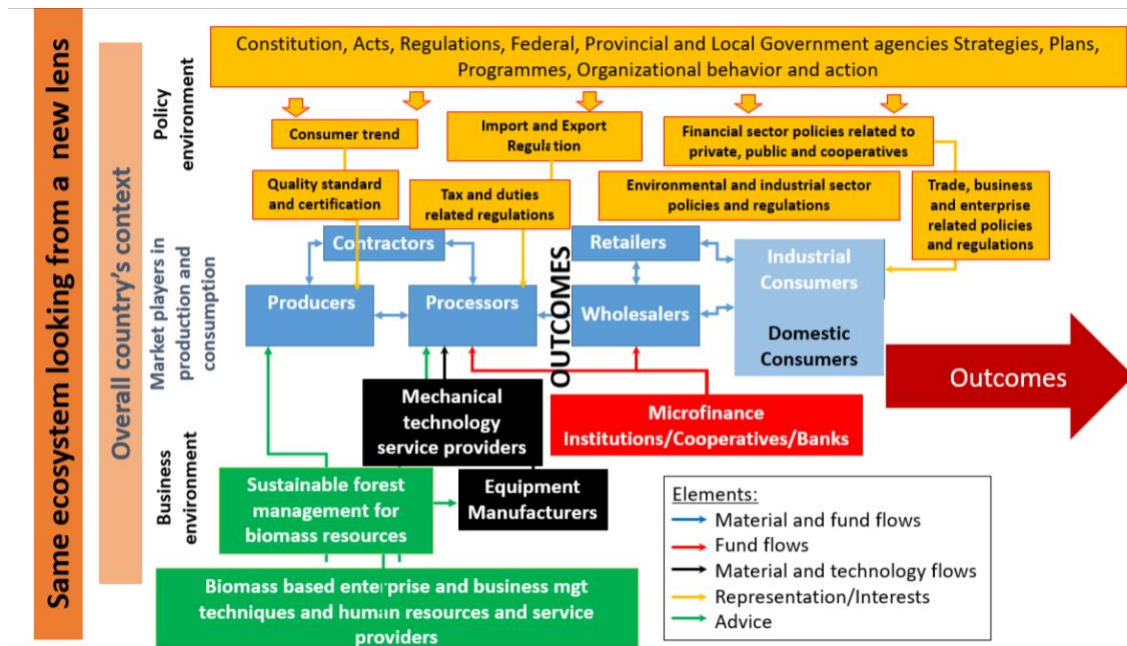


(Paudel et al, 2008)

Issues, Options, and Way Forward

Dr. Pokharel presented major challenges, potential solutions, and ways forward for better forest tenure and governance in the new federal set up. He emphasised several key areas for moving forward including addressing inconsistencies between federal laws such as the Local Government Operation Act 2017 and Forest Act 2019, recognising the importance of collaborative efforts among the three levels of government (federal, provincial, and local) in governing forest, and a need to see the forest resources not only for environmental benefits but also for economic gain. For which, forest resources are to be seen as a part of larger ecosystem where policy environment, business and market players including banks, technology and business service providers should be an integral part of the new ecosystem which constitutes both policy and business/ market actors. This enables forest governance to create more jobs, employment and revenue at households, community and state level.

He further highlighted the importance of recognising the role of the market and moving towards even 4P - a public, people, private partnership (PPP-P) model to attract investment and generate more employment and revenue from community forestry that benefit households, community, private investors and the state. He identified inefficiency as an issue at the forest administration level, due to an overburdening of several roles, some of which should be reassigned to other agencies. Finally, he stressed the need for generating new knowledge that incorporates new contexts to accommodate the purpose of forests for economic benefit, in addition to environmental benefits.



(Helvetas, Nepal)

Discussion session moderated by Dr. Ganga Ram Dahal

On integrating private sector involvement and market engagement into Nepal's community forestry sector

Dr. Hemant Ojha: *I have a couple of specific questions, first, on your emphasis on bringing market and private sector. You mentioned that private regime is important to create jobs and for economic returns. So, I am curious about how it fits in with our current community forestry system and our advocacy for community rights. So, how do we bring your idea of private engagement, market engagement within the domain of community forestry or are you suggesting that the community forestry system is not delivering so we need to radically revamp and restructure the system to give a more prominent role to private players. What models, visions, experience do you have on this product and the mechanism of doing so?*

Dr. Bharat responded by explaining that the forestry sector in Nepal needs private sector investment to succeed. He emphasised that the collective regimes were formed as a response to state governance failure, but private investment is very critical. He acknowledged that while collective regimes provide institutional and social sustainability, they are not business entities and do not have adequate resources for investment and also lack entrepreneurial skills and risk-taking behaviour. He clarified that his suggestion for private sector engagement does not refer to multinational agencies, but rather local investors from within the society that they live with. He emphasised that these local investors, banks and businesses should partner with local communities and the governments in a mutually beneficial relationship to promote sustainable forest management and income from the forestry sector.

On improving the potential for collectives at the local level

Dr. Naya Sharma Poudel: *Currently, I am actively involved in several community forestry user groups, working directly with local actors such as DFOs and the local government. As I observe the growing challenges at the local level including depletion of the interest over collective action of local communities. I am curious about the future of collective action at the local level in the federal set up.*

Dr. Bharat explained that the role of forests has shifted due to various factors like urbanisation, wildlife encroachment (referred to as "wildlife terrorism"), and the changing the role of forests away from the requirements for fuel wood and fodder. He also pointed out that collectives have become less effective because forests have not generated economic benefits and their voluntary costs outweigh the benefits (other than political benefits for the prospect leaders). To address this, he suggested introducing economic incentives to revitalise collectives, particularly to attract young individuals to participate in community forestry not only as a social or environmental entity but also as an economic entity.

On addressing the challenges and opportunities for private sector involvement and community participation

Dr. Dil Khatri: *We've tried involving the private sector in forest management, but strict bureaucratic procedures and hurdles hinder transparency and create negative associations. There is a need to simplify processes and foster transparent engagement. Additionally, local communities*

need incentives to prevent labor withdrawal. While forest improvements may be celebrated, they can have implications for people's benefits. Addressing these challenges requires action research and experimentation to reimagine relationships between forest management and market engagement.

Dr. Bharat agreed with Dil Khatri that scientific forest management has largely been timber management and has several drawbacks. Instead, he suggests starting with non-timber biomass, such as NTFPs, MAPs, and bio-pellet, as investment opportunities for the private sector. He cited India and China's massive use of biomass for Bio CNG and green hydrogen as examples to follow. He believes that investing in non-timber biomass could benefit both the market and local communities, with promising potential for bio-CNG as an alternative.

On tenurial issues in Nepal's Chure region

Dr. Jagadish Chandra Baral: *The tenurial system in the Chure region of Nepal is very confusing and concerning, which is often overlooked in discussions about forest tenure. For successful community forestry it is very important to sort out tenure issues in the right way. Unfortunately, many only focus on issues like taxes and forest protection instead of addressing the basic issue of tenure security. This lack of attention to tenure issues is particularly worrying in the Chure region, where there is a lack of collaborative forest management and inadequate attempts to address the problem. This approach leads to ineffective prescriptions that go nowhere. It would be helpful to hear Dr. Bharat's thoughts on this matter.*

Dr. Bharat highlighted that the forest cover in Chure has increased by 1% in 24 years while cultivated land has decreased. However, he suggests that the issue in Chure is more related to the insecure land tenure, management of stone, boulder, sand, and rivers than forestry sector per se. To address these problems, Dr. Bharat recommends strong collaboration among different ministries, including the Ministry of Land, Mine, Industry, Water Resources, Agriculture and so on. He emphasises that solutions for Chure must come from various domains and that simply increasing forest cover is not enough.

Dr. Jagadish Chandra Baral: *Regarding Dr. Bharat's statement about the increasing resources of Chure, based on my experience in the Siraha district of Nepal, the situation is quite alarming. The problem is not limited to the riverbeds, but it extends throughout the Chure belt. Particularly, in the northern regions, there is immense pressure from the southern areas, reaching up to the Indian border, which is rapidly deteriorating the remaining forests in Terai. Although there are discussions about a master plan for Chure, the proposed solutions are mainly technical, without addressing the critical issue of tenure. Therefore, I am skeptical about whether the forest in Chure is genuinely recuperating or regenerating. Although I lack data to support my doubts, its hard to be convinced.*

Dr. Bharat acknowledged Dr. Jagadish's concern and agreed that, despite the increase in forest cover in the Chure belt, deforestation is still rampant in some areas due to infrastructure-related factors like road construction, transmission lines, and new settlements. He emphasises that mining management is more crucial than forest management in the Chure belt since riverbeds rising during the monsoon season cause rivers to shift their course, which can have severe consequences.

Furthermore, he attributed the decrease in cultivated land in the Chure belt to improper handling of sand and boulders, which has led to an increase in the river's water level.

Summary by Dr. Hemant Ojha

Dr. Hemant Ojha thanked Dr. Ganga Ram Dahal for moderating the discussion session and commended Dr. Bharat Pokharel's presentation for covering important and complex issues related to resource tenure and governance. The following are the summarised key messages from the session:

Resource tenure and governance to achieve restoration and livelihood equity

Dr. Ojha stated that Dr. Pokharel had found and incorporated an important aspect that is often not acknowledged, which is the complex dynamics between resource tenure, governance, and people who depend on those resources. He mentioned that the presentation unpacked the importance of considering multi-scale policies and the economic benefits of protecting and restoring forests for local communities.

Purpose of forest

Dr. Ojha mentioned that he found it interesting how Dr. Pokharel's ideas challenged western notions of environmentalism and moved towards redefining the purpose of environment so that it fits the current context of Nepal. He highlighted that the forestry sector could help address certain issues such as youth unemployment and it was important to look into whether communities that are engaged in protecting, reviving, restoring forest are benefiting from it, not only environmentally but also economically. He acknowledged this as an important discourse that should be brought forward to both policy and academic audiences.

Linking market and private sector to forestry

He acknowledged the challenges of balancing environmentalism with economic development and the need to rethink traditional ideas of community and collective action. Additionally, he mentioned that it was necessary to bring new ideas from the market and private sector but differentiate between local and multinational businesses, as they have different capacities and were not the same. He also stated that there is a need to unpack how private sector can be linked with forestry around collective and communitarian institutions.

Moment of reimagination

Lastly, he expressed the need to reimagine everything from science, silviculture, institutions, and partnerships. He also added the need to reimagine and reintegrate all those elements, functions, functionaries, and the fund flow, to address the complex issues surrounding forest management. Overall, he found the presentation to be thought-provoking and anticipates that it will inspire new research.

Closing remarks

Dr. Basundhara Bhattarai concluded the session by thanking everyone for attending the session and expressed her gratitude towards the Dr. Bharat Pokharel for presenter for his thought-provoking presentation and Dr. Ganga Dahal for moderating the event. Dr. Basundhara Bhattarai concluded the session by thanking everyone for attending and expressing her gratitude towards the presenter for the insightful presentation and Dr. Ganga Dahal for moderating the event. She also acknowledged Dr. Hemant Ojha's reflective messages and expressed pleasure in engaging in discussions with familiar faces from a fresh perspective. Dr. Bhattarai closed the session with the hope of meeting again in the upcoming sessions.

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