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in Nepal?***

**Dil B. Khatri\***

\*ForestAction Nepal

**Editors**

Hari Dhungana

Hari Sharan Luintel

Rahul Karki

**Design and Layout**

Arjun Gyanwali

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**Email:** [fa@forestaction.org](mailto:fa@forestaction.org); **Web site:** [www.forestaction.org](http://www.forestaction.org)





## Is REDD+ Redefining Forest Governance in Nepal?

■ Dil B. Khatri\*

\* ForestAction Nepal

Corresponding author: khatridb@gmail.com.

**Abstract:** In this paper, I argue that the Reducing Emission from Deforestation and Forest Degradation and enhancing forest carbon stocks in developing countries (REDD)+ readiness process in Nepal has reconfigured forest governance in subtle ways and posed risks of its recentralization. Powerful actors, especially the government, consultants and donor entities, have influenced the REDD+ process and policy debates, and have jointly marginalized local communities and civil society organizations (CSOs). This paper reveals that Nepal's REDD+ architecture is primarily shaped by imperatives and ambiguities in the international negotiations and funding mechanisms. Building on the theoretical frameworks of institutional interplay, cross-scale institutional linkages, and institutional design, this paper analyses how interplay and interactions of national institutions and stakeholders influence the REDD+ readiness process, its emerging institutional architecture, and decentralized forest governance. The analysis has been informed by evidence from the author's own research and engagement in REDD+ policy processes in Nepal.

**Key words:** community forestry, institutions, decentralized forest governance, civil society organizations, Nepal.

### INTRODUCTION

In recent years, forests have been recognized for their important role in mitigating climate change through carbon sequestration and storage. 'Reducing emissions from deforestation and forest degradation, and enhancing forest carbon stocks in developing countries' (REDD+) has been proposed as a new mechanism for forest-carbon offsetting. There is a growing optimism at both the international and national levels that REDD+ will emerge as a crucial climate change mitigation instrument by decreasing the cost of reducing emissions, and significantly increasing the value of standing forests. An increasing number of developing countries, including Nepal, see REDD+ as a potential solution and source of funding for the persistent problems of deforestation, biodiversity loss and poverty. However, the broader implications of this global response for forest governance, local institutions and forest-dependent communities in specific national and local contexts have not been closely examined.

REDD+ has become a controversial issue worldwide, with a range of views on its

implications for forest governance. Some claim that it represents an unprecedented opportunity to enhance governance and bolster global conservation efforts (Wollenberg and Springate-Baginski 2010), while others argue that strong governance, especially respect for local land tenure and resource rights, is an essential prerequisite for its success (Cotula and Mayers 2009). Yet, others claim that REDD+ would only destabilize forest governance and exacerbate the persistent efforts of governments and corporations to exert increasing control over forests, to the detriment of community autonomy and well being (Lovera 2009; Phelps *et al.* 2010), thereby reversing recent trends toward the devolution of forest governance. These three divergent views – REDD+ as an opportunity, challenge, and impediment to effective forest governance – are the subject of growing debate in both international and national forums.

The Government of Nepal has embraced the promise of REDD+ and is fast-tracking the process of policy development. Various donors and civil society organizations are also involved



in this process in different capacities. With its strong participatory forest management initiatives and institutions, its supportive legal and policy framework, and the demonstrated capacity of its communities to sustainably manage forests, many consider Nepal to have an institutional advantage for REDD+. However, given the evolving nature of REDD+ at the global level, the current centralized governance and techno-bureaucratic focus of related pilot projects and policy processes in Nepal, and the uncertain outcomes for resource tenure and other crucial elements of effective participatory forest governance, there is still considerable debate about the extent to which REDD+ will be compatible with broad-based, participatory forest governance. Through a case study of Nepal's REDD+ readiness process, this paper looks at this debate through the concepts of institutional interplay (Young 2002a), cross-scale institutional linkages (Berkes 2002; Cash *et al.* 2006) and institutional design (Ostrom 2005), and discusses its potential consequences for decentralized forest governance in the country.

This article relies on the insights of the author as an active member of on-going research and reflections on the institutional dimensions of REDD+ readiness in Nepal. It is divided into five sections. Following this introduction, the second section outlines the evolution of forest governance and the emergence of REDD+ in Nepal. The third section presents the theoretical and conceptual framework used in this article. The framework employs the concept of *vertical institutional interplay* to examine how ambiguities and imperatives in international REDD+ negotiations and financing mechanisms affect the national-level institutional architecture and policy process. It also employs the concept of *horizontal institutional interplay* and *institutional design* to analyze the interactions among key institutional processes and their influence on the emerging institutional architecture for REDD+. The fourth section discusses the implications of

current REDD+ process for decentralized forest governance in Nepal, highlighting key challenges and future directions in research and practice on REDD+. Finally the paper ends with a conclusion that offers some suggestions for future REDD+ institutional design.

### THE EVOLUTION OF FOREST GOVERNANCE AND THE EMERGENCE OF REDD+ IN NEPAL

Forest governance in Nepal has followed the global trend of participatory, decentralized and community-based forestry management (Tyler 2006; Webb and Shivakoti 2008). The specific phases and actors in the devolution process have been shaped by the historical, political and socioeconomic context of the country (Springate-Baginski and Blaikie 2007; Agrawal and Ostrom 2008).

For over a century, from the mid-1800s to the mid-1900s, Nepal's forests were controlled by aristocratic rulers known as the *Rana*. They provided local communities with limited rights to use forests under customary management regimes (Gilmour and Fisher 1991) and provided land grants to individuals on an extensive scale. In 1957, the government nationalized the privately held forestland. This led to the alienation of communities and signalled the beginning of a state-centric mode of forest governance that lasted for about two decades, through the introduction of participatory forestry in late 1970s. Since the early 1980s, a decentralized mode of forest governance (i.e. community forestry) has taken root. It has been marked by an expansion in donor funding and technical support for local forest management initiatives; the increased hand-over of forests to local communities; and the formulation of supportive laws, policies and intermediary government institutions. These developments, coupled with restoration of a multi-party, democratic political system in 1990, led to a burgeoning of civil society organizations (CSOs) concerned with promoting local rights



for the management and use of forests. Today, Nepal's community forestry program represents one of the world's most extensive, touted and widely studied systems of community-based natural resource management, involving over 17,000 Community Forest User Groups (CFUGs) managing approximately one quarter of Nepal's total forest area (DOF 2012).

Recently, Nepal's forest sector entered a new process: a market-based mechanism called REDD+. In 2008, Nepal became one of the first countries to receive support from the Forest Carbon Partnership Facility (FCPF). The FCPF approved Nepal's initial *Readiness Proposal Idea Note* (R-PIN) in 2008 (Wollenberg and Springate-Baginski 2010), setting the stage for further support. In 2009, the government created the *REDD Forestry and Climate Change Cell* (REDD Cell) – housed in the Ministry of Forests and Soil Conservation (MoFSC) – to carry out readiness activities. It also formed a national *REDD Working Group* with representation from government, experts, donors, and CSOs. With support from the World Bank and other donors, Nepal developed its *Readiness Preparation Proposal* (R-PP), a document outlining the overall national REDD+ readiness process, which was approved by the FCPF in July 2010. Nepal is currently implementing the R-PP, thereby developing the policy and institutional infrastructure for implementation of REDD+.

In addition to these official policy development efforts, several international organizations and local civil society groups have been closely engaged in the REDD+ readiness process by implementing different piloting activities to demonstrate its social and technical viability at the national and sub-national levels. The International Center for Integrated Mountain Development (ICIMOD), the Asia Network for Sustainable Agriculture and Bio-resources (ANSAB) and the Federation of Community Forestry Users, Nepal (FECOFUN) are conducting a pilot project on carbon measurement and benefit sharing in community

forestry. The Center for People and Forests (RECOFTC) and FECOFUN are jointly promoting grassroots awareness on REDD+ concepts and issues. These initiatives collectively constitute 'REDD+ readiness', or efforts to build Nepal's capacity and institutional 'architecture' to engage in REDD+ for its projected inception after 2012.

### THEORETICAL BACKGROUND AND CONCEPTUAL FRAMEWORK

Climate change impacts, and the formulation of specific strategies to mitigate these impacts such as REDD+, occur at multiple scales – from global to local – and, so the associated institutional responses and interactions must also be cross-scale in nature. Furthermore, the design of national policies and the institutional architecture to facilitate implementation of such global strategies is shaped by interactions among diverse institutions and their associated actors – with varied functions, interests and power – across vertical and horizontal scales. The kindred concepts of institutional interplay (Young 2002a; Young 2002b; Young 2006) and cross-scale institutional linkages (Berkes 2002; Cash *et al.* 2006), along with the complementary concept of institutional design (Ostrom 2005), offer important theoretical lenses for examining the evolution of REDD+ policies and the involvement and interaction of various institutions and stakeholders in this process. The concept of institution used in this paper denotes the "sets of rules, decision-making procedures, and programs that give rise to recognized practices, assign roles to participants in these practices, and govern interactions among occupants of specific roles" (Young 2002b). Such rules might be both formal (rules on paper) and informal but customary (rules in practice) (Leach *et al.* 1999; Young 2002b).

According to Young (2002a, 2002b), interplay among different institutions may result from either *functional interdependencies* arising from shared biophysical or socioeconomic resources,



mandates or jurisdictions; or from *the politics of institutional design and management* deriving from the mutual pursuit of common interests and goals. Berkes' (2002) notion of cross-scale institutional linkages is similar to vertical and horizontal interplay. He argues that solutions to global problems like climate change require close linkages between local and higher-level institutions, but that these linkages often put local institutions at risk (*ibid*). Berkes (*ibid*) argues that linkages among different scales of commons management have not been given adequate attention in either academic or policy studies.

Despite their obvious parallels, there are important distinctions between the concepts of interplay and cross-scale institutional linkages. Young (2002a) emphasizes the interdependencies and mutual interests that lead to competition or collaboration (both formal and informal) among institutions at various administrative and geographical scales, while Berkes' (2002) stresses the more formal, rule-based linkages among institutions as separate 'cross-scale' institutions in their own right. In addition, Berkes (2002) emphasizes how larger scale institutions can either interfere with or strengthen smaller scale ones. However, perhaps the main difference between the two approaches, as Berkes (2002) himself puts it, is that: "Young (2002b, 2006) approaches the problems by linking the national level to the global, whereas Berkes (2002) takes a perspective from the bottom up." Thus, the marriage of these two complementary approaches will help us to look at the linkages from the global to the grassroots level, and vice versa.

The concept of institutional design (Ostrom 2005) relates to how institutional rules are influenced by the actions and interactions among actors with diverse interests and differential power relations (Ostrom 2005; Corbera *et al.* 2009). Thus, it can help us to understand how dominant actors are shaping the emerging REDD+ institutional architecture in Nepal.

By combining these three theoretical constructs – interplay, cross-scale institutional linkages, and institutional design – we can conceive of a useful theoretical framework. This framework stresses how specific policy issues (e.g., REDD+) involve particular institutions, which then shape the nature of engagement and interaction of different stakeholders (i.e. who participates and how?). The interactions among stakeholders determine the decision-making processes, which in turn can contribute to the design/redesign of institutions, and the cycle repeats. It also shows how global institutions can affect the design of national and local institutions, stakeholder participation, and decision-making processes. Using this framework, I now turn to an analysis of how vertical and horizontal interplay and the interaction among the institutions have influenced REDD+ policies and the national institutional architecture in Nepal.

## VERTICAL INTERPLAY AND SCALE

Global environmental challenges often spur concerted global responses, and climate change is no exception. This section looks at one such response (REDD+) in terms of its influence on the design of emerging national policies and institutions. Scale, and cross-scale interactions in particular, are critical considerations for the design of new institutions. Drawing on Young's (2002a, 2006) concept of *vertical interplay* this section examines how imperatives and ambiguities about global REDD+ architecture and financing in the international negotiations and funding mechanisms have shaped institutional design at the national level in Nepal.

### Imperatives in the International REDD+ Negotiations and Funding Mechanisms

Some of the main imperatives inherent in global REDD+ policy development processes include: (a) providing forest carbon offsets at minimal cost; (b) controlling diverse drivers of deforestation and forest degradation; (c)





adopting a national-level approach to carbon accounting and implementation (to ensure net carbon enhancement at the national level); and (d) standardizing the REDD+ readiness process.

REDD+ is based on the notion that reductions in emissions from deforestation and forest degradation in developing countries can be achieved at lower cost than reductions in emissions from domestic and industrial sources in developed countries. Therefore, there is an economic imperative to minimize the cost of forest carbon offsets under REDD+. As mentioned above, some consider Nepal to have an institutional advantage for implementing REDD+ due to its strong policies and institutions for community-based forest management. However, others perceive that Nepal cannot compete with Indonesia, Brazil, and other countries with more forest and/or higher rates or risk of deforestation from industrial timber harvesting and other large-scale commercial land uses, such as oil palm and soya plantations. From a global perspective, these factors make it more attractive to invest in these other countries. Because of this shortcoming, Nepal has focused on its perceived community forestry 'advantage', by emphasizing it in the R-PP and implementing different community-based piloting activities.

A mechanism like REDD+ will also require controlling diverse drivers of deforestation in different geographical regions. Nepal has been relatively successful in curtailing deforestation in the Middle Hills region (Gautam *et al.* 2003; Braney and Yadav 1998), where the forests are mainly managed under community forests and for subsistence use. Ironically, this renders these areas less attractive for investments in REDD+ since the 'additionality' of carbon payments – the effectiveness of additional incentives to curb

deforestation – is questionable. However, deforestation remains rampant in the lowland Terai region and the adjoining Churia Hills, driven largely by demand for valuable hardwood timber and agricultural land. Nonetheless, many of the piloting and consultation activities for REDD+ readiness have been conducted in the Middle Hills, partly due to their perceived greater chance of success there.

International negotiations aimed at developing a global architecture for REDD+ also favour a national approach for implementation in order to facilitate an integrated international carbon accounting and financing system. Under such an approach, 'leakage' (increases in deforestation in some areas coinciding with reduction in other areas) would be subtracted from the national total. To address this imperative, the Government of Nepal has embarked on a comprehensive national forest inventory project with assistance from Finland. While such a nationwide assessment of the current status of forest resources is an important prerequisite for the setting of national and regional biophysical baselines for REDD+, this project has been criticized for its techno-bureaucratic focus, its failure to involve civil society groups in the planning process, and its lack of provisions for capacity building at lower levels.<sup>2</sup> In addition, the lack of consideration of a project-based strategy precludes the possibility of a more bottom-up, adaptive management approach to REDD+ implementation.

Funding mechanisms for REDD+ readiness, particularly the FCPF, seek to ensure that the REDD+ readiness process is standardized and comparable across a range of countries. This imperative has led to a strict, top-down, blueprint approach to the design of REDD+ readiness strategies and activities. As a result,

<sup>2</sup> Civil Society Position Paper on National Forest Resource Assessment Project, 2010, prepared by ForestAction, including 11 other Non-Governmental Organizations.



Nepal has strived to conform its readiness process as closely as possible to the detailed template provided by the World Bank, with very specific technical requirements; and has thereby foregone the valuable opportunity to conduct a more organic, deliberative process of REDD+ policy design. For instance, for one of the components of R-PP, the design of a detailed 'Consultation and Participation Plan' for REDD+, rich experiences, reflections, and constructive criticisms were documented and included in the initial report. However, most of this information was omitted from the final report submitted to FCPF because these elements did not fit into its very specific template.<sup>3</sup> Such information and experience have not been preserved in any succinct way. As a result, the foundation and many lessons for implementation of future REDD+ consultation activities will have to be rebuilt.

#### **Ambiguities in the International REDD+ Negotiations and Funding Mechanisms**

In addition to the imperatives described above, certain ambiguities in the emerging international policy and financing mechanisms have shaped the development of national-level policies and institutions in various ways. Such ambiguities include: (a) uncertainties about the structure (mechanism) and amount of financing from developed countries; and (b) lack of specification on who the beneficiaries of REDD+ should be (e.g. local communities, government, private landowners, or private sector entities) for each type of forest management regime.

Uncertainties about the structure and amount of REDD+ funding from developed countries have affected Nepal's approach to financing. Although there is a general international consensus that REDD+ should be a market-based mechanism, the government and other

influential actors in Nepal have argued for the creation of a national "carbon trust fund". Most national actors envisage this as a source of donor funding for forestry activities in the name of REDD+. On a broader level, however, the lack of firm financing commitments from developed countries, and persistent uncertainties about the feasibility of achieving legally-binding emission targets for these developed countries, have led to speculations that a market-based solution may not be feasible and that a purely donor-financed, fund-based solution should be pursued instead. Such ambiguities have resulted in a perception of competition with other countries over limited international funding resources, driving the government to expedite the REDD+ policy design process and leading to a rushed, top-down approach with little opportunity for sincere consultation or meaningful feedback from the local level.

A lack of clear international guidelines about what types of actors, activities and management regimes should benefit from REDD+ has led Nepal to pursue an approach based mainly on community forestry, as noted above. However, Nepal's forestry bureaucracy is hoping that carbon payments will also be applicable for government-managed forests, including protected areas. Recent declarations of new protected areas and renewed interest in collaborative forest management in Terai indicate the government's desire to cash in on carbon payments.

#### **HORIZONTAL INTERPLAY AND INSTITUTIONAL DESIGN**

National institutional architecture for implementing REDD+ is not only determined by the global negotiations and financing mechanisms, but also by national-level institutions and actors. This section analyzes how existing national institutions have shaped

<sup>3</sup> This is author's observation as a participant in this process.





interactions among national actors and how this, in turn, has influenced the design of emerging institutional mechanisms for REDD+.

### **Institutional Design Process: Actions and Interactions Among Key Actors**

In general, three sets of powerful actors have influenced the process of REDD+ policy development and institutional design: government agencies, particularly the REDD Cell; consultants employed to draft the policy documents; and donor agencies. These actors have formed a strong alliance. The donor organizations have provided financial and technical support for crafting the policy documents to the REDD Cell, and the REDD Cell has outsourced various activities to consultants, including individuals, consulting firms, and non-governmental organizations (NGOs).

As part of the institutional design process for REDD+, Nepal has prepared two policy documents: the R-PIN and the R-PP. The R-PIN was produced primarily by staff at the Department of Forests. The R-PP was purportedly prepared through a consultation process involving multiple stakeholders. The MoFSC 2010: 5 has characterized the R-PP process as follows:

Altogether, 3,180 individuals were consulted through workshops and meetings. 57 workshops were held at the national (17), regional/district (13) and community (27) levels with participation from a range of stakeholders, such as indigenous peoples and local communities, forest dependent people, *Dalits*<sup>4</sup>, women, CSOs, government departments, political parties, the media, universities, international organizations,

constitutional assembly members, projects, international development partners, and the private sector. Separate workshops were held targeting indigenous peoples (4), women (3), and *Dalits* (1). A variety of outreach materials were developed and used to develop understanding on REDD.

However, although these many workshops and 105 individual expert consultations were carried out throughout the R-PP preparation process (MoFSC 2010), 17 (approximately 30 percent) of the consultation events and 91 (about 87 percent) of the expert consultations were held in the capital city of Kathmandu, involving many of the same participants. This bias has reinforced the interests of powerful actors while marginalizing others, particularly community-based organizations and local and marginalized communities. Another policy document, the Interim REDD Strategy, which was drafted by a group of consultants under the direct supervision of the REDD Cell, was also ostensibly produced through a multi-stakeholder process. The main basis for this claim was that most of the elements of the strategy were drawn from the R-PP. However, several CSOs objected to this document and questioned the legitimacy of the process. As a result, the REDD Cell eventually rejected the Interim Strategy and is currently in the process of developing another long-term strategy for REDD+ implementation beyond 2012. All of the major policy processes shaping the institutional and policy infrastructure of REDD+ in Nepal have been criticized by different CSOs at one time or the other for not properly representing the voices of the weaker actors, especially, local forest-dependent communities and marginalized groups such as women, *Dalits* and ethnic communities.

<sup>4</sup> Dalits are members of the so-called 'untouchable' caste under the Hindu caste system.



CSOs directly engaged in the REDD+ policy process were supposed to voice the concerns of their respective constituents, such as CFUGs and indigenous peoples. However, their influence over the policy process was limited due to a number of factors. First, there was low representation by CSOs and community representatives in policy forums. For example, out of the 12 members of the REDD *Working Group*, only two are from CSOs and there is no representation from the private sector. Second, CSOs could not make their voice heard effectively due to their weaker position in decision-making forums, as well as their capacity and resource constraints. However, the government has used the presence of civil society leaders in these forums mainly to legitimize their own policy decisions.

Third, while the CSO leaders have provided critical input at times, they mainly represent the interests of their own constituents, while the voices of other stakeholders have been largely absent in the policy process. Most notably, CSOs representing women and Dalits have been excluded from all major decision-making bodies. Finally, despite their criticism of the REDD+ readiness process, prominent civil society actors have quickly grasped the potential benefits of REDD+ – for themselves, their organizations, and their constituents – and have become involved in various projects and consulting work to promote its implementation. Therefore, they have been playing paradoxical roles, serving as technical experts for the government and donors, while also allegedly advocating for the rights of local communities. These contradictory roles arguably challenge both their organizational mandate and their allegiance to (and thus their capacity to serve as spokespeople for) their constituents.

#### **Horizontal Interplay and its Impacts on REDD+ Institutional Design**

The institutional architecture of REDD+, as envisaged in the policy documents mentioned

above, exhibits interplay with other existing forest governance institutions like forest management regimes, tenure, and legal and policy framework. This section analyses how existing institutions have influenced the REDD+ architecture.

Nepal has diverse modes of forest management including community-based regimes such as community forestry, leasehold forestry, collaborative forest management, and buffer-zone community forests; government-managed forests and protected areas; and private forests. These regimes each have distinct governance mechanisms with respect to forest management responsibility and benefit-distribution. Even among different community-based management regimes, the degree of community autonomy and the level of benefits to communities vary. For instance in community forestry, local communities enjoy full autonomy of management and use of the forest products and all income from forests goes to CFUGs; whereas under collaborative forest management, communities have very limited rights over the management and use of the forest products and only 25 percent of the income remains at the local level while 75 percent goes to the government. Such discrepancies have not been widely discussed while devising the REDD+ institutional architecture.

New strategies for combating the drivers of deforestation need to fit with the existing management regimes. There will be options for deciding among management regimes, based on their effectiveness in enhancing forest conditions. However, such choices will not be apolitical. There is considerable contestation among actors supporting the different management regimes. For example, community forestry has been contested in the Terai on the grounds that it has excluded people residing far from the forests, even though it has been recognized as an effective mechanism for



restoration of degraded forests in the hills and some parts of the Terai. Conversely, supporters of community forestry have criticized collaborative forest management in the past as they see it as an excuse for not handing over more forests to local communities. Therefore, although the R-PP (MoFSC 2010) has strongly recommended the expansion of community forestry into all remaining forest areas, this recommendation will not be easy to implement nationwide.

Access and use rights also vary across different forest management regimes. Legally, the government retains the ownership of the land in all types of regimes, except for private forests. Though community-based regimes are endowed with certain rights to manage and use forest resources, such rights are severely restricted in government-controlled forests, including protected areas. Furthermore, the rights to carbon and the benefits deriving from not yet been explicitly defined in national laws or policies – even for community forestry – leading to conflicting claims. The government argues that, since it owns the land, the carbon benefits should accrue primarily to the central government (as stated by government representatives in REDD+ policy forums). On the contrary, pro-community actors, especially FECOFUN, argue that the rights to carbon benefits should remain with local communities, since they are the ones managing the forests. Such controversies have created confusion when devising mechanisms to share REDD+ benefits (Khatri *et al.* 2010). This confusion is compounded by a controversial provision in the draft constitution, which assigns carbon ownership rights to the central government<sup>5</sup>. This has raised concerns among some stakeholders over the fate of decentralized forest governance and benefits to communities.

Nepal's forestry sector is governed by a comprehensive legal and policy framework developed over the past two decades. The Forest Act 1993 and the Forest Regulations 1995 provide a framework to regulate and manage all forest areas, except for protected areas, under the broad guidance of the Master Plan for the Forestry Sector, which expired in 2010. Protected areas are governed under the National Conservation Strategy and the National Biodiversity Strategy (2002), and regulated by the National Parks and Wildlife Conservation Act 1973, and various subsidiary regulations. This broader policy and legal framework will have a strong influence on emerging REDD+ policies and institutional architecture, because new forest conservation and management strategies should conform to existing laws and policies.

#### REDEFINING FOREST GOVERNANCE IN NEPAL?

Three separate phenomena – vertical interplay between international and national policy processes, horizontal interplay among existing institutions of forest governance, and interactions among actors in the policy design process – have had a pronounced impact on the emerging REDD+ institutional architecture in Nepal. Evidences and analysis in this paper revealed that REDD+ process and initiatives has been paving the ways for redefining forest governance in Nepal. There is little evidence that existing and emerging REDD+ institutions are *reinforcing* decentralized governance in any significant way. Rather, the influence of existing institutions, their interaction with the emerging REDD+ architecture, and recent efforts by the government to reassert control over forests through both legal and policy mechanisms, suggest a recentralization of forest governance,

<sup>5</sup> But it is not clear whether this provision in the draft constitution will be retained after the dissolution of the constituent assembly on May 27 2012.



and a corresponding loss of local autonomy. The analysis has revealed several significant challenges in this regard, described below.

**Unilateral government policy decisions and declarations:** In the face of increasing efforts on REDD+ and optimism among stakeholders about the possible benefits from forest carbon trading, the government has made some controversial unilateral decisions that have long-term implications for community rights and local livelihoods. Neglecting the spirit and the letter (i.e. laws) of decentralized forest governance, the MoFSC put forward a proposal to amend the Forest Act 1993 in July 2010 to curtail the existing rights of local communities, including increasing the tax on all forest products sold by CFUGs nationwide to 50 percent, and arguing that the central government requires more authority to regulate the activities of communities in order to reduce deforestation and forest degradation in the Terai. After a year of pressure from civil society, led by FECOFUN, the government decided to withdraw the proposal in July 2011. However, the government has revived this initiative and there has been ongoing confrontation between the government and civil society. Similarly, the government has declared new protected areas since November 2009, to meet its target of 24 percent of forest under protected areas, based on the logic that these designations support forest conservation. Therefore, as a result of these declarations, Nepal (and the government in particular) could benefit more from carbon-trading regimes like REDD+. However, these policy initiatives have challenged the basic rights of local communities living in these areas to manage, access, and use forest resources according to their needs.

**Dominance of the policy-making process by powerful actors:** The forestry bureaucracy and the associated policy-making process in Nepal are dominated by entrenched interests with a strong influence on policy outcomes. This domination materializes through the

involvement of a few powerful actors, namely, the MoFSC (i.e., the REDD Cell), consultants and technical experts, and donor organizations. This is particularly evident in the case of REDD+, where this 'iron triangle' of powerful actors has largely excluded consideration of the interests of other stakeholders, especially marginalized groups and forest-dependent communities, but also the private sector. Although a few prominent civil society groups have been engaged in the process, their role has been mainly restricted to symbolic legitimization of the government-led process. While some CSOs have played an active role in policy dialogues and processes, they reflect the interests and voice of only a couple of stakeholder groups (e.g. community forestry, indigenous peoples), whereas the participation of more marginalized groups, such as *Dalits* and landless, has been very limited.

**Restrictions on resource and carbon tenure and access:** Despite the proliferation of CFUGs throughout the country, the policies that ostensibly support them, their autonomy, and strong evidence of ecological restoration in many community-managed forests, CFUGs still face significant threats to their rights to manage and use their forest resources. Primary among these threats is a perpetual lack of secure tenure over the land that their forests stand on. Communities now have clear rights to trees and forest products, but not to the land itself. This is problematic in the context of carbon trading, since carbon is contained not only in trees, but also in the soil, roots and organic debris, of which the rights-holders remain ambiguous (Ojha *et al.* 2008; Pokharel and Byrne 2009). Furthermore, even those rights guaranteed by law are continually challenged by government directives and administrators, such as the call by the MoFSC to ban the harvesting of all green trees during 2011. In addition, internal inequities in access to benefits and decision-making persist within many CFUGs, perpetuated by local power imbalances.





**Lack of concern for the rights and interests of communities in policy documents.** The R-PP, the main REDD+ policy document (MoFSC 2010), reflects a lack of attention to safeguarding the rights and interests of local and marginalized communities. Though this document has recognized the need for a participatory multi-stakeholder process for preparing the country for REDD+ implementation after 2012 (MoFSC 2010), the manner in which they have been produced suggests otherwise. The policy documents have been developed mainly through ToR-based consultancies, without broad-based consultation or support from diverse stakeholders. Thus, it is clear that the REDD+ policy process and emerging documents are reinforcing the existing unequal power relations between stronger actors, such as the government, donors and consultants; and weaker actors, like civil society groups and community-based organizations. There is also evidence of a shift toward a more autocratic legal process. For example, the government unilaterally put forth their proposals to amend the Forest Act 1993 to curtail the existing rights of CFUGs, and to create new protected areas, without consulting other stakeholders.

*Techno-bureaucratic approach to piloting, monitoring and forest inventory.* While governance is a critical concern in the REDD+ debates, both internationally and in Nepal, safeguards and monitoring mechanisms to ensure socioeconomic and biodiversity co-benefits and effective decentralized forest governance are not evident in the current REDD+ readiness process. Rather, a techno-bureaucratic approach pervades the policy process as well as the various piloting activities. For instance, while pilot projects have been very intensive in their efforts to monitor carbon stocks and impart this knowledge to community members, they have not incorporated discussions or monitoring for safeguarding the implications of REDD+ for local livelihoods or biodiversity impacts into

their project activities. Furthermore, the comprehensive national inventory project being carried out by the Department of Forest Research and Survey (DFRS) with support from Finland, which is to serve as a national baseline for REDD+, has been criticized on the grounds that it has not consulted civil society and does not include adequate provisions for building the capacity of local forest management officials and community institutions.

Despite the many challenges outlined in our analysis, there are some opportunities for promoting decentralized forest management and the effective implementation of REDD+ through careful institutional design via a truly participatory policy process. As Young (2002a) states:

Costs to operation at higher levels are measured in terms of... [their] lack of sensitivity to both the knowledge and the rights and interests of local stakeholders... What is needed, under the circumstances, is a conscious effort to design and operate institutional arrangements that take local knowledge seriously and protect the rights and interests of local stakeholders, even while they introduce mechanisms at higher levels of social organization required to encompass the dynamics of ecosystems that are regional and even global in scope.

Berkes (2002) adds that it is concrete institutional linkages between local and higher-level institutions that will lead to effective policies, and better social and environmental outcomes. He emphasizes that multi-scale co-management institutions and the 'adaptive management' approach may enhance our efforts to fully understand and promote effective cross-scale institutional linkages. But how do we protect the rights and interests of local forest users and marginalized groups in this process? If more impartial external actors (governmental or non-governmental), without a strong influence on



or stake in the outcome of REDD+, can facilitate debates and decision-making processes, they could empower more marginalized actors to voice their concerns (Swallow *et al.* 2007; Tiwari and Amezaga 2009). But identifying these actors is a crucial challenge. Therefore, effective and equitable cross-scale institutions and policies require not just functional linkages among existing institutions – with overlapping sets of rules and incentives for ensuring transparency, equity and mutual accountability – but also the engagement of skilled facilitators who can create bridging institutions.

In summary, the forging of effective cross-scale institutions (i.e. institutional linkages) for ensuring key aspects of governance – especially resource tenure and access, equitable benefit-sharing, monitoring, and conflict management – will be critical for realizing a successful REDD+ program in Nepal. These institutions should include specific rules and procedures for the distribution of resources, responsibilities, risks and authority among government bodies, facilitating intermediary organizations (civil society or private) and local common-property institutions and actors. Sustained interaction among a broad spectrum of relevant institutions and stakeholders at multiple scales will be critical for the effective development and maintenance of such bridging institutions. It is clear that the institutional architecture for REDD+ in Nepal is still quite top-heavy; and that there is a vacuum of constructive horizontal and vertical cross-scale linkages for connecting local institutions and actors with each other and with relevant institutions and stakeholders at higher levels.

#### **CONCLUSION AND FUTURE DIRECTIONS FOR REDD+ INSTITUTIONAL DESIGN**

This paper examined the REDD+ institutional process in Nepal drawing on the concepts of 'institutional interplay', 'cross-scale institutional linkages' and 'institutional design'. Combining

these three concepts provided a framework for analyzing how Nepal's REDD+ processes and institutions are influenced by international negotiations and funding mechanisms, interplay among national institutions of forest governance and the interactions of various national actors. The evidence for such an analysis was obtained from the author's own research and engagement in REDD+ policy processes in Nepal. The analysis has revealed that Nepal's REDD+ architecture is heavily influenced by international processes and institutions and powerful domestic actors, particularly among government, consultants and donor organizations.

Such influence has posed some challenges to the REDD+ institutional design processes, which are indicative of potential hurdles for the effective implementation of REDD+ in Nepal. Furthermore, this analysis suggests that the REDD+ processes in Nepal presents risks of recentralizing the current decentralized model of forest governance. There has been a consistent marginalization of the voices of local communities and CSOs in the REDD+ process, while powerful actors – particularly the government, consultants and donors – have prevailed. Several government decisions and directives towards curtailing community rights also provide evidence for this.

At the same time, there is also evidence that Nepal's REDD+ process is *reconfiguring* forest governance in subtle ways. First, there are new collaborations among civil society, though the longevity and ultimate effectiveness of these collaborations remain to be seen. Second, new actors are emerging in forest politics. A case in point is the Nepal Federation of Indigenous Nationalities (NEFIN), which had very little involvement in forestry dialogues and forums before the advent of REDD+. Third, there has been a gradual (though uneven) increase in the involvement of civil society representation in policy-making, piloting and awareness-raising initiatives and forums related to REDD+ and





climate change, although their influence on institutional design outcomes is still minimal. Moreover, the somewhat paradoxical role of some CSO representatives, as both consultants in REDD+ policy design processes and advocates for the rights of local communities, could put them at odds with their constituents.

As REDD+ policies and institutions continue to evolve at the international, national and local levels, there is a need for further research at multiple scales to inform the governance of REDD+ in Nepal and other countries to better understand the interplay, interactions and linkages between existing institutions, actors and policy processes across multiple scales. This includes studies on specific elements of the evolving international REDD+ negotiations and financing processes, as well as in-depth research on the nature and intensity of interactions among different actors both within and across scales, and how they are each influencing the design of policies and institutions at the national and sub-national levels. At the local level, there is a need for research on the awareness, perceptions and responses of community members with respect to policy dialogues and processes related to REDD+ and climate change; as well as participatory governance assessments that engage communities in critical reflection and analysis on their involvement in policy dialogues and piloting activities, and on the political and economic constraints for achieving effective, efficient and equitable outcomes for REDD+ (Angelsen 2008; Angelsen *et al.* 2009).

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