

Transforming Nepal's Terai Forest Governance: A Policy Perspective



Hemant R Ojha, PhD
Email: hojha@wlink.com.np
ForestAction Nepal

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The Problem

There is almost a consensus that Nepal's Terai forests, which comprise some of the last remaining natural forest reserves in Asia, suffer from the problem of "bad governance". The problem of Terai Forest governance sits oddly with the widely hailed success of Community Forestry (CF) in the hills. Despite second generation issues related to equity and inclusion, community forestry in the hills is by and large considered a successful program in Nepal. The opportunity costs of not properly managing Terai forests comes around Rs 13 crore everyday and this loss over 15 days is equal to annual foreign aid amount in Nepal's forestry sector*. The social costs are also immense: poor, marginalised, women, and madhesis are being denied access to material benefits from forests; in addition, these groups are also being subjected to second-grade identities of *lakadi chor* (timber smuggler), *ban mara* (forest destroyer), *daure* (firewood seller) and the like, when they seek to earn livelihoods by utilizing forest products. The ecological cost is also equally high: significant size of forest areas are being cleared for non-forestry purposes. Annually 8000 ha of forestland are converted to non-forestry purposes, mainly for subsistence agriculture, the condition of existing forest is being deteriorated, and the old growth wherever intact is in stagnation (leading to reduced annual increment). Why Nepalese government and civil society fail to craft proper governance that could address these problems and generate opportunities for sustainable, equitable and efficient management? Why did the actors who developed successful CF model in the hills fail in the case of Terai? The problem needs some analysis before exploring the opportunity for transforming governance.

The Underlying Dynamics of the Problem

Community forestry meets a cul de sac in Terai. The widespread institutionalisation of Community Forestry (CF) in Nepal has undoubtedly expanded the role and voice of civil society (especially the local forest dependent community groups) in forest governance, marking a clear shift away from the traditional top-down and state-centred approach to forest control and management. Despite this success, CF has not been able to accommodate all legitimate claims over forests in the context of Terai. There are two interrelated reasons behind this. First, while several donor projects supported, and still continue supporting, the implementation of CF in the hills, no such support (at least of the same scale and type) was provided in the case of Terai. As a result, some NGOs and Federation of Community Forestry Users Nepal (FECOFUN) became the sole advocates of the CF programme, while others (including the Department of Forest) have taken a defensive stance against CF in the Terai. The net result of this contestation is that only around 2000 Community Forestry user Groups (CFUGs) have been established in the Terai. Surprisingly, these CFUGs have not been the unanimously accepted model of participatory forest management in the Terai. As a result of lack of technical assistance during implementation on the one hand, and the hasty promotion of CF agenda as part of the civil society strategy to securing rights on the other, the actual way CF was introduced and practiced in the Terai has led to the exclusion of large sections of people in the southern Terai.

Furthermore, CF has been seen (especially by Madhesis and other Terai people who stay away from the forest) as the programme of those staying near the forests, of those who settled in forest areas in the recent years, and of those who have better connections with the political power of the Kathmandu centric state. In 2000, amidst growing crisis into the legitimacy of CF as inclusive civil society space in the Terai, CF was officially revoked as priority government programme (in the Terai). Since then the repeated movement by FECOFUN for pressurizing government to handover CF has met with limited success, while at the same time the search for alternative institutional model has intensified. The CF has thus met a cul de sac, and there is a need for more open reflections over what institutional arrangement can best incorporate the rights of all legitimate users of forests in the Terai.

The views expressed in this discussion note are entirely those of the author, and do not reflect the position of ForestAction.

* Personal Communication, Bharat Pokharel, March 2008.

Government reasserts control by cultivating cleavages in civil society. At a time when community forestry experienced (or was beginning to experience) cul de sac, a more conservative legal arrangement by the name of Collaborative Forest Management (CFM) was initiated in 2000, which provided far less benefits to communities than CF (only 25 percent of forest revenues compared to 100 percent in the case of CF) and allowed greater governmental control over forest management when compared with CF modality. The programme was ostensibly designed to provide access to more distant users (who were often excluded from CF) in forest control and utilization. Although CFM involves very limited forest entitlements to local communities compared with CF, it has



caught the attention of those excluded from the CF system, and by now, several southern communities have been part of CFM in a few districts in the Terai. The construction of failure of CF has been a strong legitimating ground for a faction of traditionally oriented groups of forest officials within the government (Ministry of Forest and Soil Conservation and the Department of Forest) to resurrect control in the name of regional equity and inclusion.

Rather than modifying CF provisions and actively supporting such excluded southern people in developing measures that would accommodate them within the legal framework of community forestry, the traditionally oriented forest officials within the Ministry were able to get the political decisions makers to endorse the alternative program of CFM, which secured the officials' power by: a) instituting a provision to include officials in the collaborative forest management committee (thus reclaiming power from expanding CF processes, in which local users elect their own executive committees), and b) retaining

75 percent of benefits in the government treasury. This divided civil society, and strengthened technobureaucratic control over forests.

Policy deliberation has met dead end. Because of the division of stakeholders of participatory forest management into the two conflicting camps of CF and CFM, open policy deliberation/negotiation continues to be constrained. Indeed, CF and CFM are seen as the strongly upheld symbolic territory of one or the other groups within civil society and government agencies. While the claim for government management of forest (by traditionally oriented forest officials) appears weak in the face of increased demand for democratisation in the recent years, there is no consensus on the broad framework of democratic governance, not only between civil society and government agencies, but also among different civil society groups. The civil society sphere is itself fragmented by the partisan influence, and there is limited space for the emergence of common civil society vision for the governance of forest in Nepal Terai.

However, there are some seeds of hope at the local level. People marginalised in the process of forest governance (especially the southern Madhesi groups) have been radicalised and have demanded spaces for participation in forest governance. There are also instances of innovative people-to-people negotiations on developing institutional mechanisms for sharing power and benefits, especially within the framework of community forestry. Although CFM entails greater governmental control, a lesson that clearly emerges from its experience is that it is desirable and possible to forge institutions (of larger scale than the CF) to sort out the issue of participation and benefit sharing among people living close to forests and away from the forests. But these local innovations are not reflected in the national policy discourse, where the dominant groups (within civil society, political parties and government agencies) are following their own strategic interests, advocating one or the other regime, rather than genuinely pursuing deliberative and open negotiations to develop consensus based vision and strategies for the democratic governance of Terai forests. Despite this, the CF- CFM debate indicates a potential frontier of deliberative policy innovation; it provides some background consensus among many groups: that there is no alternative to sharing power with local people, and that there is a need for moving up in the scale from community to the larger geographic domain in crafting forest management institutions.

Directions for Change

As the country is passing through political transformation, Nepalese forest dependent citizens have to define how they will exercise sovereignty in forest governance. The issue is not about the “management of forest” alone, as believed by most government foresters, but designing institutional framework through which citizens (staying at varying distance from the forest) can exercise sovereign rights. Likewise, the issue is not about “who should manage the forest” but how citizens can participate in the process of forest governance. Three broad spheres of forest governance can be conceptualised:

1. Self-governance through direct democracy: Small forest areas and small communities of citizens can directly devise arrangements for forest governance. The environmental benefits that accrue to wider communities are adequate to forego any claims to these forests outside of the community. The current model of Community Forestry could come under this category.

2. Decentralised governance through representative institutions. For bigger forest areas with large number of citizens claiming stake in forest governance, there is a need to develop representative institutions of multiple communities and groups. These institutions while directly elected by local people should be overseen by local government -especially the role of monitoring and coordination of development planning. The current model of CFM may be transformed to fit this mode of governance.

3. Collaborative governance by citizen groups and government agencies. National Parks and other forest areas of national and international importance should be governed jointly by local people and government agencies. Here the coordinative role should rest with either national or state government.

Roadmap for Transformation

A series of actions on the part of citizen groups and government agencies can help resolve the current forest governance impasse:

Action Point 1: Build consensus at the national level. The first step towards transformation of Terai forest governance is that civil society groups that

have been divided among themselves over one or the other regimes of governance should be able to develop common vision of forest governance based on the principles of equity, justice, practicality and sustainability. In particular, groups that advocate CF (such as FECOFUN) and groups that advocate CFM should be able to negotiate common agenda of democratic transformation of forest governance. The continuation of mistrust and feeling of competition between the groups will only weaken their stance for overall democratic restructuring of forest governance. Once there is a common civil society agenda of forest sector governance, they are in a better position to negotiate with the government.

Action Point 2: National government to make policy decisions/amendments. Ministry of Forest and Soil Conservation (MFSC) can organize a round table negotiation of CF advocates, CFM advocates, and foresters. If moderated properly, these round table discussions can develop consensus on the broad framework of governance in accordance with the principles of decentralisation and democratic participation. The negotiation between civil society and government will have more democratic outcomes if there is a prior consensus among conflicting civil society groups (step 1). Based on the consensus with the civil society groups, the MFSC can then draft amendments for Forest Rules 1995. Key decision points to be addressed are given in Table 1.

Action Point 3: Constitute district level multistakeholder forestry forum representing key stakeholders. The national government will only make key policy decisions, and it is for the district level multistakeholder committee to take this forward towards implementation. The current District Forest Coordination Committee (DFCC) may be reformulated to make it inclusive to accommodate any dissident voice, and rules amended to balance bureaucratic and civil society power in decision-making. The provision for the constitution of DFCC should be included in the Forest Rules 1995, rather than the local self governance act (at least until new governance structures are finalised through new constitution).

Action Point 4: Institute and strengthen service delivery system. In order to actively manage the forest sector, a huge need for the human resources encompassing technical, governance, conflict management, resource economics will arise. This can be addressed through constitution of an independent Forestry Academy that can certify and monitor professional expertise, channel donor and government supports, and undertake policy research in forest governance in Nepal.

Action Point 5: DFCC to make district level strategies. The reconstituted DFCC should then make strategies for their respective districts, when needed in collaboration

with other districts. A technical sub-committee within DFCC should be provided resources to map resources and communities in the district, and propose areas for different models of forest governance. A team of social scientists and governance specialists should also backstop the process, especially in ensuring the voice and perspectives of different subgroups within the district.

Action Point 6: Local government and local forest user groups to undertake actions and operational decisions of forest management (CF and CCF). The strategies prepared by the DFCC should be approved by district Development Council (and until next election, by the unanimous decision of DFCC itself).

Action Point 7: Monitoring, Review and Amendment. Once activities are implemented in the ground, the experience gained will inform the directions, strategies and future activities to be undertaken.

Action Point 8: Restructure the Ministry of Forest and Soil Conservation (MFSC) and its departments in line with federal structure of governance. The new state forestry organization should play the role of policy development co-ordination and program monitoring, while service delivery roles should be transferred to I/NGOs and private sector. A high level/political commission need to be constituted to restructure MFSC.

Table 1. Three Regimes of Forest Governance for Nepal Terai

Mode of Governance	Program Modality	Scale/Size	Management Leadership	Administrative Oversight/Monitoring	Costs Benefits/Sharing		
					Forest User Group	Local Governance	National/ State Government
1. Direct	Community Forestry (CF)	<500 ha <1000 HH	Forest User Groups	Local Government (VDC)	All costs borne by CFUGs; CFUGs use 95% of the revenues and forest benefits	5% tax for covering monitoring and redistributive justice within the local government area	Land tax Rs. 10-20/ha (depending on the quality of the forest land) Value Added Tax on forest products and service sold outside of CFUG: 15%
2. Electoral Participatory Democracy	Collaborative Community Forestry (CCF)	500 – 10000 ha 1000 – 20000 HHs	Elected Collaborative Forest Management Council (CFMC) forest manag from forest user groups	Local Government (DDC)	Costs borne on by CFMC/forest users; Revenues/benefits: uses 80%	10% tax for covering monitoring and redistributive justice within the local government area	Land tax Rs 10-30/ha (depending on the quality of forest land), 10% of revenues
3. Electoral Consultative Democracy	National Parks, Other Conservation Areas, and Forests of National and Global Significance	Relatively bigger areas	State government	Central government	40% of benefits/revenues	20% of benefits/revenues	Bears the costs of management; 40% of benefits

Table 1 summarizes specific aspects of the three modalities in terms of sharing benefits, costs and power among the citizen groups, local government and central/state government. The figures of tax and benefits sharing mentioned in the table are only indicative, and such figures are to be determined through the process of negotiation suggested in the roadmap.

ForestAction Nepal is a Kathmandu-based NGO specializing in participatory and policy oriented research on natural resources and livelihoods. It carries out participatory action research projects on diverse issues such as environmental governance, biodiversity conservation, forest management, protected areas, and rural livelihoods. It strives for linking research with the policy process through publications including the Journal of Forest and Livelihoods and wide ranging research papers, policy briefs, articles and books.

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