

Enabling forest users in Nepal to exercise their rights: Rethinking regulatory barriers to communities and smallholders earning their living from timber

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Abstract: Community forestry (CF) is seen as an important tool for facilitating sustainable forest management; however, barriers often greatly inhibit CF's ability to deliver on its full potential. The aim of this chapter is to examine one of the barriers to CF in Nepal. The barrier consists of regulations that greatly restrict a community's ability to make a living from timber in its forests. An analysis of existing policies was conducted to identify the regulatory requirements placed on communities. An expert workshop was held in Kathmandu, and fieldwork was conducted in two CF sites to examine the impact of the regulations on communities. The findings show that the regulations place a hefty burden not only on the communities but also on government officials tasked with enforcing them. Additionally, the regulations actually facilitate illegal behaviour by both deterring legal logging and encouraging payment of bribes. The findings highlight the need for revising the regulatory framework to further enable communities to sustainably manage their forests.

Keywords: Nepal, community forestry, regulations, regulatory barriers, livelihoods

16.1 Introduction

The history of Nepal's forest policy development can be categorised in three major phases – feudalised forestry (before 1957), centralised forestry (1957–1976), and decentralised forestry (1976–present) (e.g. Sinha 2011). The failure of centralised forestry to check forest degradation and deforestation and the high cost of protection and monitoring forced the government to move toward decentralised management. Decentralisation and community forestry (CF) in Nepal are founded on several policies and laws (e.g. National Forestry Plan 1976, the Decentralization Act 1982, the Master Plan for the Forestry Sector 1989, Forest Act 1993, Forest Regulation 1995, and CF Guidelines 2009). Along with these

legal instruments, community forestry (CF) policies and practices are also shaped by regular National CF Workshops (1987, 1993, 1998, 2004, 2008), Nepal's five-year development plans, and the strategies of donor agencies.

Nepal is arguably one of the leading lights for CF in Asia. Currently more than 1.6 million ha of forest are managed by 17 685 groups, involving roughly 35% of the country's population (DoF 2012). However, questions still exist on the true impact of CF in the country. Some query its economic, environmental (e.g. improvement in forest quality), and social (e.g. poverty alleviation) impacts, as demonstrated by the recent discussions on reforming the 1993 Forest Act, which is at the core of CF. Others, however, feel that CF in Nepal is working in an environment that

greatly restricts its ability to address fundamental issues at its core, including poverty reduction. The proposed amendment to the Forest Act in 2012 threw a dark shadow on CF in the country, proposing increased restrictions on timber harvesting and trade (the belief in some quarters is that the underlying motivation is to reassert government control over forests). The proposed amendment also reflects a different understanding of the aim of CF in Nepal.

Until the 1970s, forest-related income was the largest source of government revenue in Nepal, but currently its share of the national revenue is significantly reduced (Banjade et al. 2011, Sinha 2011)⁽¹⁾. Nevertheless, on a social level, the importance of timber and non-timber forest products (NTFPs) should not be understated: forests are an important component of livelihoods based on subsistence agriculture practiced by a large share of the Nepali population (Rayamaji et al. 2012). Forest resources are essential on many levels: as a source of fuel, livestock feed, construction material, agricultural implements, and raw material for wood-based industries (Gautam 2009). Furthermore, Pokharel (2009) found that timber plays a key role in the income of some community-forest user groups (CFUGs), with a huge opportunity for CFUGs to increase their income through the sale of timber. However, Chhetri et al. (2012a) and Kanel and Dahal (2008) found that income of CFUGs is greatly dependent on the size of CF and the volume of trees.

There has, however, been a lack of consistency with regard to priorities in forest management policies, which has influenced the commitment of communities and other stakeholders to CF (Sinha 2011). In addition, the policy framework has partly disregarded the timber economy and its potential. And while a number of foreign-aid supported projects are active in forestry, they do not work directly on the timber economy (Sinha 2011) but rather place emphasis on gender and social inclusion, non-timber forest products (NTFPs), and biodiversity (Banjade et al. 2011).

It is argued that Nepal's forests policies, laws, and institutions are largely protection-oriented (Hill 1999, Edmonds 2002, Bampton and Cammaert 2007). This is particularly the case when it comes to community forestry, where the regulatory and instrumental framework appears to deliberately discourage timber harvesting and trade (e.g. Bampton and Cammaert 2007, Paudel et al. 2010, Banjade et al. 2011),

favouring forest protection over rural development. The subsistence and protection orientation of CF is reflected in government reluctance to hand over the Terai forest in the southern lowlands of Nepal, which has valuable timber resources, and its strict regulatory control over timber harvesting and high royalties on timber rent (Sinha 2011). This is against a backdrop of harvesting levels that are significantly lower than their potential (MFSC 2009).

This scenario leads to the hypothesis that is the basis of this chapter: numerous regulations act as a prohibitive barrier that prevents local people from making a living from the forests in their vicinity. This chapter's premise is that SFM is based on forests being in the hands of nearby communities and that an enabling environment needs to be created to facilitate this, ensuring that they can sustainably use these forests to enhance their livelihoods.

The aim of this chapter is the identification and in-depth analysis of regulatory barriers in Nepal that affect communities who obtain their livelihoods from the sale of timber and timber products. Specifically, the study identifies existing formal (e.g. regulations) and informal (e.g. corruption, rent seeking) constraints to local communities exercising their rights regarding the commercialisation of timber, with resulting implications on community forest management. The work is based on an analysis of existing policies related to harvesting of timber and NTFPs, an expert workshop, and field data collected from two sites.

16.2 Material and methods

A literature review and an analysis of relevant policies and regulations were conducted to identify the regulatory environment in which the local communities and government officials operate. The legal and regulatory provisions of timber harvesting cover all areas of forest management, from creating the management plan to the sale of timber.

Following the analysis of existing policies, an experts' workshop was held in Kathmandu with 13 experts from the Department of Forests, Federation of Community Forestry Users Nepal (FECOFUN), and the Association of Timber Traders. The principal aims of the workshop, as well as the fieldwork, were to explore the implications of the regulatory framework in which the communities operate with regard to management and sale of timber resources.

Focus group discussions (FGDs) and semi-structured interviews with key stakeholders were held in two CFUGs – Jhimjhimia (192.65 ha of CF, 560 households) and Rajapani (141.50 ha, 315 households). A total of 12 stakeholders were interviewed, including forest officers and guards (government em-

⁽¹⁾ Currently about 4500 wood-based enterprises have invested more than Nepali Rupee (NPR) 12 billion (about USD 130 million) in these industries, providing employment to more than 150000 persons (personal communication with chairperson of Federation of Forest-Based Industry and Trade Nepal).

ployees), community leaders, traders, and contractors. In addition, five focus group discussions (FGDs) were organised, attended by 41 persons representing the executive committee of the CFUGs and members from both CFUGs.

16.3 Results

A brief examination of each step along the timber harvesting chain describes the regulatory requirements facing the communities, including implications in terms of cost and other resource requirements. The results presented below are based on the policy analysis, while the implications of barriers are based on the experts' workshop, FGDs, and semi-structured interviews.

16.3.1 Forest operation plan

With the intention of improving forest management, which is a common theme for all steps, the state requires each CFUG to prepare its own forest-management plan (community-forest operational plan – OP), in accordance with the Forest Act 1993 (Article 25) and Forest Regulations 1995 (Rule 28), to guide and regulate forest-management activities. While the CFUG is charged with preparing the OP, in practice it needs support from technicians, often from the District Forest Office (DFO).

The OP is the backbone of community forest management, which provides details of forest condition and suggests management interventions. The OP contains detailed information regarding 1) the forest itself, including history, area, map, type, aspects, species inventory, biodiversity, major forest products, growing stock, and annual growth rate; 2) management prescriptions, for example, management objectives, systems to be followed in areas such as selection, and improvement felling; and 3) annual harvesting schedule and level. To help communities prepare the OP, the government developed a community-forest inventory guideline (2004) that provides methodologically and statistically robust step-wise actions and procedural suggestions for CFUGs and relevant state officials such as forest technicians and rangers.

Implications: There is an acute shortage of resources (financial, human, and technical) to prepare the OP. An added challenge stems from insufficient scientific knowledge and ability of forest technicians to understand the dynamics of forest ecosystems and forest ecosystem-human interfaces needed to draft the OP. Therefore, in many cases the OP is incomplete. Ad-

ditionally, the non-participatory nature of the process restricts stakeholder consultation, resulting in the exclusion of local people's knowledge and the perspectives of minority groups, including women, in the OP.

The estimated costs for a CFUG to draft the OP includes human resources equivalent to 100 person days and a monetary cost of roughly 30 000 Nepali Rupee (NPR) (318USD⁽²⁾) depending on the forest area. If there were no extra regulatory burdens, the normal time required would be 60 person days (considering a forest ranger, one forest guard and two assistants from the CFUG working together).

16.3.2 Harvesting regulations

The OP is fundamental to the community's ability to harvest timber. There is no specific governmental policy measure to regulate timber harvesting in the CF. However, Forest Regulation 1995 (Rule 32) states that the CFUG can harvest timber in the CF on the basis of an approved OP. Therefore, the CFUGs that plan to harvest and sell the timber include the procedures and technical requirements for harvesting in the OP with the support from forest technicians.

Implications: The interviews, FGDs, and expert workshop again highlighted the numerous challenges facing communities in meeting the requirements for harvesting (as stipulated in the OP). One of the key challenges is related to the capacity of government officials as well as the local communities. An additional major constraint, as expressed by CFUG members, is the cost and time needed to complete the paperwork and submit it to the DFO – the office is often far from the community forest and the necessary staff person is frequently unavailable.

The FGD discussion in the Jhimjhimia CFUG reported paying NPR 7850 (83.2USD⁽²⁾) for technical assistance from the DFO. Additionally, costs for meeting all obligations, as set out in the regulations in terms of time, were calculated at 24 trips, totaling 49 person days of CFUG members, and a cost of NPR 20 000 (212USD) (the DFO is roughly 50 km from the CF).

Another important observation reported from both case studies is that the CFUGs are often allowed to harvest only dead, dying, and diseased trees from the CF. As one CFUG member noted, "Acquiring permits from the DFO for timber collection and selling is not easy. On top of that, instruction is issued for the collection of only dried and moribund trees, most of which appear to be of very low economic value."

⁽²⁾ Exchange rate of 1NPR to 0.01USD is used (June 2013)

The expert workshop also highlighted the uncertainty and unpredictability regarding timber harvesting. The government frequently changes its policies, usually through a ministerial-level decision, circulars, and orders. In line with the national policy discourses oriented towards promoting NTFFPs, environmental services, and, more recently, forest carbon, several key decisions have been geared towards regulating timber extraction in the past two decades. For example, the government banned tree felling for five years in 1999; imposed it again in mid-2010 in the Terai after media reporting of cases of illegal logging, and declared it again in 2011 as the year of a “timber holiday” in reference to the International Year of Forests. Similarly the government’s controversial declaration for the Chure forest region⁽³⁾ as a limited-use zone in 2010 restricted timber extraction only to dead and fallen trees (Banjade et al. 2011).

16.3.3 Processing of timber

Legally, the CFUGs can convert the logs into sawn timber before selling (Figure II 16.1). However, the establishment and operation of a sawmill requires prior approval from the DFO. The law (Forest Regulation 1995, Rule 32) states that sawmills should be located outside the forest (5 km away in Terai and 3 km away in other areas of the country). The logic behind this distance-based provision is to facilitate both control of illegal activities at the sawmills and monitoring. There are also numerous regulations regarding timber storage. The timber storage depots must have prior approval from the DFO (Guidelines 2002, Guide 10). Additionally regulations about timber grading have been recently introduced, based on quality, primarily to do with log diameter and percentage of extractable timber (GoN 2011).

Implications: The regulations on location of timber processing can be costly. The result is that the CFUG either sells the logs directly or uses hand-saws, negatively affecting income, quality of end product, and efficiency. The provisions related to sawmill establishment have been heavily criticised because of the impracticality of finding such locations. The research found that most sawmills are located in and around district headquarters, at the end of the road, or in the far south (near the Indian border). This has not only increased transportation costs in the timber value chain but also limited the opportunity to provide employment to local people. Additionally, it has reduced

the benefits to the CFUGs since they are severely limited in their ability to sell sawn timber.

The DFOs often restrict the CFUGs to only one depot, mainly to minimise the chances of fire hazards and thefts and the costs involved in managing more depots; the more depots the higher the protection costs, as well as the additional resources required for monitoring. A further justification is that it increases transparency among CFUG members, counteracting illegal sale of timber by CFUG committee members that had previously been claimed. However, it has created problems for the CFUGs in distributing and selling timber to users, largely due to high costs of transporting timber.

The grading system for timber is hampered by the lack of technology and tools for determining timber defects and size, with technicians using their observations to determine the quality and, therefore, the value. One of the timber traders stated that “the grading system...is not practical. It provides the space for manipulation by the technicians and delays the timber trading process.” On the other hand, the forest technicians argued that “grading has increased the workload of the technician unnecessarily and in principle it is the job of the market [i.e. the buyer] rather than the forest technician.” One of the forest officers justified the grading system as being in place to “regulate revenue and maximise the benefits from timber sale. However, it has added workload only.”

16.3.4 Transportation of timber

The transport contractor has to follow the CFUG’s OP, Forest Regulations 1995 (e.g. Rule 35 regarding seeking permission from the DFO) and Guideline 2002 (e.g. Guide 16 that requires a transport permit and stamp of approval from DFO) while transporting the timber from the CFUG depot to the market.

Implications: Transporting timber from the depot to sawmills has many hurdles and complexities. One of the most problematic issues was paying bribes to various formal and informal institutions and individuals. Local gangs (locally known as *chundre-mundre*) typically harass timber-laden vehicles, demanding pay-offs. Forest officials and other government staff may also do spot inspections along the route. Given the subjectivity and inaccuracies in grading timber quality, there is a high probability for discrepancy between the formal documentation and the actual timber load, causing the buyer to shoulder any associated costs/fines or be charged with attempting to circumvent the government timber tax. To avoid these hassles, many timber buyers resort to paying-off check post officials beforehand.

A timber entrepreneur provides an example of

⁽³⁾ The highly fragile hill range of Nepal forming the northern border of the Terai, an area of plains stretching from the east to the west of Nepal.



Figure II 16.1 The Chaubas-Bhumlu sawmill is the first community operated timber processing unit in Nepal. It was established under the Nepal Australia Forestry Project and provides a good example of attempts to commercialise timber production from pine plantations which had been established by local communities since 1975. However, research on the value chain of this enterprise highlights the effects of regulatory barriers on operational difficulties and subsequent economic performance of this mill (Timsina 2005). ©Smriti Mallapaty

the frustration with the regulations regarding timber transportation and trading: “It is very difficult to gather all documents required to buy and transport the timber both from government-managed and community forests. It requires visiting the range post and district forest office more than 10 times for a single purchase....Also I was not sure whether forestry measurements are accurate or the forest technician manipulated the measurements. Each technician gives different results of measurements of the same quantity of timber. I need to pay them informally for their technical support, facilitation, and monitoring and measurement. In the last few years, there are more hurdles created by *chundre-mundre* as they stop the loaded vehicle and ask for money...donations. Traders also need to distribute money at each police and forest check post. My estimation is that we spend about 30% of the timber price on such informal malpractices. In my view, timber trade can only be carried out by those who have muscle and money.”

16.3.5 Selling of timber

CFUGs are legally allowed to sell timber (quantity specified in the OP) both within and outside the CFUG in accordance with their OP. When selling timber, CFUGs must give first priority to the group members, then outside the CFUG (within the district), and then what remains can be sold outside the district.

Timber sold to members – For selling within the CFUG, once the timber is in the depot, the CFUG informs the DFO by submitting details of the harvested timber and gets consent to sell the timber to its members. Once the DFO gives its consent, the executive committee posts a notice in a public place or through other suitable means to inform users so they can place their orders.

In recent years, CFUGs have offered special or differentiated prices according to a well-being ranking of its members. For example, the Jhimjhimia CFUG has three categories of users, namely A (wealthier), B (medium), and C (poorer). The rate of timber has been fixed at NPR 250 (2.6USD), 200 (2.1USD) and 150 (1.6USD) per ft^3 ($1\text{m}^3 = 35.3\text{ft}^3/1\text{ft}^3 = 0.028\text{m}^3$)

for category A, B, and C respectively. Some CFUGs provide a quantity of timber to the extremely poor members free of cost (as stated in the OP of Jhimjhimia CFUG). This differentiation was introduced to address the issue that internal timber sales were mostly benefiting wealthier members of the CFUGs.

Once the timber is sold, a monitoring committee monitors whether the users have used timber for their own and stated purposes. The CFUGs also make provisions to control the misuse of timber. For instance, both of the CFUGs studied stipulated that users cannot take the timber to the sawmill for sawing, resell the timber, and transport it outside the group boundary.

Timber sold within the district – The CFUG should submit the record of distributed timber to CFUG members and get consent from the DFO to sell the remaining timber outside the group. FGD participants emphasised that it is not easy to get such permission. The CFUG is required to submit requests to the DFO for approval, with documents such as the CFUG executive committee decision, record of timber to be sold, and the recommendation of the appropriate office (Range Post and Ilaka Forest Office and then DFO). Once the CFUG gets permission, it publically posts seven days' notice with the description of timber to be sold. The Interested users from the same district can buy timber from the CFUG at the government rate. In such cases, CFUGs put conditions that prove the timber purchasers are citizens of the district and require a recommendation letter from the DFO and/or the Village Development Committee with the application. The fieldwork found that very few people from the district bought timber despite the huge timber demand in the district. For example, only seven people bought timber from Jhimjhimia CF in 2011. The reasons include, first, that the notice is too short and that most people do not know about it and second, that it is hard to prepare and submit the necessary documents in time.

Timber sale outside the district – If CFUGs have surplus timber after selling to members and within the district, they can sell outside the district through a tender process followed in accordance to the government's Financial Procedures Act 1999, which is elaborated in the Forest Product (timber/fuelwood) Collection and Sale/Distribution Guideline – 2002. For this, CFUGs need to submit a record of timber sold outside the group (within the district) and get consent from the DFO. CFUGs submit an application to DFO for such permission, including relevant documents (e.g. decision by the executive committee, description of the timber/logs to be sold, and the recommendation of the range post and Ilaka forest office). Once the CFUG gets permission from the DFO to sell the timber, it puts an announcement in local newspapers with a description of the timber to be sold (21 days after announcement). The firms

(contractors, sawmills, furniture factories) who have a license can collect an auction form from the office of the respective CFUG. The firms are required to submit a copy of the license, proof of tax clearance, proof of deposit of an amount equivalent to 10% of total minimum tender price set by the CFUG, and the completed form mentioning the amount of timber the firm wishes to purchase.

Implications: The policy intent, legal framework, and institutional practice clearly favour subsistence use of forest products within the group. Despite these intents, the demand for exhaustive documents and detailed procedure has substantially increased the transaction cost of the communities even for household use of timber. However, the procedural hassles and demand for detailed documents have particularly discouraged CFUGs to sell timber outside of the group, from which they could to increase the CFUG fund size to be able to meet the demand for investment in community development activities, including road construction, support to education and health facilities, etc. in the village.

The sale of timber outside the district is a complex and difficult process. First, the CFUGs are compelled to sell the timber at a lower price because the contractors form informal syndicates in the tender process, with coercion sometimes being used. Second, there is uncertainty that the contractor will pay the tendered price of timber and collect timber on time. Often contractors do not collect timber and CFUGs have to go through a re-tendering process. Third, a representative of the local government and DFO office are required to be present during the time of tender in order to increase transparency and legitimacy. The CFUG has to pay for their participation. All of these processes increase CFUG transaction costs and make the timber-selling process tedious.

The cost to the CFUG for selling the timber is estimated at 18 person days and costs of NPR 12000 (127USD). This includes payment to invitees during the tender process and to the local newspaper for publishing the notice.

Table II 16.1 presents a breakdown of the costs along the timber value for sal (*Shorea robusta*), a highly valued timber species, for the Jhimjhimia CFUG. In this case the community gets NPR 1200 (12.7USD) per cubic feet for the auction of their standing timber, which is sold in Kathmandu at a price of NPR 4300–4500 per cubic feet (sawn timber) (USD 1610.1–1683.8 per m³). The difference in value reflects various costs, as well as the profit of the middlemen. The income from the sale of standing timber must cover the costs of forest management as well as fees and costs for meeting regulations prior to harvesting (e.g. approval of management plan). If the regulations were reformed, it would likely reduce the informal cost and costs along the value chain. The

Table II 16.1 Costs along timber value chain for sal (*Shorea robusta*) for the Jhimjhimia (CFUG).*

Different cost elements along timber value chain		Cost (NPR per ft ³)	Cost (USD per m ³)
Timber auction by CFUG		1200	448.31
Costs borne by middleman	Income tax	204	77.66
	Value added tax (VAT)	156	56.48
	Forest Development Fund	5	1.765
	Cost of harvesting, logging, and depot	165	61.775
	Transportation	100	38.83
	Load/unload	50	17.65
	'Informal' costs (payment to local gangs, officials)	250	91.78
	Conversion loss 40% (most of which is sold as firewood)	1134	423.60
	Total costs along value chain (total) borne by middleman	3264	1217.9
Price of sawn timber in Kathmandu		4300–4500	1610.1–1683.8
Profit of middleman		1036–1236	392.2–465.9

* Jhimjhimia is roughly 300 km from Kathmandu by highway.

high price is not only due to costs of meeting the legal requirements but also to rent-seeking behaviour of officials and local gangs and disproportionate profits sought by traders (induced by uncertainty of price and timber supply).

16.4 Discussion

The aim of this chapter is to identify the regulatory barriers to communities in Nepal who obtain their livelihoods from the sale of timber and timber products. This is in the context of the positive outcomes of community forestry in Nepal, such as rehabilitation of degraded forests (Yadav et al. 2003, Gautam et al. 2003), positive impacts on livelihoods (Kanel and Niraula 2004), and strengthened local institutions and democratic resources governance (Pokharel et al. 2007). Set against this a regulatory environment that hinders progress towards SFM.

The conclusions from the fieldwork and experts' workshop were that the costs are more discouraging than prohibitive. The relatively high cost of harvesting and sale has discouraged groups from selling timber in the market, and consequently, they are selling it within the group for a lower price. This has ultimately reduced CFUG timber revenue, with impacts

on, for example, poverty alleviation. However, one must also consider the positive social implications of selling the timber within the community at a reduced price, including making it available for free to the poorest members of the community. Despite this discouragement, in 2009–2010 CF accounted for nearly 27% of timber sold within the country (outside CFUGs), with CFUGs paying USD 0.77 million in taxes and USD 0.94 million in VAT on the sales (DoF 2010). The feeling from the workshop and fieldwork was that this is only a small share of CF's potential on a national level and, more importantly, on a local level.

Generally speaking, forest regulations exist to ensure that forests and forest resources are managed in a sustainable manner. The following two quotes from the FGD highlight the different interpretations of this in the context of CF in Nepal.

A forest officer: "If all the required procedures for timber harvesting and sale are not followed strictly by the CFUGs, there might be negligence on the part of CFUG in harvesting the timber and therefore overharvesting may occur. Similarly, there would be a higher chance of misuse of timber and the financial resources gained from timber sale by a few CFUG leaders. So it is necessary to follow the regulatory processes with strong monitoring."

Chairperson of one of the CFUGs studied: *“The lengthy and complex regulatory provisions and bureaucratic process, particularly related to the timber harvesting, are control-oriented and it has been too costly (financially and psychologically) for us. It should be revised to be supportive and facilitative and the processes also need to be shortened and simplified. Our demand is simply to allow us to work as per the approved OP with very minimal bureaucratic monitoring. Also, we should be allowed to get the required timber-related technical support from the private sector when we do not get these from DFO.”*

An example of the potential that forests in Nepal have is provided by the research of Chand and Ghimire (2007) in the Hile Jaljale CFUG (242 households, 118 ha of forests) where timber valued at approximately USD 200 000 can be sustainably harvested over a five-year period (an eightfold increase on the CFUG’s earnings in the previous four years). Chand and Ghimire (2007) concluded that when CF has 1) supportive legal and policy framework, 2) clear forest management objectives, 3) appropriate capacity of local community and DFO, and 4) appropriate forest resources, then it is able to deliver on its potential, conclusions mirrored in the workshop and fieldwork. According to Oli (2003), the timber product market in Nepal is highly inefficient as a result of the low stumpage value, compounded by high transaction costs. Additional issues are related to capacity of the communities to take advantage of the resources at hand (Rai 2010). The CFUGs’ lack financial resources, equipment/technology, and skills to meet regulations and access the market (Macqueen 2010). Therefore it is difficult for communities to meet legal requirements for formulating plans for management, harvesting, transporting, processing, and selling timber. The situation is further compounded by the poor capacity of government officials to implement the regulations, thus creating additional costs for the local communities to harvest timber.

The government’s attempt to make revenue through taxation and fees poses additional constraints to CFUGs (Springate-Baginski and Blaikie 2003), with implications further down the supply chain, such as for sawmill owners (Kelly and Aryal 2007). In China, for example, the state has introduced various incentives and reduced the tax burden on farmers to facilitate an increase in their incomes, under the concept that the social and environmental benefits override the benefits from direct government income (Guangcui et al. 2012). A policy analysis by Banjade and colleagues (2011) found that forest policy discourses in Nepal have been dominated by (in descending order) issues of biodiversity, environmental services, NTFPs, soil conservation, protected areas, leasehold forestry, and governance (including gender mainstreaming), with little coverage dedicated to

timber-related issues. This is reflected by the fact that forest management received only 3% of the Ministry of Forest and Soil Conservation’s expenditures in the fiscal year 2009–2010 (Banjade et al. 2011). On the other hand, NTFPs have been presented as the main economic resource from the forests. Despite their relatively small economic contribution, NTFPs have been greatly emphasized in policy documents, development plans, political manifestos, and everyday public discourse as compared to timber (Banjade et al. 2011). A media analysis of news coverage in 2010 showed that timber-related issues have a high level of negative coverage in national news (Banjade et al. 2011, Khatri et al. 2012). This negative coverage has been used to rationalise even tighter regulatory and institutional requirements on communities for harvesting and selling timber.

Although CF is seen to play a key role in meeting Millennium Development Goals (e.g. Upadhyay 2005, Bampton and Cammaert 2007), this research shows that CF is not meeting its potential. It is ironic that despite the established evidence that timber is the primary forest product that can substantially contribute to CFUG income, the regulatory and institutional barriers around timber harvesting and sale largely discourage timber management and reinforce existing wealth and caste-based social inequities (Chhetri et al. 2012b). These barriers and the resulting high transaction costs limit the potential of timber in achieving Millennium Development Goals. The challenge grows with the informal barriers such as corruption and elite capture that are also a serious issue in CF in Nepal (e.g. Iversen et al. 2006, Thoms 2008), as well as low prioritisation given to poverty alleviation in some CFUGs. For example, in Rupandehi district, where the two CFUGs studied in this work are located, CFUGs spent 3.28% of their income on targeted poverty-alleviation programs (Bampton and Cammaert 2007), though indirect benefits such as funds allocated for community projects should be acknowledged. Nevertheless, research by Pandit (2012) found that timber’s contribution to poverty reduction is less than that of NTFPs, with the benefit-sharing mechanisms in CFUGs tending to favour the richer over the poorer members of the community.

Nepal is a member of both the UN-REDD Programme (since October 2009) and the Forest Carbon Partnership Facility. The potential of receiving monetary compensation for carbon sequestration in community forests will increase the value of these forests. There is strong concern that the development of REDD+ (Reducing Emissions from Deforestation and Forest Degradation and conservation, sustainable management of forests, and enhancement of forest carbon stocks) will result in recentralisation of forest decision-making and may impose further regulations, limiting communities’ options for timber harvesting (RECOFTC 2011, Patel et al. 2013).

FLEGT (Forest Law Enforcement, Governance, and Trade) elicits the same concern (Wiersum and Elands 2012).

16.5 Conclusions and recommendations

The actions of a state should benefit its citizens; however, too often the state's powers fail to achieve the beneficial policy objectives for the public and the outcomes that they seek to incentivize through regulations. A common problem with regulations is the tendency to assume that more detailed and prescriptive regulations lead to better outcomes than regulations that leave too much discretion in the hands of both the local regulators and those who are subject to regulation. However, experiences in the forestry sector have indicated that regulations often lead to opposite outcomes than those desired, and, conversely, significantly disadvantage those most dependent upon (and interested in) the sustainable management of forests. The costs in terms of time and money for communities and government officials to meet the regulations and the issue of capacity are significant problems that need to be addressed.

Recommendations

The starting point should be investment in the capacity of the communities as well as relevant government officials on the ground – for example, to make certain that the OPs are developed that ensure the sustainability of forest management, including appropriate business plans. This should be done regardless of whether the regulations are revised.

CF policies and legal provisions must more explicitly embrace the wider policy priority of the government of Nepal to reduce poverty through forest management. The keystone of SFM is that forests be utilised for the benefit of those living in and around them and not closed off. This must be based on ensuring that the policy formulation process is inclusive and transparent, thereby helping to develop regulations that are fit for purpose and are not cumbersome or prohibitively expensive. This includes revisiting regulations from the formulation of the OP (Forest Act 1993: Article 25; Forest Regulations 1995: Rule 28, and addressing the challenges for meeting the requirements set out in the regulations) all the way to the selling of timber (Forest Product Collection and Sale/Distribution Guideline, 2002, and the impacts this has economically and socially for the community). The revision of these regulations should be driven by the understanding that the regulatory

provisions must be simplified, moving away from using regulations (i.e. prescriptive regulations) as a method to achieve SFM and focus more on appropriate incentives (i.e. outcome-based regulations) that encourage communities and smallholders to sustainably manage the forests.

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