

# Towards a Just REDD+: Transforming Forest Conflicts in Nepal

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## Can Nepal have "just" REDD+?

Nepal has made significant progress in preparing for Reducing Emissions from Deforestation and Forest Degradation (REDD+). This demonstrates the country's commitment to increasing carbon stocks and sustainably managing its forests. For example, Nepal's Readiness Package<sup>1</sup> has been recently endorsed by the World Bank's Forest Carbon Partnership Facility and Nepal's REDD Implementation Centre (REDD-IC) within the Ministry of Forests and Soil Conservation that oversees REDD+ development and implementation in the country. In turn, REDD-IC has developed an Emissions Reduction Program Document (ERPD) for the country's Terai Arc Landscape (TAL), with a plan to finalize an emissions reduction purchase agreement (ERPA) in 2017.

Concurrent to these policy developments, REDD+ pilot projects and 'regular' forest sector policy implementation have revealed various degrees and dimensions of conflicts amid such efforts and concerned actors.<sup>2</sup> Achieving a just REDD+ will require not only addressing and anticipating existing and emerging conflicts, but also addressing procedural and distributional injustices as an equally important goal of REDD+. This would involve recognizing local and indigenous rights and world views, ensuring the participation of stakeholders in REDD+ processes, and sharing REDD+ benefits (e.g. training efforts, financial revenues) fairly within and across communities.

However, ongoing REDD+ preparedness efforts avoid and postpone difficult aspects of REDD+ and forestry policy development, including the recognition of rights and entitlements of indigenous peoples and local communities; stakeholder participation in policy and program activities; and the distribution of benefits, access and control of forest resources.<sup>3</sup> These should be brought to the fore and comprehensively addressed to achieve both equitable and effective forest governance and REDD+ implementation. Transforming areas of conflict should be treated as important as other technical elements of establishing REDD+.



This policy brief highlights some enduring forest conflicts in Nepal - and the challenges and opportunities for transforming them. Transformation here is taken to mean addressing the underlying

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## Main Messages

1. Since early 2017, Nepal's government is preparing to engage in emission reduction purchase agreements (ERPA).
2. REDD+ preparedness activities conducted over the past few years have revealed the persistence of grievances and conflicts over forest access and use.
3. Ongoing REDD+ preparedness activities avoid and postpone the "troubles" that conflicts pose to main participants. Accordingly, many issues remain unsolved.
4. This policy brief highlights prominent conflicts in forest governance and REDD+ and identifies main opportunities for facilitating a reform toward addressing the conflicts.
5. It suggests the need for improving forest tenure and achieving greater clarity and coherence on forest and land use policies and benefit distribution.

causes and drivers of conflicts in a manner that is fair and equitable to relevant actors, particularly the local communities, indigenous peoples, Dalits, women users, and poor and other marginalized groups. Addressing the underlying causes and drivers of conflict can serve to transform a currently unfavorable situation into a scenario of positive social change.

## Forest conflict vis-à-vis environmental justice

We identify below the main areas of contention and conflict in Nepal's REDD+ implementation to date. These have been identified in relation to the three dimensions of environmental justice—recognition, participation and distribution.

### Recognition issues

One of the dimensions of environmental justice concerns the recognition of the cultures, knowledge, skills and livelihoods of indigenous people and local communities, as well as their constitutive social groups. Recognition also concerns the rights of these people and groups to participate in crafting the rules and policies that affect them. Local community leaders feel that many government regulations/guidelines are not suited to local contexts and they have been ignored to date. Indigenous groups, drawing upon Nepal's commitments to multilateral environmental agreements and human rights frameworks, hold claims over lands, territories and natural resources and demand for the recognition of their customary laws, practices, knowledge, skills and technology (Satyal, 2017; NEFIN, 2016). Similarly, the views and concerns of indigenous peoples and local communities are not properly addressed and incorporated into the design, policy and programmes relating to REDD+ (Sherpa, 2013). While REDD+ policy process engages the representatives from indigenous people and local communities, they complain in the course of consultations on ERPD development—that their voice is not properly addressed.<sup>4</sup>

Nepal's REDD+ policy framework remains problematic in ensuring the recognition of the rights of indigenous peoples as the country has adopted the United Nations Declaration on Rights of Indigenous Peoples (UNDRIP) and ratified the International Labour Organization Convention 169 (ILO-169). Also, there is a gap between national policy processes and REDD+ policy dissemination and consultation at local level, which is critically important to ensure that information is shared, understood and re-crafted or challenged from the bottom-up. State-centric policies and laws are not yet nuanced enough to accommodate the expectations from indigenous peoples and local communities. As a result, these communities often compensate by operating outside the remit of formal law and policy processes, which promotes widespread informality in forest governance.

### Participation Issues

Nepal's REDD+ design and implementation have been riddled with procedural conflicts. REDD+ related consultations often have been hastily organized-by holding just a brief consultation in an entire district within the TAL area-and referred to English language documents, which were not well understood by local constituencies. Many civil society

organizations participating in local, regional or national consultations have complained that they were not effectively involved in decision-making (Bastakoti and Davidsen, 2017). The Nepalese Federation of Indigenous Nationalities (NEFIN) vigorously demands the implementation of a strict Free, Prior and Informed Consent protocol, but government officials and groups involved in ERPD development suggest that consent of all communities is unfeasible to achieve-and this confounds with the problem of whose consent counts.<sup>5</sup> Additionally, the effective participation of women and disadvantaged groups in local consultations is constrained by community-level governance: while community forestry policy guidelines prescribe significant women representation (50%) in user groups and related meetings, this become 'paper participation' too frequently. The same occurs with the participation of indigenous and Dalit populations at village level: there are power relations within communities that constrain the effective participation of the most disadvantaged social groups.

### Distribution issues

Distributional justice in REDD+ concerns the share of rights regarding the control and access of forestland, forest resources and carbon

**Table 1: Main sources of forest and REDD+ related conflict in Nepal**

Dimension of Justice	Areas of Contention/ Conflict	Conflict Issues/ Description
<i>Recognition</i>	Local knowledge versus outside expert knowledge	<ul style="list-style-type: none"> <li>Indigenous peoples and local communities demand for the recognition of their knowledge, skills and livelihoods</li> </ul>
	Self-determination (rules, priorities and preference) of local people versus expert prescription	<ul style="list-style-type: none"> <li>Current forestry laws and guidelines are considered to be too prescriptive and state-centric</li> <li>Policy and laws not addressing the indigenous peoples' demands for land, territories and natural resources</li> </ul>
<i>Participation</i>	Participation in REDD+ structures	<ul style="list-style-type: none"> <li>Multi-stakeholder bodies are generally a norm, but certain constituencies feel excluded (e.g. Dalits in REDD+ Working Group)</li> <li>Civil society and grassroots stakeholders feel "they are listened to but not heard"</li> </ul>
	Actors - indigenous or local people	<ul style="list-style-type: none"> <li>Local communities and indigenous people are often considered mutually exclusive, but they are different and heterogenous entities</li> </ul>
	Free, prior and informed consent (FPIC)	<ul style="list-style-type: none"> <li>Despite demand from indigenous groups, no clear commitment to FPIC</li> <li>No clear guidelines on carrying out FPIC</li> <li>Government agencies and ERPD developers indicate "full" FPIC will be infeasible, thus seem to use it only for 'information' purpose</li> </ul>
	Leadership and representation	<ul style="list-style-type: none"> <li>Main concerns are on who represents whom and how</li> <li>When REDD+ funds are seen as forthcoming, women leaders are likely to be replaced by men (perverse incentive to women leadership)</li> <li>Contentions on leadership positions at the community, village, district and national levels</li> </ul>
	Quality of participation - language of documents, time span of consultation	<ul style="list-style-type: none"> <li>Local communities participate in consultations without sufficient understanding about REDD+ project and local consent</li> <li>Consultation is not comprehensive, often involves one-way flow of information and is limited to district headquarters</li> </ul>
<i>Distribution</i>	Forest boundary at the local level	<ul style="list-style-type: none"> <li>Forest policy privileges 'participatory forest management', with lesser commitment to and uncertainty on community rights</li> <li>Risk of restrictions on forest rights - including through declaration of protected area, conservation area, etc.</li> <li>Government is less willing to hand over state-controlled forest to local community and reduced commitment to post-handover support</li> </ul>
	Forest tenure, jurisdictions and control	<ul style="list-style-type: none"> <li>Continuing conflict between communities on forest boundary</li> </ul>
	Carbon rights and carbon credit transfer rights	<ul style="list-style-type: none"> <li>Uncertainty of carbon ownership since there is uncertainty of forest tenure</li> </ul>
	Allocation of community level funds	<ul style="list-style-type: none"> <li>Funds meant for women, Dalit and indigenous groups are often used for general purposes (e.g. village road), rather than to address specific needs of those targeted communities</li> <li>No effective mechanism for monitoring and compliance</li> <li>Divergence of allocation formula in community forestry guideline and REDD-IC prescription</li> </ul>

stocks, as well as of any additional benefits expected from REDD+, e.g. payments, training and knowledge. Nepal's forest policy and legislation has lingering uncertainty about forest tenure and allocation of rights of access and control (Paudel et al., 2015). For example, in the region of the Terai, demands by distant users who live away from forest in the southern Terai is often a justification for denying local community rights (Dhungana et al., 2017). Country-wide, denial of community rights also occurs through declaration of national parks and reserves where more restrictive property regimes prevail. Tenure uncertainty remained after the adoption of the country's Forest Policy (MFSC, 2014a), which endorses a series of management models with unclear tenure security for the community. The persistence of these issues (forest tenure, allocation of rights of access and control issues) has already affected and will continue to confound carbon ownership and benefit sharing in REDD+. Needless to say, in the above described context, allocating funds received for REDD+ implementation is likely to prove challenging. Through the community forestry guidelines, the Department of Forests prescribes that community forest user groups (CFUGs) should allocate 35% of the income to "targeted" communities comprising women, Dalits, indigenous groups and the poor (MFSC, 2014b), but the REDD-IC has proposed a very different allocation scheme. This scheme specifies that the CFUGs-who will receive the REDD+ funds as "forest managers"-should allocate 50% of the REDD+ funds for forest management, 10% for the poor, 10% for the forest dependent, 10% for indigenous people, 10% for women and 10% for monitoring and administration costs (REDD-IC, 2016a).<sup>6</sup> These two schemes from the Department of Forests and REDD-IC have different categories of 'beneficiaries' on one hand and different ratios of entitlements on the other. Local CFUG leaders suggest that such guidance from above is too prescriptive to suit to local needs, as formulaic allocations do not necessarily match local needs and expectations.<sup>7</sup> Accordingly, many CFUGs silently concede that they fix the accounts to demonstrate compliance to forestry authorities. The practice of monitoring of CFUGs' fund allocations is not effective either, as forestry officials point to the lack of human resources to do so. There is thus a need to harmonize allocation schemes and offer flexibility and autonomy to the forest users.

## Opportunities for addressing conflicts in forest governance and REDD+

The persistence of the above conflicts (Table 1) related to REDD+ design and forest governance point to the challenge of realizing a "just" REDD+ in Nepal. Many of these conflicts have been for long present in the country's forestry sector, while some have become more pronounced with the adoption and unfolding of REDD+ policy. The specific issues pertaining to the three dimensions of environmental justice identified above are not by themselves novel. The problem lies in rallying broad support to hear these concerns and achieve a momentum in favor of a profound forest governance reform. Below we outline some of the main opportunities that Nepal could harness for this purpose:

- 1. Favorable policy commitments at government level.** Recent political changes in Nepal and stakeholder pressures in the forestry sector have created a supportive environment for social justice. Several policy and legal measures over the past decade have moved toward a more inclusive policy. The recent 14<sup>th</sup> Periodic Plan of Nepal (NPC, 2016) adopts the goal of graduating into a middle-income country through a welfare state with social justice. Forest policy also indicates the intent of adopting reform measures on tenure and addressing issues of the poor, indigenous and local communities.
- 2. Safeguards and other international commitments.** Nepal has signed up to ILO-169, UNDRIP as well as several other

environmental and human rights agreements. These provide a basis for policy development and related advocacy on community rights.

- 3. Specific instruments under REDD+.** The development of REDD+ itself provides a number of instruments and mechanisms for addressing the causes of conflicts. For instance, the grievance redressal mechanism proposed as part of the REDD+ Readiness has the potential to serve as an important platform to resolve conflict issues (REDD-IC, 2015). Similarly, the REDD+ safeguards information system provides an opportunity to review and refine implementation of safeguards policies. There is a need to harmonize these instruments with country-relevant policies, laws and guidelines, and mainstream their principles throughout existing institutions.
- 4. Multi-stakeholder forums.** Nepal's forestry sector deliberations, especially concerning REDD+, occur in multi stakeholder settings, and this has largely been institutionalized from national to local levels. The government has for example established District Forest Sector Coordination Committees to have multi-stakeholder forums at district level (MFSC, 2012). These forums provide opportunities for the government to demonstrate that community concerns are heard and matter, ensuring that follow-up conversations are held to discuss how best to incorporate local concerns into policy implementation.
- 5. Strong civil society in forestry sector.** The forestry sector in Nepal has strong civil institutions-federations, networks and like-minded NGOs. The mobilization of this capacity has helped to articulate conflict issues, engage in dialogue and advocate with the government and other actors.
- 6. Significant local capacity for community facilitation.** The community forestry program in Nepal has nurtured substantial local capacity (of trained facilitators) to facilitate community processes. This capacity remains an asset on facilitating local processes for addressing forest governance and REDD+ conflicts.



## Conclusion and ways forward

Achieving just REDD+ in Nepal would require resolving or transforming current conflict in the country's forest governance and REDD+ implementation processes. This would require taking advantage of the many opportunities that the country has in terms of existing and new policy frameworks, as well as of a strong and well organized civil society. Additionally, it would require committed action in at least six domains:

- 1. A reform of the forestry sector focusing on tenure issues.** The government and international donors should conduct a comprehensive forestry sector policy reform that primarily focuses on forest and land tenure security, including of carbon assets, specifying clear rights, roles and accountability for stakeholders.
- 2. Harmonization of land-use and forest policies.** The government should initiate a process of reviewing discrepancies between existing policies, institutions and instruments including those recommended in the studies carried out as part of REDD+ readiness. These, for instance, concern benefit sharing, translating safeguards principles into operational procedures, and having common institutional structure for REDD+ and existing forestry institutions.

3. **Critical information and knowledge resources.** For effective participation, critical information and reports should be in Nepali and/or other local languages to ensure that all stakeholders can participate effectively in discussions at different governance scales. Resources should be made available to improve people's knowledge and ability, as well as willingness to participate.
4. **Develop workable monitoring systems for benefit distribution at the community level.** The government should further refine and develop capacity to monitor community-level benefit sharing.
5. **Capacity for facilitating social dialogue and conflict**

**transformation.** The government and donors should develop the capacity of government officials, NGO personnel and community leaders on social negotiations and dialogues for conflict transformation.

6. **Build upon existing analysis.** REDD-IC carried out a number of diagnostic studies as part of Nepal's REDD+ Readiness activities. These included studies on feedback and grievance redressal mechanisms, benefit sharing, policy and measures and carbon ownership to provide specific indications on reform needs. These do not guide concrete action, but have significant value in identifying issues that need to be addressed.

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## Endnotes

- <sup>1</sup> The package is a collection of documents required by the World Bank's Forest Carbon Partnership Facility and is prepared at the end of the readiness phase.
- <sup>2</sup> For example, in a two-day consultation held by the ERPD team in December 2016, a group representing 12 organizations from amongst indigenous and local communities submitted a memorandum to the REDD-IC highlighting the need to address forest-related conflicts and ensure local people's participation in decision-making in the ERPD process and implementation.
- <sup>3</sup> Conclusions drawn from stakeholder engagement workshop, August 2016.
- <sup>4</sup> Stakeholder engagement workshop, August 2016
- <sup>5</sup> Based on the discussions in a consultation meeting organized by REDD IC and WWF Nepal, Kathmandu, 2016.
- <sup>6</sup> This allocation scheme also applies to all management regimes, including for CFUGs under community forestry.
- <sup>7</sup> Field interviews, 2015-2016

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