

A Brief Report on
EnLiFT Policy Lab
(on Forest Bill 2019)

Indreni Foodland, Baneshwor, Kathmandu

28 March 2019

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Introduction

This report provides a brief account of an EnLiFT2 Policy Lab (EPL) that was organized on 28th March 2019. This EPL was different from others conducted previously under the phase 1 of this project (EnLiFT1), in that it was organized as an opportunistic event to engage with the unfolding policy cycle around the legislation development (rather than waiting for research evidence to come from the field). In addition to presenting an analysis of Forest Bill and comparing the Bill with the Forest Act 1993, the EPL also provided an opportunity to capture perspectives of policy-makers, leaders of civil society, and experts.

Background

Formally started over four decades ago in the aftermath of Himalayan degradation crisis, Nepal's community forestry system has truly come of age. With over 22,000 community forestry user groups (CFUGs) across the country, and with over 2 million families participating directly, this system has become the country's largest platform of civic engagement as well as a solid foundation for local democracy. This system is also positively correlated with the increase in forest cover to 44%, as some studies and remote sensing data show. This system is facing some challenges as the government is trying to introduce a new forest law as part of the wider legislative reform required by the new constitution.

Two important questions that now arise are - how is this time-tested and flagship development success of Nepal is being impacted by a proposed change in the forestry legislation? And how can the community forestry system be adapted to the federal governance context of the country?

EnLiFT2 project envisaged to have an ongoing engagement with policy and legal reform processes in order to catch up with the dynamics of forest policy and practices, and provide timely expert inputs through rigorous research, reflection and analysis.

In this case, before organizing EPL as a deliberative forum, a group of researchers and policy analysts undertook a thorough analysis of the New Forest Bill 2019 and compared that with the provisions of the existing Forest Act 1993. This EPL also benefitted from the initial rounds of field works conducted under EnLiFT2, which provided some qualitative evidence on the expectations and likely impact of the legislative changes on the ground.

As outlined in the methodology (Ojha et al., 2014), an EPL is a deliberative forum of researchers/analysts, policy makers and professionals aimed at reflection on ongoing policy issues and gaps through thorough analysis of the issues and alternatives, so that the policy makers can assess the various policy options.

Objectives

1. Discuss how the new Forest Bill aims to regulate community forestry
2. Discuss possible impact of the Bill on community forestry
3. Identify areas for improved community forestry regulation in Nepal

EPL proceedings

After introducing the purpose of the EPL forum by Dr Naya Sharma Paudel, Dr Mani Ram Banjade presented the analysis on behalf of the researchers. Following the presentation, open discussion was moderated by Dr Hemant Ojha along the lines of whether the new Bill has expanded the rights of local communities over forests, what new contents have been added on promoting forest-based trade and entrepreneurship, and to what extent the Bill has endorse the true spirit of federalism.

Key messages from the EPL:

1. FECOFUN considers the new Forest Bill is proposing arrangements to curtail some of the basic community rights ensured by the Forest Act 1993.
2. Senior forest officials believe that the Bill is a balanced product amidst a highly contested policy making situation in the context of federalism, especially to avoid unnecessary regulatory control over CFUG from multiple levels of governments now created in the federal Nepal.
3. Research groups highlighted that evidence-based policy making opportunities were not adequately capitalized in drafting the new Bill as several new provisions are not supported by evidences or go against the established body of research.
4. Research groups also highlighted the need to consider some of the fundamental contextual changes happening around forest and rural livelihoods (such as reduced dependency on forest for firewood, youth outmigration from rural areas) and remain open to allow institutional structure of the CFUGs to align with and become effective in the changing contexts.
5. Everyone appreciated the value of such a focused discussion on the policy among key actors and highlighted the need for presenting the hands-on analysis when the bill enters intense debate phased in the parliament.
6. Everyone agreed to continue sharing information and engaging in dialogues in informal ways.

Key discussion points are mentioned below:

In terms of whether the new bill has posed any threat to community forestry, following potential threats and opportunities were identified and discussed:

1. Although the government has drafted the new Forest Bill, there is no clear provision in regards to **who will provide services** to CFUGs. The lack of this provision will weaken and may pose risk to thriving community forestry in the future. The main points of contestations recognized during the discussion include overlapping claims of jurisdictions (between local, province and federal governments), and sharing of resources, rights and income between user group, local government and provincial government.
2. In some places such as in the Annapurna Conservation Area, communities themselves have requested the government to **convert CFUGs into a 'conservation area'**. However, community forestry in conservation areas have limited community rights over forest. This may risk minimizing and shrinking community rights as compared to managing forest under community forestry regime outside of protected areas. This type of request also connotes that users themselves are less interested in collective management of common resources. The changing relation of community with forest also risks promoting/restructuring community forestry institution in federalism. (A senior official from Ministry of Forest and Environment).
3. There is also a temptation among politicians to overburden forest for revenue collection. They think that forest is an important source of income and revenue collection for different levels of government under the federal structure. So, many of them are lobbying for putting forests under conservation areas, managing forests for ecotourism, and finding other options to generate more income from forests.
4. There are several other issues that were highlighted as needing more attention: (1) forest users are less interested in managing forests only for fodder and firewood, and relaxing procedures for the sale of surplus products can revitalize their interests, and (2) existing CFUGs and their umbrella organization, i.e., FECOFUN, are less active than expected by the community groups in advancing their day-to-day problems with regard to securing regulatory clearance. The inactiveness of users and their representatives could be the reasons why communities are more tempted to change the present CFUG model into something else such as conservation area, ecotourism park (A leader of FECOFUN provided a detailed account on the current bitter situation on the ground).
5. How creatively FECOFUN will support its member CFUGs in the changed political system and how CFUGs will collaborate with local governments is also vital to ensure the continued existence of community forestry in federalism. Alternatively, **inactiveness of FECOFUN** erodes the potentiality of community forestry and weaken its role at the local level. How the need for additional technical and institutional development services are regulated is also an important aspect of community forestry development in the future.

6. Government officials also shared their views on the declining interest and contribution of local communities over forest management. In this situation, and also because of the local capacity constraints, they argued, the federal government should be given more rights to manage forest. This view was not shared by FECOFUN leaders and research groups. Research groups were of the opinion that market-oriented management of community forestry in a sustainable way need to be encouraged by the regulation, at least in areas where there is a good market prospect for products from community forests.
7. With the new Local Government Operations Act in place, CFUGs and local governments are likely to confront in the future. The participants also agreed for immediate experiments in order to allow institutional innovation for a collaborative model between communities, local governments and forestry agencies.
8. Policy contestations in other areas such as managing wetlands, large blocks of forests (collaborative forest management sites) are more severe than those around community forestry, as these involve on other stakeholders.

During the discussion, it was also shared (by the MoFE officials) that some significant changes have already been made on the draft Bill presented during the EPL, incorporating some of the publicly articulated concerns and feedback given by the wider community forestry community, including FECOFUN and elected political representatives. They mentioned that they have also noted public discussions and research-based commentaries in the media. It was also observed that the role of leadership at the higher bureaucratic level within the ministry was very important in making significant changes in the legal contents before forwarding that to the Ministry of Law, Justice and Parliamentary Affairs, and then to the Cabinet. The senior officials of MoFE expressed their satisfaction over frank discussions and were delighted to clarify some of the latest developments in the process of the Bill development/refinement. They also assured the EPL participants that they will do everything possible to retain at least the provisions of community rights as stipulated in the Forest Act 1993. They reiterated their commitment to share the information from their side, and also expressed that research groups and civil society groups will do the same from their respective sides.

Annexes

Annex 1: Program agenda

Time	Program	Responsibility
15:45	Tea	
16:00	Welcome and EnLiFT introduction and rules of policy lab discussion	Dr Naya Sharma Paudel
16:30	Key regulatory issues in community forestry governance (a review of current Forest Act 1993 and the new Forest Bill)	Dr Mani Ram Banjade
17:00	Moderated discussion on three key policy issues	Moderator – Dr Hemant Ojha
17:45	Concluding Remarks	Dr Sindhu Dhungana
16:00	Dinner	

Annex 2: Participants of the EPL

SN	Name	Organization
1	Ram Prasad Lamsal	DG, Department of Forest and SC
2	Sindhu Dhungana	Chief of Planning, Ministry of Forest and Environment
3	Radha Wagle	Chief of REDD Implementation Centre, Ministry of Forest and Environment
4	Hemant Ojha	IFSD, Sydney
5	Mani Banjade	Forest Action Nepal/NIMS College
6	NS Paudel	Forest Action Nepal
7	Thakur Bhandari	Secretary, FECOFUN
8	Dilli Paudel	SIAS
9	Dil Khatri	Director, SIAS
10	Kiran Paudel	Forest Action Nepal
11	Bhim Prakash Khadka	Vice Chairperson FECOFUN

Regulatory Framework for Community Forestry in Federal Governance

EnLFT Policy Lab
28th March, 2019
Indrani Foodland, Baneshwar

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Purpose, Methods and Process

- Focus on community forestry governance in federalism, NOT the entire forest governance
- Drawing on the EnLFT Policy Lab method but not strictly following the procedure
- Representation of Multiple perspectives for healthy and constructive debate
- Identify issues of contention and actively listen to other perspectives

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Why New Forest Law Now?

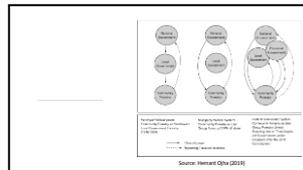
1. Adjustments with the new Constitution
2. Adjustment with Federalism
3. Creating further opportunities of enhancing people's livelihood through forests, and
4. Learning from global best practices in forest governance in the changing context.

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Dimensions of CF Regulatory Framework

- National Ownership
- State Registration (CFUG)
- National Planning
- Service Delivery
- Compliance monitoring

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1993 Vs 2019: Some comparisons

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1993	2019
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Discussion Questions for Today

1. Resource tenure – scope (carbon, ecosystem services), time, procedural conditions, security
2. CFUG registration/monitoring – role of local governments?
3. Marketizing service delivery - e.g in operational plan preparation?

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