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Advancing Women's Land and Resource Rights

Possibilities for Gender  
Equity in Land and Forest  
Tenure in REDD+  
Programming

**Nepal**



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# Table of Contents

|  |    |
|--|----|
| INTRODUCTION.....  | 5  |
| NATIONAL LEGAL FRAMEWORK FOR WOMEN’S RIGHTS .....  | 7  |
| NATIONAL LEGAL FRAMEWORK FOR WOMEN'S LAND TENURE AND FOREST MANAGEMENT RIGHTS.....             | 9  |
| <b>Individualized Land</b> .....   | 9  |
| <b>Common/Collective Land (Including Indigenous Land and Resources)</b> .....                  | 14 |
| <b>Forests</b> .....   | 15 |
| <b>Community Membership</b> .....  | 16 |
| <b>Governance of Common Resources</b> .....  | 17 |
| LAWS OR REGULATIONS RELATING TO LAND RESOURCES (FORESTS, TREES, NTFPS) AND WOMEN'S RIGHTS..... | 19 |
| <b>Protected Area</b> .....  | 19 |
| <b>Community Forests</b> .....   | 22 |
| <b>Partnership or Collaborative Managed Forests</b> .....                                      | 24 |
| <b>Leasehold Forests</b> .....   | 26 |
| <b>Government-Managed Forests</b> .....  | 28 |
| General.....   | 28 |
| SOCIAL AND ENVIRONMENTAL SITUATION ANALYSIS .....  | 30 |
| <b>Marriage</b> .....  | 30 |
| <b>Women’s Work</b> .....  | 30 |
| <b>Poverty</b> .....   | 31 |
| <b>Political Rights</b> .....  | 31 |

**Education** ..... 32

**Trafficking** ..... 32

**Decision Making** ..... 33

**CLIMATE CHANGE PROGRAMMING AND GENDER INCLUSION** ..... 33

**Other Projects** ..... 39

**EXISTING ORGANIZATIONS WORKING WITH WOMEN** ..... 40

**ANALYSIS AND RECOMMENDATIONS FOR GENDER INCLUSION** ..... 41

**Deep Dive Needs in Summary** ..... 41

**Early Recommendations** ..... 42

**REFERENCES** ..... 44

## Introduction

The ER Program Area covers 12 contiguous districts of the Terai region (“TAL”), an area covering approximately 2.4 million hectares of Nepal’s lowlands and some of the adjoining Chure Hills. Rich in culture and natural resources, the TAL is approximately 15% of Nepal’s total land area, 20% of Nepal’s forests, and home to 25% of Nepal’s total population; it is also the country’s most productive agricultural region. The main source of income and means of livelihoods for the people in the TAL are agriculture, animal husbandry, and remittance. Over 50% of the land area in the TAL is forested, and forests are used by some households for timber production and others for subsistence livelihoods like gathering fuelwood, fodder, and non-timber forest products (ERPD, 2018).

The people of the TAL include Janjati Adivasi (Indigenous) (31%),<sup>1</sup> High Caste Hill Groups (24%),<sup>2</sup> Madhesis (23%),<sup>3</sup> Dalits (12%) and Muslims (9%)<sup>4</sup> (ERPD, 2018).

The drivers of deforestation include unsustainable and illegal harvest of timber and fuelwood, overgrazing, forest fires, encroachment (e.g., immigration and settlement in government-managed forests), resettlement (e.g., relocation of communities displaced by flooding along river corridors), and infrastructure development (ERPD, 2018).

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<sup>1</sup> “People or communities having their own mother tongue and traditional customs, distinct cultural identity, social structure, and written or oral history. Interchangeably referred to as “Janajatis,” “ethnic groups,” and “Indigenous nationalities.” The government identified 59 groups as Indigenous nationalities, and these are categorized into 5 groups based on their economic and sociocultural status. These include “endangered,” “highly marginalized,” “marginalized,” “disadvantaged,” and “advanced” groups. Newars and Thakalis are the only two groups classified as “advanced” groups (ADB, 2010).

<sup>2</sup> “Caste refers to the Hindu hierarchal system, which originated by categorizing people into groups according to divisions of labor, roles, and functions. In Nepal, the upper castes refer to Brahmans and Chhetris and the lower castes refer to Dalits, who suffer from caste- and untouchability-based practices and religious, social, economic, political, and cultural discrimination. The Dalits comprise 13% of Nepal’s population and can be classified into 6 subcaste groups from the hills (Hill Dalits) and 10 subcaste groups from the Terai (Madhesi Dalits) (ADB, 2010).

<sup>3</sup> “The definition of “Madhesi” is politically contested, but in broad terms it refers to people who have languages such as Maithili, Bhojpuri, Awadhi, Urdu, and Hindi as their mother tongue and are considered of Madhesi origin. They include Madhesi Brahman Chhetris (2% of the population), Madhesi other caste groups (13% of the population), and Madhesi Dalits. Their exclusion is based primarily on regional identity and language” (ADB, 2010).

<sup>4</sup> A religious group comprising 4.3% of Nepal’s population (ADB, 2010).

According to the ERPD, poverty, policy gaps and poor implementation, dependency of local community on forest products, poor governance and land use policy, and insecure tenure are among the underlying causes of these drivers of deforestation (ERPD, 2018).

A few early recommendations for the Nepal ER Program include the following (others are provided at the end of this case study):

- Develop official guidelines/toolkits for how plans, by-laws, and governing documents should be drafted and implemented so that the women participate and benefit more fully in management of community managed forests.
- Further test and promote women-only user groups for all community-based forest modalities that are in the ERP accounting area.
- Ensure that monetary benefits to women are considered their separate, personal property, so that it remains within her control in her household. Pay such benefits directly to women involved. Don't assume that payments to household head will benefit all women in that household, especially daughters-in-law.
- Have women-only extension services that are driven by women's needs and aspirations related to the programming and opportunities.
- Develop markets, enterprises, and cooperatives of marginalized women to provide new opportunities for employment and income that are aligned with the ERP. For example, off-season vegetable farming and goat rearing (using stall-fed methods with fodder development programs), particularly along the road corridors, can be thriving enterprises in ERP districts
- Conduct further assessment with women directly and ensure that investments in interventions that are intended to reduce women's workload and reduce fuelwood consumption are aligned with women's actual needs and aspirations.

## National Legal Framework for Women's Rights



Photo by [Sanjay Hona](#)

The Constitution<sup>5</sup> is the fundamental law of Nepal and any law that is inconsistent with it is void.<sup>6</sup> All citizens are equal before the law and have equal protection of laws.<sup>7</sup> There can be no discrimination in how laws are applied, nor can there be discrimination by the state with regard to sex.<sup>8</sup> The Nepali Constitution has special protections for women's rights: Every woman in Nepal has the equal right to lineage without any gender discrimination; safe motherhood and reproductive health; be free from violence; participate in state structures and bodies; and special opportunity (affirmative action) in spheres of education, health, employment, and social security.<sup>9</sup> The Constitution also commits the state to make policies that prioritize employment for single women and improving the self-reliance of women who are vulnerable, victims of conflict, or excluded by family and society.<sup>10</sup>

In the new legal framework that emerged from Nepal's move from a monarchy to a secular republic, formal laws trump customs when they are in conflict. Under the National Civil (Code)

<sup>5</sup> A new Constitution was enacted in 2015, bringing in significant structural and other changes to the Nepalese legal and administrative framework.

<sup>6</sup> Constitution (2015), art. 1.

<sup>7</sup> *Id.*, art. 18.1.

<sup>8</sup> *Id.*, arts.18.2, 18.3.

<sup>9</sup> *Id.*, art. 38.1-38.5.

<sup>10</sup> *Id.*, Art 51.j.1, 51.j.2.

Act (2017) (Civil Code), customs or tradition that are contrary to law are not recognized in the dispensation of justice.<sup>11</sup>

The Constitution mandates the creation of a National Women’s Commission in Nepal consisting of a Chairperson and four other members, appointed by the president.<sup>12</sup> The Federal Women’s Commission formulates policies and programs for women’s welfare and forwards them to the government; it also reviews statutes for their impact on women’s welfare, monitors and evaluates policies and programs implemented by the state, and carries out research regarding gender equality and women’s empowerment, among other things.<sup>13</sup> It may establish offices in provinces as necessary.

To implement these Constitutional provisions, the National Women’s Commission Act was adopted in 2018.<sup>14</sup> In 2019, the National Women’s Commission had a budget of 160000000 NRs (\$1,373,300 USD); reduced to 120000000 NRs (\$1,030,000 USD) in 2020. One of their main activities is to run a violence hotline. The hotline provides services to women who have experienced violence, which includes “economic violence” defined as a deprivation of private property (NWC, n.d.).

Article 84 of the Constitution requires that 33% of parliamentary seats be reserved for women. This quota has been met in the House of Representatives and National Assembly, Province Assembly, and in Local Government Units (UN Women, 2020).

In addition to the Constitutional mandates, the Government of Nepal incorporated social inclusion in its 10th Five Year Plan, which has three pillars related to Gender Equality and Social Inclusion. Also, the Ministry of Forest and Soil Conservation developed a vision for gender and social inclusion, to promote equitable access of the socially excluded to forest resources and benefits (WOCAN, 2017).

The Government of Nepal initiated the President’s Women’s Upliftment Program in 2016 to empower socially and economically marginalized women through skills building, entrepreneurship, enterprises support and facilitating access to markets. It runs the livelihood program in 30 of the poorest districts in Nepal (UN Women, 2020).

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<sup>11</sup> Civil Code, art. 15.

<sup>12</sup> Constitution, arts. 252.1-252.2.

<sup>13</sup> *Id.*, art. 253.1.

<sup>14</sup> National Women’s Commission Act, 2074, Certification Date 2074.6.29 year 2074 act. 30.

# National Legal Framework for Women's Land Tenure and Forest Management Rights



Photo by [Giuseppe Mondì](#)

The Constitution (2015) recognizes the right to secure property rights and land and resource tenure of individuals. It also has provisions that give land to landless people, including Dalits and farmers.<sup>15</sup>

## Individualized Land

Under the Constitution, every citizen has the right to acquire, enjoy, own, sell, make professional gains and other use or dispose of property<sup>16</sup>; and both spouses have equal rights to property and family affairs.<sup>17</sup> The state is required to implement international treaties and agreements to which Nepal is a state party, including CEDAW, which has important protections for women's property rights.<sup>18</sup>

Under the Civil Code, ownership includes among others, the right to use, sell or transfer, mortgage, deal, and take benefits from.<sup>19</sup> The Civil Code recognizes private property as well as

<sup>15</sup> Constitution, arts. 40.5; Art 40.5.

<sup>16</sup> *Id.*, art. 25.1.

<sup>17</sup> *Id.*, art. 38.6.

<sup>18</sup> *Id.*, art. 51.b.3.

<sup>19</sup> Civil Code, art. 288.

property in common and joint property.<sup>20</sup> Private property refers to property that is owned separately by an individual and to which there are no shared rights, in other jurisdictions it might be called separate or personal property.

Private property includes property that has been acquired by an individual by donation, bequest, or succession or gift.<sup>21</sup> It also includes property acquired by a woman prior to marriage or property that a woman acquires from her parental side when she marries, or property given to a woman by her husband.<sup>22</sup> During a marriage, any property earned by the husband or wife shall be deemed to be the property of the husband or wife who earned it.<sup>23</sup>

The Civil Code provides that husband and wife manage affairs of the family together and should obtain the other's consent in selling or otherwise transferring property registered in his/her name (that is their separate, personal property.<sup>24</sup> In practice, in a joint family where there may be multiple generations in one household, the male head of the household (father/father-in-law/husband, and in his absence, the female head) manages and regulates all the household property and affairs, and mothers-in-law manage and supervise daughters-in-law's labor for the household (Pradhan et al., 2018). This may change when a younger couple in a multi-generational household move to create their own nuclear household (Pradhan et al., 2018).

In formal law, women can have rights to ancestral common property as wife or a daughter and a coparcener. Under the Civil Code, property held in common or joint property is property that is inherited from ancestors by all "co parceners."<sup>25</sup> Under the Civil Code, a co parcener is not directly defined, however, it provides that for purposes of apportionment of property held in common, a co parcener includes husband, wife, mother, father, son, or daughter.<sup>26</sup> The wife, son, and daughter gain rights only through the father: they may only receive a partitioned share from their respective father or husband.<sup>27</sup> This applies to all married women, and is not dependent on the marriage being formally registered: The Civil Code recognizes marriage through any ceremony, formal or otherwise; while a marriage should be registered, a couple will be considered husband and wife as long as the marriage continues.<sup>28</sup> According to the law, a widow can request her share (through her deceased husband) of the common ancestral

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<sup>20</sup> *Id.*, arts. 255(a)-(c).

<sup>21</sup> *Id.*, arts. 256b, 256c.

<sup>22</sup> *Id.*, arts. 256f, 256h.

<sup>23</sup> *Id.*, art. 257(2).

<sup>24</sup> *Id.*, art. 90.

<sup>25</sup> *Id.*, art. 257.1.

<sup>26</sup> *Id.*, art. 205.

<sup>27</sup> *Id.*, art. 209.

<sup>28</sup> *Id.*, arts. 67, 76, 85.

property be partitioned; however, if she has remarried, her share would go to the children she had with the deceased.<sup>29</sup>

The formal law also allows for women to be a joint owner of property if she acquires it with her husband (or others) jointly. The Civil Code provides for property owned jointly by persons in a family that is not ancestral property.<sup>30</sup> In that case, the right of each joint holder should be set in a deed but if no deed exists then they are assumed to have equal rights and equal shares.<sup>31</sup> Management of such property is by consent of all joint owners and the property may not be altered without consent of all owners.<sup>32</sup> For this property, the woman's joint ownership is not due to her status as a wife but arises from the fact that she jointly acquired the property with another person (who is her husband).

In practice, all household members, irrespective of gender or generation have rights to economic benefits from the joint property, expressed as right to be maintained, including expenses for food, clothes, housing, education, and medical treatment. Women have these rights only so long as they remain members of the household as wives, widows, or unmarried daughters/sisters (Pradhan et al., 2018). Women's ability to enjoy rights to use or benefit from as well as to make decisions about joint property of the household depends on such factors as their position in the household as daughters, daughters-in-law, mothers-in-law and their relationship with their husbands and other household members. By necessity, women may manage the household's agricultural and financial activities due to the absence of men, or due to their cash contributions to the household economy. Across all castes and ethnic groups, daughters-in-law, especially new brides, in joint households not only have weaker rights or abilities to enjoy use and fructus rights, they have very little or no decision-making rights about joint property of the household (Pradhan et al., 2018).

With regard to women's rights to inherit, the Constitution prohibits gender discrimination on the right to "parental property" (gifts or inheritances from parents to offspring).<sup>33</sup> The Civil Code lists heirs in order of succession: Husband or wife living in the undivided family, then the son, daughter, widow, daughter in law living in the undivided family then others.<sup>34</sup> The first in order

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<sup>29</sup> *Id.*, art. 214.

<sup>30</sup> *Id.*, art. 258.

<sup>31</sup> *Id.*, art. 258.2

<sup>32</sup> *Id.*, arts. 260, 261.

<sup>33</sup> Constitution, art. 18.5.

<sup>34</sup> Civil Code, art. 239.

of succession inherits, if there is more than one person in the same order, then they're equally entitled.<sup>35</sup>

Around 20% of land is acquired by inheritance and around 23% through rental markets (USAID, 2018). The patriarchal and patrilineal norms and practices across all castes and ethnic groups in Nepal are so robust that caste/ethnicity does not have an influence over inheritance practices in Nepal, and inheritance is typically transmitted by father to son; a recent review of the anthropological literature showed that in general, across all castes and ethnic groups, it is the men who control and inherit the joint property of their households (Pradhan et al., 2018). Daughters normally do not inherit and do so only if they remain unmarried or if their parents do not have male heirs.

There are two kinds of personal (or separate) property specifically for women, which are received as gifts, namely *pewa* (gifts by husband, his family, and co parceners in formal definition) and *daijo* (or dowry – gifts given by wife's natal family in the formal definition) (Pradhan et al., 2018). In customary law, women's rights over their dowry vary considerably, depending on their ethnicity/caste and social position in the household (Pradhan et al., 2018). Daughters have limited rights to joint property of their parental household; in practice they are not considered co parceners<sup>36</sup> of the joint household property and thus do not have rights to inherit, unless they remain unmarried or their parents did not give birth to sons. This norm is generally accepted as fair because of the view that daughters receive a dowry from their parents and property from their husbands when they marry. Women may decide not to assert their rights to inherit (as a daughter) to maintain good relations with her brothers (Pradhan et al., 2018).

Roughly 19.7% women own 5% of total land in Nepal, and only 11% of those women have control over their land. Women's land ownership is highest in urban areas in the eastern part of the country (USAID, 2018). *It is not clear from the data whether this is referring to land that is tilted and registered or not, nor whether this is referring to joint rights to land that women may share with men (or other family members), or whether it is limited to women's separate property. This might be considered in a deep dive inquiry.*

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<sup>35</sup> *Id.*, arts. 239(2-3).

<sup>36</sup> Co parceners are persons to whom an estate of inheritance descends jointly, and by whom it is held as an entire estate 2 Bl. Comm. 187.

A number of budgetary and regulatory steps have been taken to encourage registration of land in women's names. A Government of Nepal 2006/07 directive waived land registration fees for land registered in the name of women, the disabled, and members of disadvantaged groups. Land registration in women's names more than doubled following the adoption of the directive (USAID, 2018). Also, the Financial Bill of 2015/16 provides a number of provisions to improve women's ownership of land. The government promotes Joint Land Ownership (JLO), which can be obtained for a fee of \$1. A woman gets a 25-50% tax exemption during land registration (varying according to geographical location) provided she does not sell the land within three years. 91% more urban women have benefitted from these rules as compared to rural women (USAID, 2018). However, many beneficiaries are not aware of the progressive policies granted under the Financial Bill 2015/16 and cultural stigma prevents women, especially Muslim and Madhesi, from travelling alone to get their applications processed (USAID, 2018).

Landlessness, or effective landlessness of sharecroppers or tenants, is a problem among certain groups in Nepal. Amendments to the Land Act were adopted in 2019, which provides for protecting land rights of tenant farmers and granting land to landless squatter families (GLTN, 2020). *This 2019 amendment could not be located for this case study; a deep dive inquiry into the contents of these amendments and their applicability to the ERP program and gender equity would be helpful.*

Most agricultural land is rented under short-term sharecropping arrangements, known as *adhiya*. Under *adhiya*, the tenant provides the labor and landowners supply some percentage of inputs. In principle, the tenant and landowner receive equal shares of the production, but the tenant rarely receives a half-share, either because of debt owed to the landowner or the landowner has supplied all the inputs. A second tenancy system, *thekka*, requires the tenant to pay a fixed share of production to the landowner. Highly exploitive systems that survived land reforms – such as those in which the tenant takes one-third or a one-tenth share – and the continuation of bonded labor are known to exist in Nepal (USAID, 2018). The Lands Act of 1964 sought equitable distribution of agricultural land to move away from landlessness, but it was not successful in redistributing land in Nepal (Amnesty International et al., 2019). Landlessness is at 36.7% among the hill population and 41.4% among the Madhesi Dalit (Amnesty International et al., 2019). Around 5% of the population controls 37% of arable land (Amnesty International et al., 2019). *A deep dive question might be to look into the differential impacts of landlessness on women and men in landless households.*

## Common/Collective Land (Including Indigenous Land and Resources)

Collective customary land rights are not fully recognized in the Nepali legal framework, even after recent reforms. In the 1950s, Nepal's land-reforms converted collectively held lands (*kipat*) that had been held by Indigenous groups into state land (*raikar*). Land-reform legislation subsequently converted *raikar* into private land. Ethnic and Indigenous communities lost formal rights as well as customary rights to land (becoming effectively landless) through these processes (USAID, 2018). In the early 1980s, decentralization of forest governance began with some management of forests returning to communities through the development of community forests (see below). Today, there are a number of different community-based forest management models (Dhungana et al., 2017).

The new Constitution of 2015 commits to providing land to the landless but has not incorporated any specific fundamental rights for protecting collective customary rights to land of Indigenous Peoples or others who may have customary collective rights to land.

While it does not recognize collective customary land rights, the Constitution appears to offer some protections for different cultural and social groups, and “local people” through sharing in benefits, participation in decision making, and protecting their cultural rights. For instance, article 51(g) provides that the state, in its policy for conserving and protecting natural resources, “shall ensure the fair distribution of benefits generated [through protecting natural resources] by giving *local people* the priority and preferential rights.” It also provides that the state will make policies to ensure the rights of Adivasi Janajatis (Indigenous ethnic groups) to lead a dignified life with their respective identities and requiring their participation in decision making processes that concern them, maintaining their traditional knowledge, skill, experience, culture and social practices.<sup>37</sup> There is also special mention for state policies to protect minority communities to exercise their social and cultural rights and for Madhesi communities to have equal distribution of benefits of economic, social, and cultural opportunities. Finally, it commits to making special provisions for the protection, progress, empowerment, and development of citizens of oppressed and backward regions.<sup>38</sup> Unlike other provisions in the Constitution, however, failure to implement these policies listed in Article 51 are not actionable against the state in court.<sup>39</sup>

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<sup>37</sup> Constitution, art. 51.j.8.

<sup>38</sup> *Id.*, arts. 51.j.9, 51.j.10, 51.j.11.

<sup>39</sup> *Id.*, art. 55.

Constitutional article 51(j)(8) provides that the state will make an appropriate arrangement for the Indigenous nationalities to participate in decisions concerning that community by making special provisions for opportunities and benefits in order to ensure the right of these groups to live with dignity, preserve their identity, and protect and promote traditional knowledge, skills, culture, and experiences. Yet it falls short of recognizing the customary land rights of Indigenous nationalities as the basis for these special provisions.

The new National Land Policy of 2019 commits to protecting communal land tenure traditionally practiced by communities,<sup>40</sup> However, the most recent amendments to the Land Act (7<sup>th</sup> and 8<sup>th</sup> amendments) of 2018-19 have arguably failed to meet this policy commitment and do not explicitly recognize customary rights held by these communities (Amnesty International et al., 2019).

Notwithstanding, the Civil Code recognizes a right in property called “community property” deemed to be any land that is held by a community for its use and may be registered in the name of that community.<sup>41</sup> However, the Civil Code does not answer questions of how a community is defined and by whom, which land is considered community property, and whether these provisions can be applied to the traditional collective lands of Indigenous persons, minorities, or other landless communities. It also does not explain whether this category of land is intended to overturn past policies and laws that sought to legally abolish collective rights to land. *These might be asked in a deep dive inquiry.*

Customary collective tenure over forests is recognized in the National Forestry Policy (2015) and National Forestry Strategy (2016) but not in laws. Assessments conducted by a number of different organizations and agencies conclude that forest management plans, in general, are weak in terms of recognizing customary rights to forestland (ERPD, 2018).

## Forests

Under the article 299 of the Civil Code, the state owns and controls forests and trees except those that are held in private ownership. The forest sector legal framework was recently updated with the approval of the Forest Policy in 2015 and the new adoption of the Forest Act (2019). Article 3 of the Forest Act provides that the state owns all national forests in Nepal.

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<sup>40</sup> National land policy adopted by the council of ministers in March 2019.

<sup>41</sup> Civil Code, arts. 255.d, 301, 303.

Private forests are owned by private persons; private forest is defined as a forest planted, nurtured, or conserved on private land owned by any person.<sup>42</sup>

Within forests designated as national forests there are (1) government managed forests, which includes community forests; (2) “partnership” forests (sometimes called “collaboratively managed forests”); (3) religious forests; (4) leasehold forests; and (5) forest protection areas.<sup>43</sup> How these management models work in practice is directed by official guidelines or operational policies, which have not yet been updated to reflect the changes in the new Forest Act.

In the ER Program accounting area, about 39% of the forest area is government managed forest; 29% is categorized protected areas; 27% is community forest; and 5% is “collaborative” forest (EPRD, 2018). In addition, the components of ER Program activities include a transfer of some government managed forests in the accounting area to pro-poor leasehold forest tenure. Each of these forest management and use models are explained in the section below.

Most of these management modalities point toward some form of community-based forest management. The Forest Act provides for how user groups should be formed (Chapter 9) and for which forests a user group may apply to manage (see below). The Forest Act does not provide any requirements on the gender composition of a user group, nor does it obligate gender-equitable or responsive processes for how those groups will be formed and governed. *A deep dive inquiry might look into whether there are other laws or guidelines that determine gender equity within user groups and into the feasibility of having rules that apply to all user groups related to gender equity.*

## Community Membership

Community membership on forestland is governed by the relevant forest regulation (see below). For the purpose of land and resource rights, customary communities are not recognized in law. There is little literature available for how community membership is defined in the customs of the groups who reside in, depend on, or have historical rights to the forests in the ER Program accounting area. *To the extent that ERP, according to its terms, intends to respect and protect aspects of customary tenure, then a deeper understanding of the gender dynamics in each of those customary systems is needed. This will be an important line of inquiry for the deep dive.*

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<sup>42</sup> Forest Act (2019), Art 2(k).

<sup>43</sup> *Id.*, arts. 14, 15.

## Governance of Common Resources

Members of lower caste and Indigenous groups are often marginalized, even in women-only groups. And, because men are viewed as more educated or/and have more capacity for leadership, voters (including women) are more likely to vote for men for top positions. At the household level, women's main responsibilities are dominated by domestic and farm-related chores. Any additional work outside of the traditional realm of activities is not supported or appreciated by their male partners, thus further discouraging women from such work (WOCAN, 2017).

Men dominate almost all key forest management-related decision-making processes. All major decisions, such as deciding the time for plantation, weeding, and harvesting, making fire lines, planning, developing Community Forest User Groups (CFUGs) by-laws, determining and distributing budgets, etc., are mostly made by men. Even in women-only CFUGs, most decisions are influenced or made by their male advisors (WOCAN, 2017).

In cases where women leaders bring home resources in the form of cash, new networks, or information or knowledge that results in economic and political improvement, husbands and family members value their engagement in community work and support them by taking on some household tasks (WOCAN, 2017). However, in the majority of cases, women CFUG members who do not have an executive position or are from socially and economically poor groups do not have influence on community forest and development-related decision-making processes (WOCAN, 2017).

The gender assessment conducted for the ER Program activities found that in one district women from Musahar and Majhi communities who were engaged in community forestry were neither informed nor consulted in the annual planning and implementation of the CFUG and cooperative groups' activities. The chairperson and a few executive members usually decide for them. In 2015 and 2016, these communities received budgets for school wall construction and vegetable seeds; however, women from these communities said they preferred instead to have budgets and technical inputs for fish farming and the construction of additional fishponds. It also found that, except for a very few CFUG women executive members, none of the interviewed women in the seven districts had heard of the consultation meetings held on REDD+ and the ERPD (WOCAN, 2017).

Using the typology of participation in Table 1 below, when it comes to women's participation in natural resources governance, the experience of women differs due to their situation. A few women in executive positions might have active participation, women members of governing

groups appear to have nominal or passive participation, and non-members of the governing group have no participation.

Table 1. Typology of participation <sup>44</sup>

| Form/level of participation     | Characteristic Features  |
|---------------------------------|--|
| Nominal participation           | Members of the governing group   |
| Passive participation           | Informed of decisions <i>ex post facto</i> ; or attend meetings and listen to decision making, without contributing to discussion. |
| Consultative participation      | Opinions are solicited in specific matters without guarantee of influencing decisions  |
| Activity-specific participation | Asked to (or volunteer to) undertake specific governance tasks (treasurer or secretary, or provide facilities and refreshments)    |
| Active participation            | Express opinions, whether or not solicited, or other initiatives   |
| Empowering Participation        | Have voice and influence in agenda and in decisions; position as officer   |

<sup>44</sup> Adapted from Agarwal, B. (2010). Does women's proportional strength affect their participation? Governing local forests in South Asia. *World development*, 38(1), 98-112.

## Laws or Regulations Relating to Land Resources (Forests, Trees, NTFPs) and Women's Rights



Photo by [Manuel Meurisse](#)

The ER Program accounting area includes government managed forest, protected forest areas, community forest, and “collaborative” managed forest (EPRD, 2018).

### Protected Area

According to the new Forest Act of 2019, forest protected areas are areas with environmental, cultural, ecological, or scientific importance.<sup>45</sup> The law states that one or more forest management systems may be used on the forest protection areas however it does not specify when a particular management modality must or should be used.<sup>46</sup> The only guidance from the Forest Act with regard to benefit sharing is that benefits from the management of protected areas must be done in accordance with the National Natural Resources and Finance Commission.<sup>47</sup> *A deeper dive inquiry might look more deeply into policies and regulations from this commission as they relate to gender equity, but they could not be located for this case study.*

The National Parks and Wildlife Conservation Act, (2029) 1973 (as amended) has not yet been replaced in the new legal framework brought in by Constitutional and forest reforms. It is the main legal instrument for declaring and managing protected areas in Nepal. Under this Act, the

<sup>45</sup> Forest Act (2019), art. 15a.

<sup>46</sup> *Id.*, art. 16.2.

<sup>47</sup> *Id.*, art. 16.3.

warden in coordination with local authorities, can form a user committee for the management of fallen trees, dry wood, firewood and grass in a national park, reserve, conservation area, or buffer zone.<sup>48</sup> Further rules for the committee are as prescribed in specific guidelines but were not available for this case study.

Protected forests are a relatively new approach to forest management in Nepal. Different levels of government, types of non-government agencies, and local communities are involved in the management of protected forests (Gautam et al., 2017). However, there is a high level of confusion on the roles, responsibilities, and authority of these actors. The forestry legislation existing prior to the Forest Act of 2019 was not clear about the management strategy to be adopted for protected forests, including use of forest products, roles, responsibility and authority of the protected forest council (PFC), and distribution of the benefits from the forests. In the new Forest Act, these ambiguities were not addressed; however, the Forest Policy of 2015 emphasized community-based approaches for protected forest management, and a forest management guideline was due for approval in 2017 to support these policy provisions (Gautam et al. 2017). *A deep dive inquiry might look into the status of those guidelines and what they provide for with regard to gender equitable membership, participation, management, governance, and benefit sharing for communities on protected forest land.*

In addition to management of protected forests, there are also community management options for buffer zones that are attached to protected areas. Buffer Zone Management Regulation (1996) is the key legal instrument to promote community forests in buffer zones of protected areas. It makes provisions for 30%-50% of Protected Area revenues to be retained for conservation and community development activities in the Buffer Zone. The revenue is disbursed through a Buffer Zone Management Committee/Council and several Buffer Zone User Committees and then to Buffer Zone Community Forest User Groups within that committee. The buffer zone program is focused on improving the socio-economic well-being of the local communities and reducing their dependency on resources in the protected areas (Thing & Poudel, 2017).

The Buffer Zone User Committee creates a workplan and applies to the warden for a buffer zone community forest (Thing & Poudel, 2017). The forest management rights are handed to the Buffer Zone User Committee. The Buffer Zone Community Forest User Group is considered a sub-committee of the Buffer Zone User Committee; legally they are governed by a separate constitution and operational plan which must be approved by the warden. In practice, buffer

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<sup>48</sup> National Parks and Wildlife Conservation Act, art. 16.

zone user groups function in a manner similar to Community Forest User Groups (see below) with a constitution, operational/work plans, governing body under executive committee and general assembly (Thing & Poudel, 2017). *It is not clear from available information how user committees or user groups are composed and formed, and how accessible they are to women, or the poor or socially marginalized groups. It is also not clear how benefits are paid and to whom and to what extent women have shared in these benefits. A deep dive inquiry might look into this.*

Although day-to-day affairs and decisions concerning forest use and conservation are carried out collectively by buffer zone user groups, forest management and governance in the Buffer Zones also fall within the authority of the protected area's warden. The protected area's warden has significant influence and authority over plans and functioning of user group in practice (Thing & Poudel, 2017). The buffer zone user groups enjoy rights to use forests in the buffer zones based on the work plans and constitution approved by the warden. There are restrictions on the sale of timber forest products (e.g., timber and firewood) but there are no restrictions on selling non timber forest products (e.g., medicinal plants) (Thing & Poudel, 2017).

Representation of marginalized groups in governance institutions for Buffer Zone Community Forests is often low, and it has been found that they may reproduce conditions where elites fare better than others. Also, benefits are reportedly not equitably distributed to women, Indigenous, or disadvantaged ethnic groups, and in some cases, the buffer zone community forest activities interfered with customary practices of communities who traditionally lived and relied on those lands (Thing & Poudel, 2017).

In protected areas, women's access to forests is not formally recognized, though there are provisions for women, disadvantaged groups members and social workers to participate in institutional processes; and under the formal rules local people are entitled to share in benefits. In practice, women access these forests for fuelwood and fodder with some restriction, the role of women in institutions is largely left to the discretion of the officers, and women are deprived of sharing in other benefits that are derived from the buffer zone community forests (Wagle et al., 2017). *A deep dive inquiry might look into the actual role of women in user groups and committees, and whether they are able and willing to make meaningful decisions in their own interests. It would also look at how benefits have been shared on these forests to date, and whether women have had an equitable share.*

## Community Forests

Community forests are forests within the government-managed, national forest for which a user group, duly formed, makes an application to the Division Forest Office to “develop, conserve, use and manage the forest and to sell and distribute the forest products by fixing their price independently.”<sup>49</sup> Community forests have been a feature of Nepalese forest management for decades and are also allowed for in the new Forest Act of 2019. Over 19,000 community forest user groups in Nepal are managing about 1.8 million ha of forest, and about one third of Nepal’s population is involved in community forestry (Banjade et al., 2017).

Community forests user groups create a work plan that is approved by the District Forest Office.<sup>50</sup> The user groups must spend 25% of annual income earned on forest protection and management, and 25% on poverty alleviation, women’s empowerment, and entrepreneurship the remainder may be used according to the wishes of the group.<sup>51</sup> The Forest Act provides that a failure to comply with the workplan or with the provisions of the Forest Act, may result in the state taking back the management of the forest from the community.<sup>52</sup> *A deep dive question might be to inquire whether there has been any forests taken back because the women’s empowerment and poverty alleviation set asides of 25% have not been met, and if so how are each of those terms defined and measured? And have women pursued grievances to assert these set asides when they are not fully implemented? If so, what processes have been followed and were they successful at ensuring the set aside is met? Does the workplan created by the user groups define who is included in those groups in the set aside, or are do they have a local meaning?*

While District Forest Officers (DFOs) are responsible for approving the community forest user group’s constitution and operational forest management, the rights for forest users are often compromised as part of the operational plan development and approval process (Banjade et al., 2017; Wagle et al., 2017).

According to the Community Forestry Development Guidelines 2014, one female and one male from each household must be members of the community forest user group, while in its executive committee, at least 50% of the members should be women and either the chairperson or secretary must be women. More than 22,000 chairpersons or secretaries in community forests are women across all of Nepal (GoN, 2019). *A deep dive inquiry might look into whether*

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<sup>49</sup> Forest Act (2019), art. 18.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*, art. 22.

<sup>52</sup> *Id.*, art. 19.

*having women in executive roles in these user groups makes a qualitative difference to the processes or outcomes, and whether women in those groups are better or worse off because of it.*

In 2017, of the 19,361 community forests user groups in Nepal, there were 1072 women-only community forest user groups (WOCAN, 2017). There is increasing anecdotal evidence that women-only community forest user groups have contributed to improvements in forest cover and maintained better transparency, communication, and accountability in financial management and governance (FAO, 2015). *A deep dive inquiry might consider researching more why it is that women only groups are effective and whether any of the features of those groups might be replicated into mixed groups. A deep dive question might also investigate the degree to which those women groups serve the interests and needs of all women, including those from marginalized groups, such as female headed households, Indigenous or ethnic minorities, or households that are relative poorer.*

According to the FCPF Gender Assessment, in community forests it is common for only a handful of women to be repeatedly called upon as women's representatives for most of the development interventions; these are usually women members of federations, committees, or groups (the same women are often members of at least 5 to 6 executive committees, and so participate in most trainings and exposure visits). However, these women are still excluded by men from major decision-making processes and opportunities, even when such opportunities are meant for women. Women are not trusted and respected in the same way that similarly situated men are trusted (WOCAN, 2017).

Under formal rules, the community forest user group reaps 100% of the benefits of the community forest and 35% of the income must be allocated to the poor, marginalized, and women in the community (Wagle et al., 2017). In practice, traditional access to forest products continue and the areas that women can access are small and degraded so the products they would typically collect are insufficient (Wagle et al., 2017). Also, only an average of 15% (of the 35% that is required) of community forest income is spent on poor and marginalized (Wagle et al., 2017). *Deep dive should look at why and how these funds have been spent on women, whether there are any lessons that can be learned about how to ensure those funds reach women in practice and contribute to making improvements in women's lives.*

Except for the very few women executive members of the community forest user groups - who are influential and affiliated with political parties - the majority of women from advantaged caste and ethnic groups have not attended forest-related trainings and exposure visits. Most

women in the ER Program accounting area were not aware of the consultation meetings held on REDD+ and the ERPD. The same groups of socially, economically, and politically advantaged women were members of key committees at district and village levels, gaining opportunities and benefits provided by development interventions through these committees and groups (WOCAN, 2017).

## Partnership or Collaborative Managed Forests

A “partnership forest” in the new Forest Act (2019) is also referred to as a “collaborative forest” in other literature. Collaborative forest management was backed by the revised Forestry Sector Policy of 2000 and initiated through pilot projects. Gradually, the model has been institutionalized and it was included in the legal framework in 2016 and then retained in the most recent Forest Act of 2019 (Dhungana, 2017).

The main purpose of a collaborative forest is to manage large contiguous forests in Terai for timber production, revenue generation, coordination among various actors, and the inclusion of distant households in forest resource governance (Dhungana, 2017). These forests are confined to large block forests of Terai and Inner-Terai regions.

Under Article 23 of the Forest Act (2019), a partnership forest is a forest that is managed in partnership between the District Forest Office, the local government, and forest users for the purpose of (a) developing forest for economic ends, (b) making forest products available to forest users whether traditional or those who are not traditional users, (c) enhancing forest productivity, and (d) making improvements to forest livelihoods.

In a partnership forest, the Division Forest Officer creates a workplan in consultation with the local government and the user group.<sup>53</sup> In a partnership forest, first priority for consumption of timber, wood, and non-timber products must be with the partnership forest user group but the remainder may be sent (or sold) outside the group.<sup>54</sup> The partnership forest user group must use 25% of the income earned from sale or distribution of forest products for forest protection and management and 25% for poverty alleviation, women’s empowerment, and entrepreneurship.<sup>55</sup> Remaining funds can be used at the group’s discretion.<sup>56</sup> This distribution is a shift from past arrangements whereby national government received 40% of forest products and local users received 50% (Dhungana, 2017). Since the Forest Act of 2019 is relatively new,

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<sup>53</sup> *Id.*, art. 23(2).

<sup>54</sup> *Id.*, art. 25(2).

<sup>55</sup> *Id.*, art. 25(3).

<sup>56</sup> *Id.*, art. 25(4).

it is assumed that there will be revised Collaborative Forest Directives issued in line with the new law to update the existing directives from 2003 and amended in 2011.

Currently, 26 Collaboratively Managed groups covering 0.8 million people are managing 58,000ha of prime forests of Terai region (Banjade et al., 2017). In collaborative forests, forest users have rights to enter into the forest within specified months and users can collect basic forest products during the specified periods. Committee members are involved in decision making and management activities and can exclude the non-members, however they do not have the right to alienate the forest land (EPRD, 2018). The members of collaborative forest user groups are not always local communities; they can also be from distant places (Banjade et al., 2017).

Some of the criticisms of collaborative forests include inequitable distribution of benefits between government and user group, limited use rights of user groups, and insufficient timber supply to meet demand (Dhungana et al., 2017). Reportedly, the District Forest Officer becomes the de facto manager for the collaborative groups having a leading role in preparing plans and implementing them on the ground and the user groups are involved in implementation but are not involved in management related decision making (Banjade et al., 2017). In addition, because of the large numbers of people involved in collaborative managed forest groups, individual users get a small share of the funds available and decision making is only available to all but a few influential members (Dhungana et al., 2017).

The new Forest Act does not address these criticisms, and the Forest Sector Strategy (2016-2025) covers only a few of them (GoN, 2016). Thus, it remains to be seen whether these issues will be addressed in other forthcoming regulations or guidelines.

Participation of women in institutional processes is mandatory in collaboratively managed forests (Wagle et al., 2017). Reportedly, in practice, the District Forest Officer decides on major issues and women's perspectives are not heard (Wagle et al., 2017). Some of the prominent issues in collaborative forests include ambiguity in tenure rights and security, lack of appropriate and uncontested policy provisions for cost and benefit sharing among collaborators, limited decision-making space for forest-managing communities and local governments, and limited capacity of collaborators for the productive management of forests (Dhungana et al., 2017). *Deep dive analysis could look into the impacts of collaborative forestry on women's lives and livelihoods, whether women have benefitted or been burdened in these programs, and also the extent to which women have voice and agency in the governance of these forests.*

In practice, males dominate use of collaborative forests because of the higher economic benefit from timber than from uses that women might make. Only 10% on average of total members of governance committees of collaborative forests are women (Wagle et al., 2017). To the extent that benefits are shared with users, they are not systematically benefitting women, though individual women who are vocal have shared in benefits (Wagle et al., 2017).

## Leasehold Forests

Under the Forest Act (2019), leasehold forests may be granted to a corporate body or to people living below the poverty line on degraded forest land (defined as tree crown coverage is less than 20%).<sup>57</sup> *By 2019, there were around 7500 leasehold user groups in Nepal (GoN, 2019).* In the ER Program accounting area, the poverty alleviation leasehold forests are most relevant, and will be covered below.

Pro-poor leasehold forestry began as a pilot program supported by donors in the 1990s and is now part of the legal framework as a management modality on forest land. Under the Forest Act, a District Forest Officer may provide a forest to a group of people living below the poverty line for the alleviation of poverty through income generating programs that are compatible with conservation goals.<sup>58</sup> The Leasehold Forestry Policy (2014) governs the process and has not yet been updated to reflect changes in the Forest Act in 2019.

Membership of the pro-poor leasehold forestry user group is restricted to those who own less than 0.5-hectare land per household and have less than NPR 14,430 per capita income per year. Households that meet this criterion then place themselves into categories based on poverty level from ‘ultra-poor,’ ‘very poor,’ and ‘poor.’ The communities then select five to fifteen households from across these categories to be the members of leasehold user group (*Kafley & Pokharel, 2017*).

The District Forest Office helps the leasehold user group prepare a consensus-based five-year forest operational plan, then forest land is given to the user group under a leasehold for 40 years, which can be renewed for another 40 years. Based on the operational plan, which is renewed every five years, group members can produce, use, and sell any kind of forage, horticultural crops, and non-timber forest products from the forest. The user group is also supported with training and capacity building on land improvement and forest management, and also with inputs such as seed and saplings. Both men and women from each household of

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<sup>57</sup> *Id.*, art. 26.

<sup>58</sup> *Id.*

user groups are trained, and all social mobilizers associated with the program are women. More recently, leasehold forest user groups are encouraged to federate into inter-group networks and/or cooperatives with about 10 groups participating together to look after their broader interests. At the local level there are four institutions that help to make the user group effective, including local women's groups and local mother's groups (Kafley & Pokharel, 2017).

Women's leadership in the leasehold forests has been increasing. Based on an evaluation of 352 leasehold forest user groups in 2013, 42% of user group members had women as a lead member, an increase from 15% in 2006. The proportion of women, poor, Indigenous Peoples, and Dalits in decision-making roles of the groups i.e., Chairperson, Secretary and Treasurer, is 33%, 15%, and 54% respectively (Kafley & Pokharel, 2017).

Participation in Pro Poor Leasehold forestry processes are available to men and to women. Though there is no reservation for women in the executive committees, it is compulsory that one man and one woman from each household attends trainings (Wagle et al., 2017). There is no legal requirement that women should be included in benefits sharing, though women can be members of participating households or cooperatives that share in benefits. In practice, women are not targeted for use and access to forests. Women participate in institutional processes; however, male members often reap the benefits of participation unless the participant is from a female headed household. Also, men tend to be more active in cooperatives than women and thus are better able to make decisions that benefit themselves (Wagle et al., 2017).

*Assessment of the leasehold program has found some success in achieving the twin goals of forest improvements and poverty alleviation. This is understood to be because the leasehold forestry program:*

- *Provides some tenure security with clear rights and responsibilities that are supported by strong policy and regulations.*
- *User groups are small and decision making is thus simpler and more efficient; users make decisions based on individual needs; and the group's functioning is easily monitored through women mobilizers.*
- *Participatory methods are used from the onset, so decisions are made based on localized need.*

- *Is delivered in a way that is coupled with savings and loan program, which has helped with self-reliance; and incomes made from the program go directly to households, putting incentives to perform with the household*
- *Has built in social protections and technical and material support (Kafley & Pokharel, 2017).*

*On the other hand, the leasehold program has some challenges. For example, while the leasehold forest users have limited access to affordable and fair mechanisms for complaint and conflict resolution, leasehold users are not compensated if there is a land taking. Also, despite having rights to participation in decision making, the parameters of use that can be included in the workplan are set by the government and not by the user group. Another criticism of the program is that its impact is limited because it provides degraded land to poor people. Also, because membership in the user group is not transferable, it does not adequately address inter-generational poverty (Kafley & Pokharel, 2017).*

At least formally, women are seen as the primary users of leasehold forests, and women have access to the forest products planted by the groups, though they are restricted from harvesting older trees (Wagle et al., 2017).

## Government-Managed Forests

Government-managed forests are open to the general public who can access the forest except in rainy seasons. Forest users can collect basic forest products, such as grass, fodder, and firewood. There are no legal provisions for community involvement in forest management and decision making. Further, the government can restrict entry and can exclude communities from decision making processes. Also, the government has the right to transfer rights to others, such as by offering leasehold to private sector (ERPD, 2018). *Deep dive analysis should look at how women use government managed forests and whether they benefit from them today, to ensure that those uses are protected or recognized in future REDD+ programming.*

### General

*In general, across all forest management modalities there is a gendered division of forest use and management. Women's typical forest uses include collecting fodder, firewood, leaf litter, and grazing goats and cattle. Within the broad group of women there is variation: new brides in Muslim and Madeshi communities and women leaders from relatively affluent families are*

not engaged in performing these day-to-day forest management tasks, hence these groups of women have less forest management knowledge and skills. Women spend far more time in the forest on a daily basis than men and, in general, women have better knowledge of the forest (WOCAN, 2017).

Likewise, forest upkeep tasks are gendered. Women perform the majority of the unpaid tasks including weeding, cleaning the under growth, and transporting and planting saplings, whereas men are usually engaged in more technical and visible work which is often paid, such as making fire lines, fencing, silviculture, and forest patrolling at night (WOCAN, 2017). Timber extraction is also traditionally men's work that is usually performed once or twice in a year (WOCAN, 2017). Men also perform the executive management work across all forest management types - work that requires interaction and negotiation with government authorities and external partners, organizing and conducting meetings, developing agendas for the committee meetings, and planning and monitoring activities. This division of labor in forest management puts women in a subordinate position and makes it difficult for them to influence forest related decisions (WOCAN, 2017).

Women's participation is significantly lower than men in forest/REDD+ and agriculture-related technical training, committee planning, and monitoring meetings, workshops, and exposure visits. For example, women are either not informed or have no time to participate in the few forest management-related technical trainings for making fire-lines, silvicultural practices, and forest governance that are provided in the villages. These so-called highly technical trainings are not even accessible to the men of marginalized groups of Botes, Majhis, and Musahars. These marginalized women and men also have very limited access to networks, information, and technologies related to alternative energy technologies (WOCAN, 2017).

Some socially, economically, and politically advantaged women benefit more than others from forest activities. Only a handful of women who are socially, politically and economically advantaged obtain opportunities to participate meaningfully in forest management activities. This small group of advantaged women have access to repeated support, exposure, and benefits provided by the government and other external interventions (WOCAN, 2017).

## Social and Environmental Situation Analysis



Photo by [Avel Chuklanov](#)

### Marriage

Despite the criminalization of the practice, child marriage is pervasive in Nepal, with 37% of girls marrying before the age of 18 and 10% before the age of 15 (UN Women, 2020). This practice keeps young, married girls out of comprehensive sexuality education lessons taught at school and makes them vulnerable to multiple sexual and reproductive health problems (UN Women, 2020).

Rates of long-term male outmigration, especially from rural areas, are high (WOCAN, 2017). Husbands of 32% of the married women have migrated abroad or to bigger cities in search of employment (USAID, 2018).

### Women's Work

Approximately two-thirds of households in the ER Program Area use firewood for cooking purposes. The remaining third cook primarily with dung (13%) and liquid petroleum gas (16%). Biogas now is used by 4% of households in the Terai as a result of the national biogas program and Gold Standard biogas project (EPRD, 2018).

The female Labor Force Participation Rate is less than half (26.3%) that of males (53.8%). Women average 11.87 hours per day of unpaid domestic work, which has not been included in the national GDP (UN Women, 2020).

Women are the main users and providers of domestic water. Women spend up to several hours a day to collect water. Girls also contribute, which has a negative impact on their education opportunities (ADB, 2010).

## Poverty

Caste, ethnicity, regional identity, and geographical location are strong determinants of poverty and unequal development outcomes (ADB, 2010). Generally, all castes, ethnic groups, and regions have good access to water, but the Hill Dalits have the lowest access to improved drinking water at 70% compared to the national average of 82% (ADB, 2010).

## Political Rights

Women, in particular single mothers, are denied citizenship certificates and registration of their children, which prevents those women and their children from opening bank accounts, obtaining driver's license, voting, managing their property, gaining access to education, acquiring travel documents, applying for employment in the public sector, and benefitting from social services (UN Women, 2020).

Women and Children Offices in 75 districts were dissolved with the federalization of the country. This has created difficulties for women in accessing resources and facilities for advancing socio-economic political rights of women (UN Women, 2020).

At the local level, men continue to outnumber women as heads of local governments with 97% of Mayor/Chair or Ward Chair positions being held by men and 91% of deputy positions (Deputy Mayors and Vice Chairpersons) held by women, reflecting the low number of women filed as candidates for the Mayor/Chair positions by political parties. At the federal and provincial level, women are confined to the position of Deputy Speakers in the federal level House of Representative, National Assembly and all provincial assemblies (UN Women, 2020).

Nepal is one of 25 countries in the world that denies women the right to confer nationality to their children on an equal basis with men, and one of roughly 50 countries to deny women the right to acquire, change, or retain their nationality or confer nationality to spouses on an equal basis with men (UN Women, 2020).

In 2018, 23.8% of households were female-headed, which is an increase from 19.6% in 2003-2004. Women's involvement in cooperatives has increased significantly from 2014 to 2019. Women cooperative members stood at 44% of total membership in 2014, which increased to 51% in 2019 (UN Women, 2020).

Despite disruption and losses, some of the features of the civil conflict in Nepal opened new doors for women, especially those from lower castes and ethnic minorities. During the insurgency, new land tenancy arrangements, lending interest rates, and workers' wages were established to benefit the disadvantaged, and steps were taken to eliminate caste-based discrimination. As a consequence, untouchability appears to have decreased in public spaces. A notable feature of the conflict was women's involvement as combatants and in political cadres. One study reported that every third guerrilla was a woman, and, of those, 70% were from Indigenous ethnic communities (ADB, 2016).

## Education

Women have lower levels of education and technical training than men. When all community members received the same level of GPS training without considering different education levels, women had more difficulty than men in grasping the technology and implementing the inventory process for carbon. Women were also not computer literate to access the technology used by men to obtain information and process data (WOCAN, 2017).

Women from Tharu, Madeshi, Muslim, and other Indigenous and minority communities in the ER Program accounting area who are not exposed to the commonly used Nepali language are extremely shy and may not have the confidence to participate in programs and events, even when enabled to do so (WOCAN, 2017).

## Trafficking

Trafficking of children and women in Nepal is a pressing issue. Nepal is a source country for women and children trafficked for commercial sexual exploitation and other exploitative purposes including domestic servitude, begging, criminal activities, forced marriages, debt release, the circus industry, garment and carpet factory work, and organ transplants (ADB, 2010).

## Decision Making

Despite the contributions that women make to family livelihood, they usually have little say in household decision making (ADB, 2016).

The gender assessment for the ER Program area found that women across all caste and ethnic groups in the Terai region have very minimal control over the household assets and income, community level decisions, and resources. In the majority of cases, women's control over household assets (indicated by what they do not need to ask their husbands' permission for) is limited to the selling of chickens and eggs. For larger assets, they must obtain permission from their husbands or male family members. Goats are considered a large asset, and so require women to seek men's permission to sell. The daily wage-earning women from Musahar and Bote communities are better off than Janajati and Brahmin women from the Terai and hills, as they have more control over the money that they have earned (WOCAN 2017).

## Climate Change Programming and Gender Inclusion



Photo by [James Chou](#)

There are seven components of Nepal's Emission Reductions Program, these are:

- 1) Improve management practices in existing community and collaborative forests, including by building on traditional and customary practices.
- 2) Localize forest governance through transfer of government forests to Community and Collaborative Forest User Groups.

- 3) Expand private-sector forestry through improved access to extension services and finance.
- 4) Expand access to alternative energy with biogas and improved cookstoves to reduce demand on forests.
- 5) Scale up pro-poor Leasehold Forestry.
- 6) Implement integrated land use planning measures to reduce forest conversion associated with infrastructure development.
- 7) Improve the management of existing Protected Areas.

The first two components will be implemented under Ministry of Forests and Environment (MoFE), which supports the “handover” process, i.e., transferring the management rights of the forests to local user groups, and by working with user groups to upgrade management plans.

The third component will include access to long-term, low-cost capital to incentivize plantation production and maintenance of forests on their private lands.

Under the fifth component, Pro Poor Leasehold Forestry has been successful in other parts of the country at providing livelihood opportunities for poor and historically marginalized groups in forest management, agroforestry, and NTFP cultivation and would be scaled up under this component.

The final two components are focused on land use planning and implementation of the ERP program.

The 2017 Gender Assessment identified potential gender issues and programmatic responses to those seven components, which were incorporated into the ERPD (WOCAN, 2017).

Table 2 shows these components along with analysis and recommendations from the Gender Assessment that were conducted part of the FCPF programming. They are shown below here to illustrate the current commitments and recommendations for gender and social integration into the ERPD.

Table 2. Components and Gender Considerations identified in ERPD

| <b>Component</b>                         | <b>Identified issues in Gender Assessment</b>   | <b>Programmatic Response in Gender Assessment and ERPD</b>  |
|--|---|---|
| Improve management practices in existing | Forest management-related interventions, forest-based income generation activities and technical skills | Revise Collective Based Forest Management (CBFM) plans to recognize the roles and contributions of women, particularly from |

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| <p>community and collaborative forests, including by building on traditional and customary practices.</p>                   | <p>do not always relate to the needs, priorities, and interests of women, particularly poor and marginalized women.</p> <p>The role of women in decision-making processes could be strengthened, particularly for poor women from marginalized minority groups, who are also the day-to-day users and managers of forests.</p> <p>Women have less access to and control over government and non-government financial and technical resources, new knowledge, information, and skills related to forest management.</p> | <p>marginalized groups, and ensure their full participation and benefit sharing.</p> <p>At least 50% of 200 trained and developed will be women, with 50% of these from marginalized minority groups.</p> <p>The executive committee members of the Community Based Forestry Management Groups and government service providers to also be trained on inclusive leadership to increase and improve accountability toward women and particularly those from marginalized minority groups.</p> <p>Extension services will support women, particularly from marginalized groups, to access skills and networks to become skilled forestry technical resource persons/service providers.</p> <p>The extension programs to promote government procedures would be organized and facilitated in ways that enable women's participation, particularly those from marginalized minority groups. Such programs will include information on the rights of women and Indigenous Peoples.</p> <p>The ER Program will ensure that at least 50% of women, particularly from marginalized groups, benefit from alternative livelihood activities.</p> |
| <p>Localize forest governance through transfer of government forests to Community and Collaborative Forest User Groups.</p> | <p>As above</p>  | <p>As above</p>  |
| <p>Expand private-sector forestry through improved access to</p>  | <p>Women across all social and economic groups have little control over private forest resources. The proposed ER</p>  | <p>Support women, particularly from marginalized groups, to access capital, skills, networks, and subsidized quality seeds to become successful entrepreneurs and skilled</p>  |

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| extension services and finance.  | Program activities have the potential to spur innovation to engage more women in private forest management through many of the targeted activities  | <p>forestry technical resource persons/service providers.</p> <p>Provide Business Literacy Classes for women entrepreneurs, learning from the successful classes conducted by USAID and IFAD.</p> <p>Provide soft loans to women, particularly those from marginalized groups.</p> <p>Make efforts to improve land tenure rights for women and marginalized groups</p> <p>Develop or incentivize establishment of cooperative business models, including, for example, using invasive species and other biomass for bioenergy supply chain.</p>  |
| Expand access to alternative energy with biogas and improved cookstoves. | <p>Poor assessment of energy needs, priorities and interests of women, particularly poor and marginalized minority women, who are the primary daily users/managers of forests and firewood.</p> <p>Limited information flow and poor extension services on energy-related resources, technologies, subsidies, and incentives, particularly to poor and marginalized women.</p> <p>No assessment of nonparticipation and non-adoption of renewable energy technologies by poor and marginalized minority women, or strategies to address this gap.</p> | <p>Empower women, particularly from marginalized groups, with training to serve as Renewable Energy Service Providers and entrepreneurs, providing information about the benefits of biogas and ICS, subsidies, and micro-credits.</p> <p>Engage women, particularly of marginalized groups, in developing bioenergy supply chain using invasive species and available biomass.</p> <p>Assess demand from women and link with micro-credit providers in the respective districts; introduce innovative strategies to encourage the use of bio-gas and ICS such as awarding renewable energy technician champions (both among beneficiaries and SPs) and increasing the incentive amounts to offset up-front costs of biogas installation for the poorest and most marginalized women.</p> <p>Use “Window of Opportunity” funds and resources to promote new technologies to reduce household workloads</p> |
| Scale up pro-poor Leasehold Forestry.                                    | One of the major challenges within leasehold forests is identification of poor and  | Support successfully tested and implemented value chains for marginalized women in two districts (in-road corridors).  |

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|  | <p>marginalized women and providing them access and control over forest-based resources for developing appropriate livelihoods and enterprise-related activities. Women are more likely than men to be without land rights, so it is critical that Leasehold Forest User Groups have strong participation of women and ensure their rights to long-term leases.</p> | <p>Apply lessons learned from IFAD/HVAP and Heifer Nepal to develop/establish pro-poor value chains with well-developed human resources, structures and markets.</p> <p>Implement BLUC learning from successful classes by USAID and IFAD. The BLC packages will be modified in the context of leasehold forests to include technical components such as on REDD+, sustainable forest management, good governance, leadership and fairness in benefit sharing, access to information and resources, basic bookkeeping, and finance.</p> |
| <p>Implement integrated land use planning measures to reduce forest conversion associated with infrastructure development.</p> |   | <p>Ensure that women, particularly from marginalized groups, are actively engaged in all planning, monitoring and benefit-sharing activities related to land-use planning.</p> <p>Support extension initiatives to inform women and IPs of their rights in relation to land use and benefits, as per the government policies.</p> <p>Employ women, particularly of marginalized groups, in plantation establishment and maintenance activities.</p> <p>Respect and adopt women's knowledge of traditional land-use systems.</p>         |
| <p>Improve the management of existing Protected Areas</p>  |   | <p>n/a</p>  |

According to the Benefit Sharing Plan (BSP), the potential beneficiaries of REDD+ activities in the TAL include:

- Community based entities involved in managing forests in the CBFM regimes. This includes Community Forest User Groups, Leasehold Forest User Groups, Collaborative Forest User Groups, and Forests managed as part of a community-based modality under Protected Areas (Buffer Zone).

- Government entities at national, provincial, district, and local levels engaged in sustainable forest management. This includes government managed forest and Protected Areas as well as the National Forest Authority, Provincial Governments, and District, Municipal, and Village Councils.
- Private forest owners engaged in managing forests on their private property. This may require proper criteria/ceilings to determine eligibility for benefit sharing determined by either of the legal instruments mentioned above.
- NGOs, CSOs, IP alliance and federations including academia and private sectors also could be considered as major stakeholders for benefit sharing. They can benefit through “non-monetary benefits” such as research, advocacy, and deliberations of REDD+.
- Forest dependent people, customary right holders, Indigenous Peoples, women, and the poor.

The BSP proposes that 70% of the benefits be distributed in the form of monetary benefits and 30% in the form of non-monetary benefits. The BSP requires that a beneficiary must use 50% of the total benefits for forest management, conservation, and protection and the remaining 50% for environment and social safeguards divided up as follows: 10% each for the poor, forest dependent people, Indigenous groups, women, and monitoring and admin costs (BSP, 2020).

*Similar set asides are part of the Community Forestry model in Nepal, and a deep dive might inquire more information on lessons learned from those processes could help ensure that these set asides achieve their intended objective. It would also be important to understand with more granularity the steps that are taken to actually allocate these funds, who has authority over that, and who decides how they will then be used? Also, it is expected that the poor, forest dependent people and Indigenous Peoples are already organized and are women also members of those groups? Must women be organized into a woman’s group to receive these allocations? What measures can help avoid elite capture within these groups?*

*Also, it would be important to learn more about the extent to which the 50% allocated to forest management, conservation, and protection impacts women’s uses of forests in a positive or negative way, since women’s use of/livelihood needs from forests is different from that of men, and women have largely been excluded from forest management and conservation roles.*

With particular attention to the benefit of moving to biogas, Nepal’s Alternative Energy Promotion Center (AEPCC) has a proven track record installing biogas plants and cookstoves and will administer these program activities, and households will derive the benefits of improved

technologies and creating time for other economic pursuits (ERPD, 2018). *A deep dive question might be to learn more about the AEPC program and its success in ensuring that women's specific household needs are met.*

Non-monetary benefits will include improved incomes from increased forest productivity; strengthened forest governance (e.g., through the establishment of community and collaborative forests); improved health outcomes and time availability for women (from expanded uptake of biogas and cookstoves); sustainable livelihood opportunities in forest management, NTFPs, and agroforestry; and maintained and enhanced biodiversity inside and outside of Protected Areas (EPRD, 2018).

## Other Projects

An early REDD+ project in Nepal was the “Design and setting up of a governance and payment system for Nepal’s community forest management under reduced emissions from deforestation and forest degradation (REDD+)” in Charnawati, Dolakha; Kayarkhola, Chitwan; and Ludikhola, Gorkha.

It was implemented by a consortium of three agencies—International Centre for Integrated Mountain Development (ICIMOD), Asian Network of Sustainable Agriculture and Bio-resources (ANSAB), and the Federation of Community Forestry Users, Nepal (FECOFUN) from 2009–2013, with financial support from Norad’s Climate and Forest Initiative (Shrestha et al., 2014). The major focus of the project was to develop and demonstrate an innovative benefit-sharing mechanism for REDD+ incentives, as well as institutionally and socially inclusive approaches to local forest governance.

REDD+ activities from 2009-2013 shed some light on benefit sharing modalities. Among the criteria to receive benefits sharing payments was a positive ratio of women to men in governing bodies. Also, there was a mandatory 15% set aside of funds to be used towards women’s empowerment. After review, WOCAN found the following:

- A higher rate of women’s participation in committees does not automatically translate into decision making power.
- The value of women’s participation and inclusion in the executive committee must be demonstrated to and supported by local stakeholders to make a difference.
- If existing social cultural norms are not dealt with first, REDD+ benefits could exacerbate women’s exclusion.

- Women only groups can build confidence and ensure higher levels of decision-making power for women.
- Capacity building should be tailored to women's needs so that it has lasting value for the community.
- Champions at district and national levels are needed to support women's leadership at local level (WOCAN, 2018).

## Existing Organizations Working with Women



Photo by [Azin Javadzadeh](#)

*Whether or not women are part of local women's organizations and the strength and power of those organizations can also make a difference in women's capacity and willingness to participate in governance of the resources and/or ability to get support for participating in climate change programming.*

**FECOFUN** (Federation of Community Forestry Users in Nepal) helps conduct gender mainstreaming in community Forests in Nepal.

**RUWON** is a women's rights organization that has been working with rural women in Nepal since 2007. It works on microfinance, leadership development, education, and networking. The **Women's Foundation** works with women who are victims of violence, poverty, and abuse.

**WOREC** is a movement for women's rights, social justice, and sustainable development in Nepal.

The international umbrella organization, **WOCAN**, works in Nepal conducting research and leadership and gender training on agriculture, climate, and resource management.

**Himalayan Grassroots Women's Natural Resource Management Association** has conducted research and outreach on climate change related programs in Nepal.

## Analysis and Recommendations for Gender Inclusion

Initial recommendations incorporate both a need for more information from the deep dive and early suggestions based on existing analysis.

### Deep Dive Needs in Summary

Locate the any new guidelines or operational procedures for the various community-based forest management modalities, and assess them for requirements on gender equity including related to ensuring that women have the opportunity to influence the governance and decision-making agenda, and that women have the opportunity benefit from the activities.

Gain an expert legal opinion on the meaning of the community property in the new Civil Code. Can this apply to collective held customary lands?

If the ER Program intends to better protect and respect customary tenure, what are customs of the gender dynamics of the groups in question and how might recognizing customs impact women?

While there is some information on gender equity outcomes related to the Community Forestry modality, aside from the suggestion that women tend to be better off in women only groups, the available information does not offer much insight into how those processes can be improved. What else can be learned from Community Forest examples as it is already practiced in terms of concrete steps that can be taken that are positive for women?

Most of the information on women's participation and involvement in governance and management of forests comes from community forests, but there is some information on the other forest management modalities (collaborative, pro poor lease hold, protected, government managed) that are included in the ER Program. Deeper analysis on these models and any lessons learned related to gender equity is needed.

For all the forest management models, more information is needed on whether the approaches have a positive (or negative) impact on outcomes for women. Much of the literature looks at whether women participate, but there is little on whether women show any improvements in their livelihoods, choices, income, or other outcomes, which would help show that women in fact can benefit from these community based forest management models. More evidence on outcomes for women is needed.

More can be learned about the effectiveness of the existing AEPC project to shift to biogas for women. What are women's perspectives? What has been learned? What needs improvement?

## Early Recommendations

- Develop guidelines/toolkits for how plans, by-laws, governing documents should be drafted and implemented so that the women participate and benefit more fully in management.
- Help build capacity of women and men on governance, so that they have the skills to meaningfully participate.
- Look into the possibility of more women-only user groups for all community-based forest modalities that are in the ER Program accounting area.
- Develop specific guidelines on how set asides for women from benefit sharing can work to make a difference for women. How are they shared, how allocated, who decides etc., and how to avoid elite capture or how to avoid that the interests of a few connected women dominate the experience of all women.
- Ensure that monetary benefits to women are considered their separate, personal property, so that it remains within her control in her household. Pay such benefits directly to women involved. Don't assume that payments to household head will benefit all women in that household, especially daughters-in-law.
- Support any quota for women's participation with training for women and for men members on good decision-making approaches; negotiation and public speaking skills.
- Have set aside extension services that are only for women and are driven by women's needs and aspirations related to the programming and opportunities.
- Take proactive steps to move from participation of women towards ensuring that women's interests have an equal weight in setting the agenda as well as making

decisions in governing bodies. This could involve setting up women's committees (to help mobilize women) that have a permanent place to speak on the agenda, and then setting aside content-oriented quotas (i.e. certain content must cover issues raised by women).

- Measure and monitor the results of activities – as well as outputs – that are integrate best practice for measuring women's empowerment or gender equality. This should include monitoring benefits sharing for women and particularly women from marginalized groups, to ensure that resources intended for women and women's groups reach their target (Gurung & Gurung 2018).
- Strengthen the governance capacities of forest-related federations, cooperatives, and user groups so that they can become stronger, more inclusive organizations with a commitment to gender equality and social inclusion (Gurung & Gurung 2018)
- Develop markets, enterprises, and cooperatives of marginalized women to provide new opportunities for employment and income that are aligned with the ERP. For example, off-season vegetable farming and goat rearing (using stall-fed methods with fodder development programs), particularly along the road corridors, can be thriving enterprises in ERP districts (Gurung & Gurung 2018)
- Ensure investments in interventions that reduce women's workload and reduce fuelwood consumption are aligned with women's needs.

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