

# ON USERS' ROADS

Examining the User Committee Mechanism  
in Developing Local Roads in Nepal

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Recommended Citation: Rai. N. 2020. *On Users' Roads: Examining the User Committee Mechanism in Developing Local Roads in Nepal*. Kathmandu, Nepal: Policy Entrepreneurs Incorporated.

The content of this reports reflect the views of the author  
and not necessarily that of the funding agency.

## **RESEARCH TEAM**

The primary author of this report is Nirjan Rai. Initial research was led by Padmendra Shrestha, with support from Devesh Belbase and Bhim Ghautam. The field research was complimented by further investigation and reporting by PEI's province-based staff: Avinash Sajan Karna in Province 2, Dinesh Khanal in Lumbini Province, and Prakash Kumar Panta in Karnali. Saumitra Neupane, Shreeya Rana, and Dheeraj Jung Gurung provided significant assistance in the final stages to wrap up the research.


## FROM THE EXECUTIVE DIRECTOR'S DESK

Policy Entrepreneurs Inc. is extremely pleased to share this research report *On Users' Roads: Examining the User Committee Mechanism in Developing Local Roads in Nepal*. This work is an embodiment of PEI's institutional engagement interests in Nepal's infrastructure development process, and through the study of local road development, attempts to critically reflect on Nepal's long continuing experiment with a community-based participatory model for local infrastructure development, i.e. user committees.

Starting from the 1990s and strongly continuing into the post-federalism era, Nepal has witnessed a massive proliferation of local roads. And user committees have played an important role in that phenomenon. This research report critically examines the intricacies of this process and puts forth some compelling observations on the motivations and the functioning of the user committees and the local governments engaged in road development.

We should note that the research team's engagement in this study was severely limited by the onset of the COVID-19 pandemic, which limited their ability to generate the desired level of field observations. Also, PEI is cognizant that the observations put forth in this report are snapshots of a highly complex and evolved development phenomenon. Nevertheless, we are confident that these observations will be helpful for all individuals interested and engaged in the user committee mechanism and the development of local roads in Nepal.

PEI welcomes engagement from readers and practitioners who are interested and want to further engage on this topic.

A handwritten signature in black ink, appearing to read 'Saumitra', with a horizontal line extending from the end of the signature.

Saumitra Neupane  
Executive Director

## **ACKNOWLEDGMENT**

Policy Entrepreneurs appreciates the financial support provided by the Open Society Foundations to conduct this research. The research team would like to give special thanks to Swagat Pandey from the Alliance for Social Dialogue for providing oversight of the research process throughout the entire research period. Swagat provided substantial feedback in both the early design of the research up to the completion of the final report. We also highly appreciate the flexibility afforded to us by the Open Society Foundations at a time when the pandemic severely limited our ability to conduct the remainder of the field investigations.

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# 1. INTRODUCTION

## 1.1 THE CONTEXT

Local motorable roads are a fairly new phenomenon in Nepal. This is actually not a surprise given that Nepal did not have any form of motorable roads up until the 1950s.<sup>1</sup> Oftentimes the first image that comes to mind on this topic is that of several dozen porters carrying luxury cars on bamboo poles atop their shoulders across the mountains and rivers to fulfill the extravagance of the ruling Ranas. Subsequent governments, following the Rana rule, took initiatives to build strategic roads that were meant to connect Nepal to the outside world and to steer it on a path of development. However, the gradual urbanization and increasing access of the public to mass transportation began generating demand of citizens for roads to connect their towns and villages. In response, the government began investing in this particular infrastructure. As Nepal began to decentralize in the 1990s, this responsibility was devolved down to the local governments. From thereon, the development of local roads proliferated.

While this increase of local roads can be considered a noteworthy development, this phenomenon also deserves a close examination. On the one hand, because roads are a key infrastructure of development, these local roads have helped increase the connectivity of communities that had hitherto been isolated resulting in newer economic opportunities. This is largely in the form of access to markets where people are able to sell their goods and services. In some areas, this has promoted newer activities such as tourism and cash-crop agriculture. Furthermore, these new roads have also meant better access to schools and hospitals for the population now being served by that road. On the other hand, however, the pace at which these local roads have been pushed for is often criticized for not being developed according to the required technical standards and for failing to take into full consideration the negative impact on the surrounding environment.

Nepal has two mechanisms in place to develop local roads. The first is through public tendering, a process where the concerned government body plans and designs the necessary road section to be developed and goes through a legally-required bidding process. As is practiced elsewhere, private contractors then bid for these work packages and once awarded carry out the established work order. This process has, however, been criticized for its inability to produce the desired results within the anticipated time frame largely due to the lack of professional capacity of the contractors as well as the rent-seeking behavior of the government agencies.<sup>2</sup> The second mechanism, which is the subject of this research undertaking, involves a participatory approach of working directly with the beneficiaries of infrastructure projects through a formally established mechanism of a *user committee*.<sup>3</sup> This committee, in theory, is involved in the planning and execution of the project and is, most importantly, required to contribute to the project. The underlying principle of working with these *user committees* is that their ownership will ensure better representation and participation of those directly concerned with the project resulting in a more accountable process and, therefore, the desired output.

The verdict on the actual effectiveness of these *user committees*, however, is mixed. On the one hand, people point to the participatory nature of this process that purportedly brings in the benefits associated with local ownership both in terms of quality of the road constructed and timely completion of projects. For example, Himal Khabarpatrika, in a September 2018 article features the work of a user committee in Dhulikhel Municipality that contributed towards the completion of

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<sup>1</sup> A brief history of road development is provided in Chapter 1.

<sup>2</sup> Wales, J., & Wild, L. (2012). The political economy of roads: An overview and analysis of existing literature. London: Overseas Development Institute.

<sup>3</sup> There are limitations established in the law that specifies what types infrastructure related work can be done through the user committees



a blacktopping of a road section.<sup>4</sup> The article highlights the various contributions of individual beneficiaries each based on their capacity: some offered cement and aggregates while others free transport, some offered firewood to melt the bitumen while others to water the concrete daily to help it set. All this is reflected in a statement of a local community member: “Had this project been done through a contractor, why would the community members contribute to their profit? Because this was done through a user committee, we took this as our project and decided to work together.” This, the report goes further to claim that, has resulted not only in a project of better quality but also more work was achieved from the budget allocated by the municipality. The report also provides many other examples of projects that the municipal office had decided to develop through user committees, all producing, purportedly, noteworthy results.

On the other hand, many reports in the Nepali media highlight the irregularities associated with user committees in infrastructure development in Nepal, and even more so in the development of local roads. For example, the Center for Investigative Journalism, in a November 2019 article, reports on how user committees in Lamkichuha Municipality abetted by government officials pass through to contractors their work.<sup>5</sup> Not only does such an arrangement go against the spirit of the user committee mechanism, but it is also prohibited by the law. In the article, the reporters also draw attention to other anomalies in project development in the municipality, including the creation of pseudo-user committees, the use of fake documents in monitoring, and the disbursement of final payments to contractors despite projects being incomplete, among many others. The result of such practices can be seen in the number of incomplete projects in the municipality; even those that do get completed often are not of the desired quality. All this, while the perpetrators of such delinquencies do not have to face the consequences.

Given that the government works with several thousand *user committees* across the country on an annual basis to build all types of infrastructure projects, the reality of their efficacy lies probably in between these two contradictory stories that have been presented in these two media articles. However, there is a lack of study on this particular mechanism of doing development to provide feedback on this policy. This, in a nutshell, is the gap this study intends to fill.

## 1.2 SCOPE AND METHODOLOGY OF THE RESEARCH

The primary objective of this study is to examine the implementation of the participatory approach that is currently used in developing local roads in Nepal. To do so, the research team has broken down this topic into three main parts: the first part examines whether or not *user committees* offer citizens the opportunity to have their concerns represented in the decision-making process of road development; the second part looks at how local governments are situated to engage with these *user committees* to achieve the stated development goal; the third part assesses the efficacy of the accountability measures put in place to ensure quality results from this mechanism.

This study was conducted in two phases. The first phase involved a thorough examination of the relevant policy documents of the government as well as of the available literature from the academia and the development sector on road development in Nepal. We should mention here the limited availability of literature on this particular issue: those that were available were mostly reports of road-related projects highlighting the success stories of their local engagement. There was some academic literature available that also discussed the success of these approaches, but were limited by the fact that they did not investigate the political economy of project development.

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<sup>4</sup> Pokharel, M. (2018) *Dhulikhel Nagarpalika Bikashma Janapanatwa* (Translation: Local Ownership in Dhulikhel Municipality's Development). Himal Khabarpatrika

<sup>5</sup> Singh, B.P. and Bista, J. (2019). *User committee mere pass-through work to contractors*. Center for Investigative Journalism. Accessed from <http://bit.ly/37FMWZA>



The final category of available literature were media articles that reported either the positive or negative aspect of this approach. The scope of these newspaper articles did not require a deeper analysis of the observed phenomenon.

The second phase included field visits by the research team to three different locations. These locations were methodically picked to ensure representation in terms of the type of government, (i.e., metropolitan city, urban municipality, and rural municipality) and geography (i.e., terai, hill, and mountain). The selected municipalities were Jeetpursimara, Godavari, and Gosainkunda. The research team conducted focus group discussions and key informant interviews with relevant government officials and beneficiaries of local roads, including members of user committees. This was supplemented by a thorough examination of the planning and budgeting process of several other municipalities. This included the analysis of their annual budget and their plans around infrastructure development. PEI’s field-based staff conducted further interviews with government officials and community members to verify and to validate our findings. Their reporting included the following municipalities: Sainamaina, Nalgadh, Bardibas, and Barahathawa.

Municipality	Province	District	Type of Government	Geography
Jeetpursimara	Province 2	Bara	Sub-metropolitan city	Terai
Bardibas	Province 2	Mahottari	Urban Municipality	Terai
Barahathawa	Province 2	Sarlahi	Urban Municipality	Terai
Godavari	Province 3	Lalitpur	Urban Municipality	Hill
Gosainkunda	Province 3	Rasuwa	Rural Municipality	Mountain
Sainamaina	Province 5	Rupandehi	Urban Municipality	Terai
Nalgadh	Province 6	Jajarkot	Urban Municipality	Hill

### 1.3 LIMITATION OF THE RESEARCH

This examination in this study is being conducted at a time when the entire administrative structure of the country, as a result of the implementation of federalism, is in transition. Given that there is still significant work left to do to bring clarity through new arrangements—institutionally and legally, the research team struggled to find a coherent narrative around the future of the road sector. We should note that the analyses in this study are based on the perceptions of the respondents interviewed by the research team. We hope that the findings here can serve as important information for future research to develop a credible hypothesis for their study. A thorough and more rigorous research on transactions will be required to validate the findings.

Finally, it is important to note that before the study could be completed, the upsurge of COVID-19 in Nepal impacted the ability of the research team to conduct further field review. As an alternative, the research team relied on PEI’s province-based staff to retrieve any necessary information and to conduct further interviews with relevant officials and community members. Given the travel limitation during the lockdowns, we have increased our field information of areas that were more accessible to the field staff. We are confident that these new sites also provide a glimpse into the workings of user committees as in the locations initially identified by the research team.

## 2. LOCAL ROADS IN NEPAL

In this chapter, we provide an overview of the process of road development in Nepal. We begin by depicting the context of road development. We then briefly discuss the various policies and institutions that have been put in place to develop local roads in Nepal.

### 2.1 ROAD DEVELOPMENT IN NEPAL

The various regimes that governed Nepal in the last century have placed importance on different aspects of road that they felt were pertinent to their strategic survival.<sup>6</sup> For this study, we place this phenomenon under two distinct categories, which are demarcated by the year 1990, i.e., the year that defined the current democratic system that is practiced in today's Nepal.

Pre-1990 - A Centralized Approach: The decision of the Ranas<sup>7</sup> to invest in roads depended on two things: to prevent British India from expanding north into the Nepali territory<sup>8</sup> and to maintain their political control within the country. As a result, they refrained from connecting Kathmandu to the rest of the nation as they believed that the surrounding hills provided a natural fortification; whatever road they did build, e.g., the postal roads along the Terai belt were done to commute their orders and to facilitate tax collections.

The subsequent political system to reign with full force was the *panchayat*, a single-party political system that was the brainchild of an ambitious monarch, namely King Mahendra, who promoted an extensive exercise of nation-building and guided the country's development path accordingly to achieve his vision. For this, he sought to accomplish two particular things: to integrate the nation's heterogeneous population under a single national identity and to minimize India's extant dominance over Nepali politics.<sup>9</sup> These intentions are reflected in how he emphasized the development of a road network: he invested heavily, i.e., well over a third of the national budget, in the road sector and sought bilateral financial assistance<sup>10</sup> to build roads that ran both east-west and north-south of the country.

For example, the East-West highway was built as a strategic road that ran parallel to the Nepal-India border, which for the first time allowed Nepalis to travel the length of their country without having to traverse through India. The north-south roads such as the Kodari highway were meant as a concept of vertical growth axes that included parts of the mountain, the hills, and the Terai regions of the development regions and for Nepal to signal to India its intention to balance with China. Contrary to the Ranas, who cared less for the local roads, the Panchayat regime began investing in local road infrastructure with the intent to connect the rural regions with the growth centers and with the national highways.

Post-1990 - The Democratic Approach: The reign of the *Panchas* came to an abrupt end in 1991 when a *People's Movement* replaced it with a system of multi-party democracy. A new constitution was subsequently drafted that placed sovereignty on the Nepali people and further emphasized the devolution of authority that was slowly taking place in the country. This was epitomized by the promulgation of the Local Self Governance Act in 1998, which promoted a participatory approach to local development. At the heart of this approach was the 14-step planning process,<sup>11</sup> which

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<sup>6</sup> For a detailed discussion on this topic, see Rankin et al (2017)

<sup>7</sup> The Ranas were a feudal aristocratic family that had *de facto* control over Nepal from 1846 to 1951.

<sup>8</sup> Regmi, M.C., 1988. An economic history of Nepal, 1846-1901. Nath Publishing House.

<sup>9</sup> It should be noted that up until the 1960s, Nepali politics was heavily influenced by India. To the extent that Indian military check-posts were stationed along the Nepal-Tibet border and Indian Ambassadors were said to have full access and influence over Nepali cabinet decisions.

<sup>10</sup> Nepal was seeking assistance from a number of countries, especially countries its neighbors India and China

<sup>11</sup> The Asia Foundation, 2012. A Guide to Government in Nepal – Structures, Functions and Practices. Himal Kitab

required local governments to interact with communities in putting together their budget priorities that would then be aligned with the national budget being prepared by the central institutions.

One of the most visible development paradigms observed during this phase was the investment by the government, especially local governments, on roads. One unique approach that became a cornerstone of local road development was the *user committees*. Here, the government works with the beneficiaries of the project by putting together a committee that is responsible for not only overseeing the implementation of the project but also required to contribute, in cash or kind, to the project. While it has been difficult to pinpoint the particular events that led to this mechanism for developing local roads, the fact that this mechanism exists is not surprising at all.<sup>12</sup> The participatory approach through user groups, especially in the management of common-pool resources, is quite popular in Nepal. This approach gained further recognition after the success of the government's decision to hand over the management of the national forests to community-based forest user groups in the 1990s. This underlying principle of ownership is also applicable to the development of local roads in Nepal.

But before the gains of the *People's Movement* could be adequately institutionalized, the Maoists began their insurgency in 1996, which gradually besieged the nation and brought all development activities down to a trickle, including in infrastructure development. This was exacerbated by the fact that the government was not able to hold local elections for over two decades and all local development agendas fell back on the central bureaucrats. When the civil war finally ended in 2006, the post-conflict *mantra* of politics of consensus introduced a unique apparatus of the *all-party mechanism* to guide the development activities at the local level. In theory, these mechanisms were a representative system of leaders from all political parties intended to promote consensus and ensure peace. In reality, however, they became a key source of local patronage.<sup>13</sup> The development of local roads was deeply entrenched in this corrupt practice.

While all this was happening, Nepali politics experienced a major paradigm shift with the political decision to federalize the country. This shift was the result of, among other things, the claim of ethnic minorities who felt inadequate representation in the political establishment of the country. In this new era of federalism, the aspiration for locally-led development has only gone further. With the promulgation of the new constitution in 2015 and the completion of elections for the three spheres of the federal government in 2017, the stage has been finally set for the local people and their representatives to work together in developing their communities.

This new era was to bring two things; first was the unprecedented devolution of authority down to the local level, which allowed local governments to legal right to plan and implement their vision, while promoting the participation of communities in the development work that was directly relevant to them; second, the reinstatement of electoral politics would bring back competition and opposition that would introduce the necessary checks and balances in the system. But as was to be expected, challenges remain. While this is not directly within the scope of this research, this paper, in later sections, illustrates some of the major challenges that are hampering this process.

## 2.1 LOCAL ROADS IN NEPAL

The Nepal Road Standard (2013) classifies all roads in Nepal into four main categories. The first such category is the *national highways*, which include roads that “serve as arterial routes passing

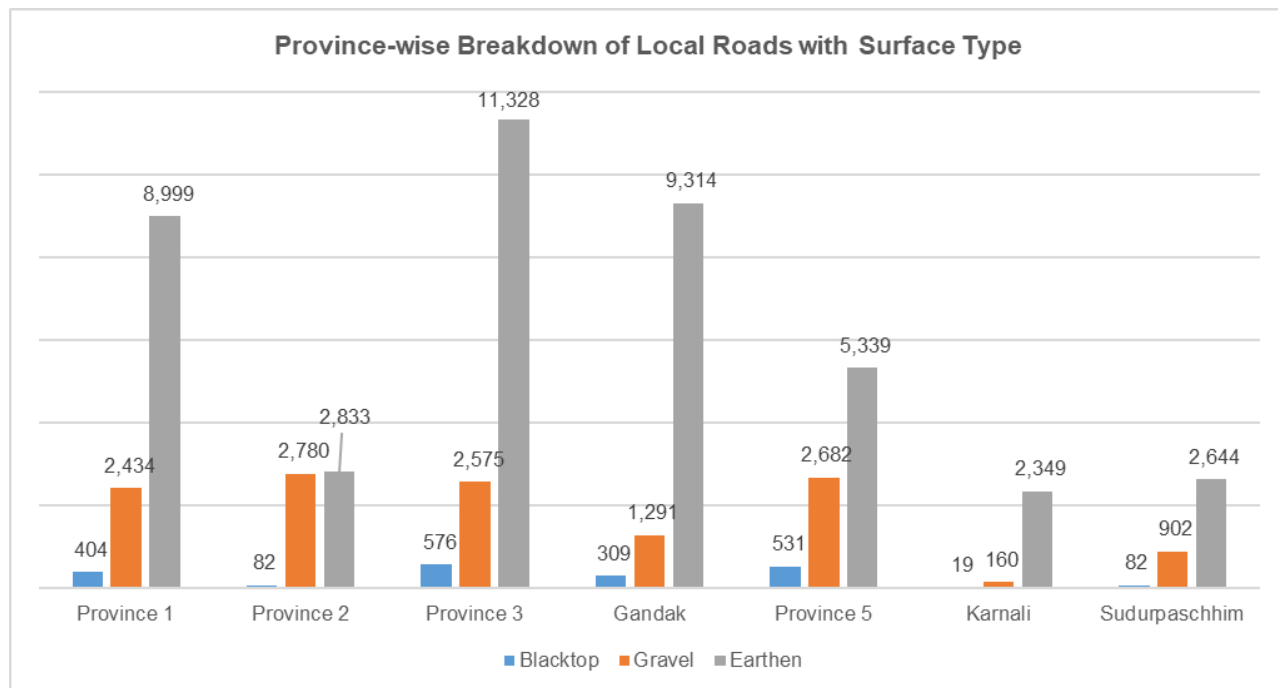
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<sup>12</sup> The research team tried to trace back the origins of this mechanism in local roads, but were unable to pinpoint to any one specific event. In the process, they were able to find significant literature in other sectors, especially forestry.

<sup>13</sup> The Asia Foundation, 2013. Political Economy Analysis of Local Governance in Nepal with Reference to Education and Health Sectors. The Asia Foundation.

the length and breadth of the country.” The second category is the *feeder roads*, which are meant “to serve the community wide interests” and connect major centers to national highways or other feeder roads. These two categories of roads are referred to as the *Strategic Road Network roads*. The third category is the *district roads*, which are key roads “within a district serving areas of production and markets, and connecting with each other or with the main highways.” The fourth category is *urban roads* that serve urban municipalities. Other government documents also divide this category into *urban* and *village* roads. These last two categories are collectively referred to as the *Local Road Network roads*.

As per the Statistics of Local Road Network, Nepal, in 2016, had a total of 57,632 kilometers of local roads. There are some peculiar characteristics of these roads. For example, only 3.5 percent of the total local roads was blacktopped, 22.2 percent was gravel, and 74.3 percent was earthen. Not surprisingly, most of these local roads were located in Province 3. The hills dominate the local road network with 55 percent located in this geographical region; 31 percent was located in the terai region and the remaining 14 percent in the mountain region. Most notably, only 26 percent of the total local road network was all-weather, while the rest of the 74 are fair weather, which limits the ability of the public to take full benefit of connectivity.



It is interesting to note that from 1998 and 2016, Nepal experienced over 1,100 percent increase in its local road network, increasing from 4,780 kilometers to 57,632 kilometers.<sup>14</sup> But as noted in the mid-term review of the government’s Sector Wide Road Program conducted in 2015, most of these roads “are ‘non-engineered’ local roads that have been constructed through local efforts—often by excavator,” and that they pose a major challenge given the high cost of upgrading the desired technical standard.<sup>15</sup>

<sup>14</sup> Rieux et al. 2019. Invited Perspectives: Mountain roads in Nepal at a new crossroads.

<sup>15</sup> Government of Nepal. Department of Roads. 2015. Midterm Review of Sector Wide Program and Priority Investment Plan 2007.

## 2.2 INSTITUTIONS AND PROCESSES FOR DEVELOPING LOCAL ROADS

### 2.2.1 Institutions Responsible for Local Roads

The Ministry of Physical Infrastructure and Transportation (MoPIT) has the primary responsibility for Nepal's transportation sector. Within MoPIT, the Department of Roads (DoR) is in charge of developing and executing the plans and policies related to the development and management of the country's Strategic Roads Network. In 1998, the government established the Department of Local Infrastructure Development and Agricultural Road (DoLIDAR) under the Ministry of Local Development. The primary role of this new department was to provide technical support to the ministry and all its line agencies as well as to build the capacity of local authorities in the area of infrastructure development. One of its key responsibilities was to work with local governments to plan and implement local roads, which included the development of technical studies as well as the capacity of local authorities. It would also provide the necessary monitoring and evaluation of the projects being undertaken by the local bodies.

With an increasing push to devolve central authority, exemplified by the Local Self Governance Act (LSGA) in 1998, the local governments had been given increasing responsibilities in the road sector. At the district level, the responsibility "to build, operate, monitor, evaluate, and maintain and repair" the district level road was that of the district development committee.<sup>16</sup> At the local level,<sup>17</sup> the responsibility of the municipality was specified as "to prepare plans of unpitched and pitched roads... as needed within the Municipality area, except those roads which are under the responsibility and control of His Majesty's Government". Likewise, the responsibility of the village development committee was "to prepare projects on tracks and trails, and rural roads required within the village development area."<sup>18</sup> Both were also in charge of maintaining and repairing their respective sections of the roads. The LSGA also required the municipalities and the village development committees to work through a "consumers' committee" in the implementation and management of local infrastructure projects.

As the country promulgated a new constitution in 2015 and embarked on its decision to federalize, there was a sudden need to restructure the state institutions and their responsibilities. The most important of this restructuring was the introduction of new governments at the provincial and local levels. At the provincial level, the responsibility of the entire road sector, among a host of other infrastructure-related work, was placed upon the Ministry of Physical Infrastructure Development (MoPID). At the local level, this fell on the municipal offices of the urban and rural municipalities, which have their departments responsible for all infrastructure related development works. On the restructuring of the responsibilities, the new constitution provides the overarching principle for the demarcation of responsibilities between the three spheres of government in the road sector: the federal government for *national highways*; the provincial government for *state highways*; and the local government for *local roads, rural roads, and agro-roads*.<sup>19</sup>

Based on this constitutional provision, the government has made further attempts to elaborate the roles and responsibilities through documents such as the *Standards on the categorization and distribution of the development projects that fall under responsibilities of the federal, provincial, and local government*.<sup>20</sup> For example, this document specifically makes the federal government responsible for developing all north-south highways that reach the borders and of the access

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<sup>16</sup> Government of Nepal. Local Self Governance Act 1999.

<sup>17</sup> Back then the lowest governmental unit were the urban municipality and village development committees.

<sup>18</sup> Government of Nepal. Local Self Governance Act 1999.

<sup>19</sup> Constitution of Nepal, 2015. Schedules 5, 6, and 7.

<sup>20</sup> Prime Minister's Office and the Council of Ministers, 2019. Standard related to classification and distribution of development programs and projects under the responsibility of Federal, Provincial and local level (in Nepali). Retrieved from [https://www.npc.gov.np/images/category/Mapadanda,\\_2076.pdf](https://www.npc.gov.np/images/category/Mapadanda,_2076.pdf)



roads from a national highway to projects of national priority. Likewise, provincial governments are responsible for roads that connect provincial capital to the primary administrative location of the local area or of roads that connect two or more local levels. But there are lingering ambiguities in this regard. For example, when DoLIDAR was revamped into the Department of Local Infrastructure under MoFAGA, its responsibilities were shifted to the provincial government. But as DoLIDAR was also in charge of the Local Road Network that comprised of district, village, and agricultural roads, there is a lack of clarity on how the latter two categories of roads, which the constitution places under local governments, will be distributed between the provincial and local governments.

### 2.2.2 Planning and Budgeting at the Local Level<sup>21</sup>

*Financing Local Roads:* Local governments have three primary sources of funds to develop local roads: from the federal government, provincial government, and its internal resources. These funds are divided into different categories and are distributed to the local governments by the Ministry of Finance based on the criteria determined by the National Natural Resource and Fiscal Commission. The following table summarizes the different types of funds received by the local governments. Apart from these sources, local governments also receive additional funds from the Constituency Development Fund (CDF).<sup>22</sup>

Source of fund	Type of budget	Relevance to local roads
Federal Reserve Fund	Equalization Grant	Can set aside funds for roads based on policy and programs
Federal Reserve Fund	Conditional Grant	Only if the conditional grant is for specific roads
Federal Indivisible Fund	Revenue Distribution	Can set aside funds for roads based on policy and programs
Federal Reserve Fund	Special Grant	Not in practice as of FY 2018/19 due to lack of guidelines
Federal Reserve Fund	Matching Grant	Not in practice as of FY 2018/19 due to lack of guidelines
Federal Indivisible Fund	Royalty Distribution	Not in practice as of FY 2018/19 due to lack of guidelines
Provincial Reserve Fund	Equalization Grant	Can set aside funds for roads based on policy and programs
Provincial Reserve Fund	Conditional Grant	Only if the conditional grant is for specific roads
Provincial Reserve Fund	Revenue Distribution	Can set aside funds for roads based on policy and programs
Provincial Reserve Fund	Special Grant	Not in practice as of FY 2018/19 due to lack of guidelines
Provincial Reserve Fund	Matching Grant	Not in practice as of FY 2018/19 due to lack of guidelines
Local Government	Internal Resources	Can set aside funds for roads based on policy and programs
Nepal Rastra Bank	Internal Loan	Not in practice as of FY 2018/19
Roads Board Nepal	Road Maintenance	For maintenance of roads based on the Board's guidelines.

Once the local governments receive the funds, they can decide to invest based on their policies and programs. Depending upon the nature of the funds that they receive, the above table also shows the relevance of the funds for local roads. Except for the conditional grants, which are pre-specified by the federal and provincial governments, other grants can be allocated for local roads. Also, the table above shows that in absence of specific guidelines some of the funds still have not been distributed to the local governments.

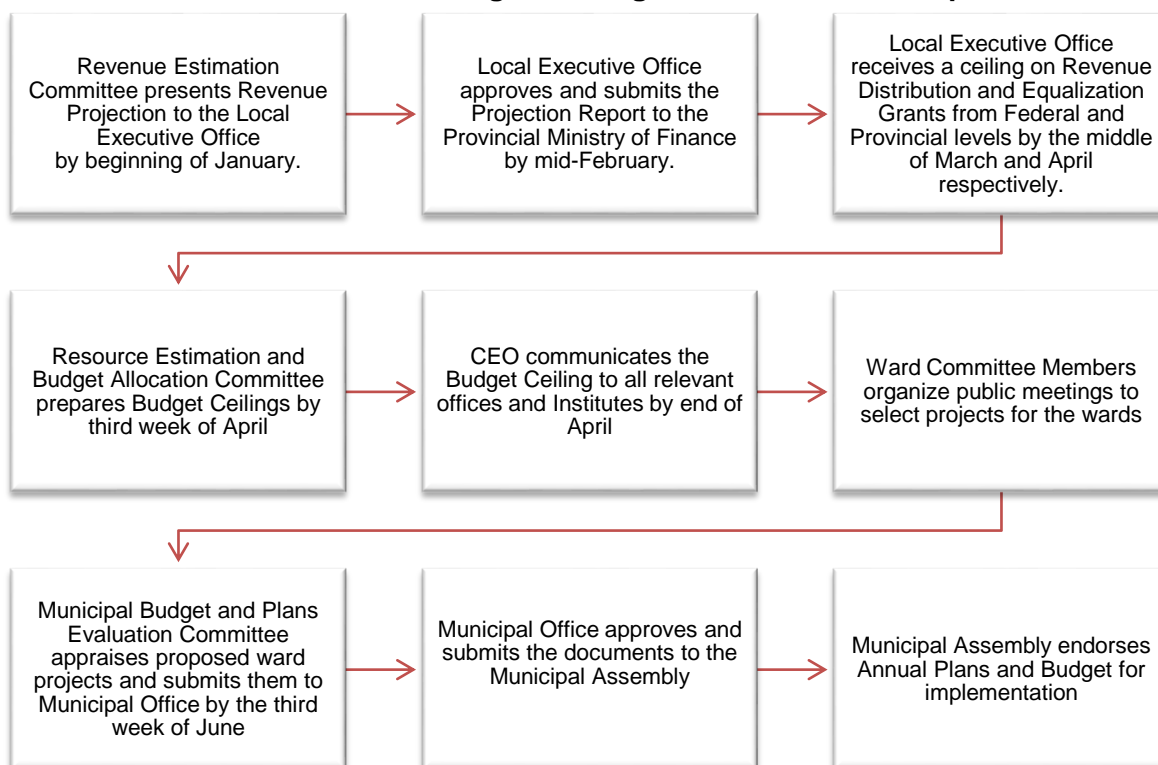
<sup>21</sup> Much of this discussion on local level planning has been taken from a recent report on the implementation of federalism with regard to the infrastructure of renewable energy. Given that these are both infrastructure related sectors, the planning around them are very similar, albeit with some key differences. For greater detail see Rai, N (2020), The Implementation of Federalism and its Impact on Nepal's Renewable Energy Sector

<sup>22</sup> Both the federal and provincial legislatures have provisions for the CDF. At the federal level, the CDF is limited to parliamentarians, who were elected through the first-past-the-post system. In the last two years, i.e., FY 2018/19 and FY 2019/20, they received NPR 60 million and NPR 40 million, respectively. This fund is managed through the District Coordination Committee. At the province level, the CDF is provided to parliamentarians elected through both the first-past-the-post and the proportional voting mechanisms. In FY 2018/19, they received NPR 30 million and NPR 10 million, respectively, of which 83 per cent were reportedly spent on Infrastructure. This fund is provided as part of the Local Infrastructure Development Partnership Program and is managed through the Infrastructure Development Office located within the District Coordination Office.

*Planning and Budgeting at the Local Level: The Local Government Operation Act (LGOA, 2017)* provides the main legal basis for local bodies to formulate and implement the plans and policies around the development of local infrastructure that they deem necessary, including in the road sector. The LGOA also authorizes these bodies to monitor and evaluate the construction of key local infrastructure such as local roads and to ensure that they are properly maintained. Local governments make good on these responsibilities through their annual programs and budget.

Given that there are now 753 local governments in Nepal, in 2017, the Ministry of Federal Affairs and General Administration attempted to bring some uniformity in the planning and budgeting at the local level by issuing the *Local Level Planning and Budget Allocation Roadmap*.<sup>23</sup> This *Roadmap* establishes specific institutional arrangements and explicit procedures and timelines that all local bodies are to follow in developing their annual plans and budgets. For example, in the *Roadmap*, the planning cycle of local governments begins with the *Revenue Estimation Committee* preparing and presenting the revenue projection to the local executive office by the beginning of January. Based on this report, and in consultation with the *Resource Estimation and Budget Allocation Committee*, the local executive office approves and submits its projection report to the Provincial Ministry of Finance by mid-January. Following this, the federal and provincial governments are required to provide budgetary ceiling details on the revenue distribution and the fiscal equalization grant to the local executive office by the middle of March and April respectively.

### Local Level Planning and Budget Allocation Roadmap



The *Resource Estimation and Budget Allocation Committee* is then responsible for estimating the overall availability of the resource to the local body, which includes funds from all its sources, i.e., revenue collection, funds from federal and provincial governments, and internal loans; proposing

<sup>23</sup> Ministry of Federal Affairs and Local Development, 2018. *Local Level Planning and Budget Allocation Reference*, 2074 (amended) (in Nepali). Retrieved from <http://www.mofald.gov.np/ne/node/6319>



an outline for a balanced distribution of resource while considering the preference of the federal and provincial governments as well as the local needs, and determining the total and sectoral budget ceiling for the local government. All of these are to be prepared by the *Committee* within the third week of April and communicated by the CEO to all of the relevant offices by end of April.

At the other end of all this is the requirement in the *Roadmap* to ensure an inclusive process. This begins at the settlement levels, where ward committee members of each local body are required to organize public meetings with maximum individual and institutional representation. The overall output of this exercise is a selection of projects—done within the allocated budget ceiling and the principles of prioritization—that are forwarded to the ward office. These projects proposed from all the wards are accumulated at the municipal level, where it is appraised by the *Municipal Budget and Plans Evaluation Committee*. It is also the responsibility of this committee to put together the draft annual budget and programs by the third week of June and submit it to the municipal office. The municipal office needs to approve the presented document and submit it to the municipal assembly, which must endorse the annual plans and budget to make it official. Only then can the plan and budget be deemed finalized and ready to be implemented.

This new planning and budgeting system has now been in place for several cycles and it is evident that local bodies are far from following most of the prescribed measures in the *Roadmap*. This tendency to stray away from the prescription begins early on in the planning process: whereas the *Roadmap* requires a comprehensive analysis of the revenue stream of the local government, the preferred tendency for many staff at the local bodies, for lack of capacity and/or incentive to perform, is usually to eyeball the figure from previous years and simply increase it by an arbitrary but reasonable figure, which generally tends to hover around the ten to twenty percent margin.

Where things tend to go severely off-the-rails from prescriptions to ensure good fiscal governance is at the point of allocation of resources. Critically, this is instigated at the municipal offices, where many municipalities, for lack of a well thought out development vision and an evidence-based policymaking process to back it up and to avoid any political wrangling among the constituencies, prefer to divvy up the available resources about equally among all its wards. Then on, i.e., once the funds have become the responsibility of the ward offices, there are several drivers of collusion that come into play, where collusive practices involve “a tacit understanding between the three primary actors: bureaucrats, politicians, and the community elites,” each driven by their incentives that range from direct financial gains to pork-barrel politics.<sup>24</sup> Furthermore, these collusive practices are made effective through contractual procedures that are often fraught with conflicts-of-interest, lacking the necessary transparency, and pursued through the informal decision-making process.<sup>25</sup> Through all these issues of governance, most local bodies prefer to invest a significant part of their discretionary budget in the construction and maintenance of roads.

### **2.2.3 The Process of Infrastructure Development through User Committees**

As noted earlier, the construction of local infrastructure can be pursued either through contractors or user committees. The Public Procurement Act (2007) allows local governments to work through user committees when their use increases the economic value, the quality, or the sustainability of the construction work. They can also choose to do so if the government’s stated objective of the project is to create employment and involve the beneficiary community. The Public Procurement

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<sup>24</sup> These are detailed out at some length in the “Political Economy of Local Governance in Nepal,” published by The Asia Foundation in 2012. While this research was done in the pre-federalism era, it is quite evident that the primary drivers of collusion at the local level have not really changed.

<sup>25</sup> Ibid.

Regulation describes a user committee as a committee formed by “the direct beneficiaries of a construction work from among themselves in order to build, operate, and maintain construction work.” The regulation also states that any work to be done through a user committee cannot exceed Rs. 10 million.<sup>26</sup>

Working through user committees generally involves the following steps.<sup>27</sup> The process begins with the municipality first deciding on the projects that it wants to pursue through user committees. As part of the process, it also identifies the beneficiaries that are directly affected by the construction work. The municipal office then puts out a notice for a public hearing, with at least a week’s notice, for a public meeting at the site of the proposed project to form the project-specific user committee. This event must be done in the presence of the designated municipal or ward officials, depending on the nature of the project. The user committee comprises seven to eleven members,<sup>28</sup> of which 33 percent have to be female. There are several eligibility requirements to become a member of the user committee such as the person must be a resident of the area where the project is being built, a person cannot concurrently be a member of more than one user committee, and members of the same family cannot be part of a single user committee. Also, elected officials, officials of political parties, and serving government bureaucrats and teachers are not eligible for user committee membership. The law also requires that the beneficiaries must simultaneously establish a monitoring committee, comprising of three members, where at least one member has is a female. This monitoring committee is responsible for providing oversight of the work being done by the user committee.

Once the user committee is formally established, it has to submit an application/proposal to the municipality with all the project details.<sup>29</sup> This includes, among other things, the full description of the nature of work, the cost estimate, and the required contribution from the beneficiaries towards the project. The municipal office also prepares the estimate of the construction work and further examines the nature of work, prepares the design and cost estimates of the work, and hands it to the user committee. The two entities then negotiate an agreement on how to execute the project, which is formalized through a procurement contract. The municipal office can then provide the user committee with an advanced payment, which is not to exceed one-third of the total contract. The user committee must settle this payment before the payment of the final installment. Before beginning the project, the municipal office offers an orientation program to the user committee.

After the completion of work and before the final payment is made the municipal office conducts a public audit, during which the cost and other details of the project are verified through a public meeting. There is also a requirement for the technical expert from the municipal office to give final approval to the completion of the work. The user committee must also provide the municipal office with the details of the contribution from the beneficiaries. A monitoring committee of the municipal office then inspects the project and submits its recommendation to the ward office. The ward office then provides a formal *letter of completion* of the project which is then submitted to the municipal office. Finally, the user committee must submit a financial report to the municipal office, along with the original copy of the bills, vouchers, minutes, and the attendance sheet of its meetings. Once all the paperwork is duly submitted, the municipal office provides a certificate of work completion to the user committee.

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<sup>26</sup> To be precise, this amount also includes VAT, overhead contingency amount, and the amount of contribution to be made by the participating public

<sup>27</sup> These are outlined in various government documents such as the Public Procurement Regulation and the Directives on the Establishment, Implementation, and Management of Local Level User Committees.

<sup>28</sup> The key official positions of a user committee are i) the chairperson, ii) the deputy chairperson, and iii) the treasurer.

<sup>29</sup> The application is in response to a public notice from the municipal office for a specific project

### 3. OBSERVATIONS FROM THE FIELD

In this chapter, we provide the observations of the research team from the field visits on how the user committee mechanism is being played out in reality. These observations were developed further through additional inquiry by PEI's provincial staff. We also corroborate these findings with the information from the literature review, especially the reports of the Commission on the Investigation of the Abuse of Authority (CIAA) and the Office of the Attorney General (OAG).

Most importantly, the observations noted in this chapter, both the positive and the critical ones, does not mean that these apply to every case where the user committee mechanism is adopted. The purpose here is not to decry the use of the user committee mechanism in developing Nepal's local road infrastructure.<sup>30</sup> After all, the alternative of relying on central level institutions, the mechanism on which Nepal has relied on, and continues to do so, for a large volume of its infrastructure projects, has not produced any better results. Moreover, that mechanism has only resulted in communities detached from the development agenda within their locality. The purpose of this study has been to both appreciate the participatory approach to infrastructure development that has brought more accountability while also highlighting some of the deficiencies that can erode the trust in the system.

As noted in the introduction, the probability of how user committees function across the country lies between the ideals established by the law and the ground reality that is driven by profit and power. Instead, the analysis here highlights the context and the incentives on the ground and how they impact the implementation of the intended policies. The goal of the research team is then to draw insights with the hope that these can be understood and strengthened in the days to come.

#### 3.1 OVERARCHING OBSERVATIONS

*High demand for roads:* There is a high degree of demand for roads from communities across the country, regardless of geography or political boundary. This high demand is also prevalent at the political level as all political parties have roads as a top agenda in their election manifestos. The local political leaders seemed highly enthusiastic about the road sector as they felt that they were able to capture the aspirations of their electorate. All this is not surprising given that local roads serve the purpose for both communities and local political actors. For communities, getting better roads means better connectivity with the market and the outside world and the new infrastructure also adds immediate value to their properties. For politicians, this helps fulfill their campaign promises by providing the development of a visible infrastructure with high demand, while also getting to control the massive funds associated with road construction to further their business and to provide patronage.

Where there are differences, if any, these are usually on matters of procedure such as the prioritization of projects, maintaining influence over user committee decisions, and in the procurement of goods, among others. The research team also found that the major controversy in road development is concerning the alignment of the road. This is because the current policy produces immediate winners and losers: those whose lands are taken up for the road get relatively very little compensation especially when compared to the value addition of the land that is then served by the new road.<sup>31</sup> This becomes a major area of contention as those with more political clout—within the locality but also up to national politicians—attempt to divert the road, at times

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<sup>30</sup> We should also note that the scope of the paper is not an evaluation of the development of local roads. We do, however, note a few concerns in the conclusion section that we believe are important considerations for the sector.

<sup>31</sup> Should be noted here that most of the new roads are developed through private land, through community agreement, and individual landowners have to give away their land.

without regard for the technicalities and efficiency of the road to better suit their needs. The decisions are generally made under their political guidance, but can at times face difficulty when negotiating with the landowners. Interestingly, many times, the person who has the final say on the alignment seems to be the one “dozer”<sup>32</sup> operator, who lays down the track based on what he sees as being most feasible for him from the driver’s seat.

*A stated belief that user committees perform better than contractors:* The research team was also consistently told by political actors and government officials that they believed user committees to be much better in producing quality results than through the process of tendering projects to contractors.<sup>33</sup> While some of this might be attributed to a response bias, where the respondents were merely stating what they thought our researchers wanted to hear, but there was a particular accusation that they lay against the tendering process. This had to do with the strategy of the contractors to underbid their competition, which they felt was eventually compromising the quality of construction. This is made worse by the lack of ownership of the beneficiaries who do not hold any influence over the project.

### 3.2 OBSERVATIONS OF THE USER COMMITTEES

While we have highlighted the intended policy objectives of the user committee mechanism in the development of local roads, the ability to attain these objectives is severely limited by the context within which these entities function. In this section, we provide our observations on the underlying interests and incentives that exist in reality and how they influence the outcome of these user committees.

*Participation and ownership:* At the heart of the user committee mechanism is the obligatory participation of direct beneficiaries in the key processes of project development. The law requires this from the very early stage of project planning, with the beneficiaries, represented by their user committee, actually implementing the project and in charge of the infrastructure after completion. All this is meant to ensure that the planned project responds to the demands of the communities, that execution of the project by the beneficiaries guarantees better implementation in terms of both quality and timely completion, and the increased ownership of the project results in better management of the infrastructure even after completion. However, there is ample evidence to suggest that these participatory processes are far from what would be considered ideal and are being co-opted in many cases by the interests of a few influential actors. Based on our findings we provide some examples of how this occurs.

When co-optation does take place, which we were told happens quite regularly, it begins early on in the process of forming the user committee. The law bars influential people such as elected officials, political party officials, teachers, and serving government officials from being members of user committees. In reality, such influential actors, especially those with political clout, were said to be packing the user committees with their close aides at the key positions. In this manner, they can hijack the decision-making process of the user committee. The research team came across multiple instances where respondents that had been a member of a user committee confirmed that they were not actively participating in the decision-making process. This finding is substantiated by the earlier mentioned report of the Center for Investigative Journalism, which details multiple instances where members of user committees stated their participation as in name only while other more politically connected people had full control of the committee’s decision making. Furthermore, the field observation is consistent with a 2019 report by the CIAA on

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<sup>32</sup> The term *dozer* is frequently used in Nepal to denote any heavy machinery used to “bulldoze” roads.

<sup>33</sup> We should note that the scope of this research does not include an evaluation of whether the roads developed by user committees are of higher quality than those developed by contractors.

corruption at the local level, which notes the failure of local governments to bring together actual beneficiaries during project selection and instead are being influenced directly by the elected political officials or indirectly through their orders. The report further goes on to say that the selection and funding of the projects were not only found to be influenced by people with access to politicians and bureaucrats but were also taking up official positions in the user committees.<sup>34</sup>

Then there is the obvious question: why do some people volunteer to be part of a user committee, which can be quite a time-consuming affair and with many already free-riding on the initiative of others. The responses that we got from our interviews lead us to believe that there is a genuine desire in many community members to be part of a development project that directly benefits them. However, the respondents also pointed out that there were other incentives in play as well. The first such incentive is that those in the user committee have relatively more influence over the project, say in the alignment of a new road, which would provide them long-term payoff from the engagement. The second incentive for many, with benefits that materialize in the immediate term, is the opportunity to secure a *commission* during procurement-related transactions. This can be in the procurement of construction items, say aggregates or other construction materials. Or it can be in the subcontracting of the overall project to contractors (a phenomenon discussed in a later section) at an amount less than what they have agreed to with the municipal office; the difference, i.e., the *commission*, is shared among the many people who made the transaction possible, which includes politicians, government officials, and the members of the user committee.

*Restrictions on heavy machinery and sub-contracting:* The public procurement law places two specific restrictions to ensure that the intended objectives of the user committee mechanism are met. The first restriction prohibits the use of heavy machinery such as loaders, excavators, rollers, dozers, and graders on construction work executed by the user committees. This is meant to generate employment as the construction work will have to be done by human labor instead of machines. In 2017, the law was amended to include a provision whereby user committees, for any work deemed to be of “a complex nature requiring heavy machinery” are allowed to employ the required machinery. This, however, is to be done only at the recommendation of a municipal technician and the approval of the municipal office. Concurrently, the law was also amended to include a penalty whereby user committees found to be using any heavy machinery, without the necessary approval, will have their contracts canceled. But despite the policy, it was quite evident from the local discussions that a significant majority of the user committees rely on heavy machinery to construct their local roads. Almost all of the local stakeholders, from community members, political actors, to government officials agreed that it was impossible to eliminate the use of heavy machinery such as dozers and excavators in the task of building roads, and that too given the geography (especially in the hills) and the difficulty of mobilizing adequate skilled and unskilled manpower (including due to outmigration for labor).

The second restriction prohibits the user committees from subcontracting out any portion of their agreed-upon work, which is meant to encourage the user committees to carry out the work by themselves. To emphasize this point, the law has some severe penalties for the contracting: the contract between the municipal office and the user committee is canceled, maintain record such that no future contract can be awarded to the errant user committee, and recommend to the Public Procurement Monitoring Office to blacklist the construction entrepreneur. However, despite these penalties, user committees across all locations, as reported in the CIJ report, were found to be subcontracting their work. This illegal work is also pointed out by the OAG 2017 report, in Mustang District, 95 percent of the audited user committee-implemented projects had been subcontracted

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<sup>34</sup> Commission on the Investigation of Abuse of Authority. 2019. *Sthaniya Tahasanga Sambandhit Ujuriharuko Anusandhan ra Sawalharu Tatha Aayog ka Tarfa Bata Diyyikeka Sujhabhharu*. (Nepali)

out.<sup>35</sup> There was, however, some variance in what portions of the work is subcontracted: in some cases, the only subcontracted portion is the task of track-opening, in others, it is for materials and labor,<sup>36</sup> while in others, the entire project can be contracted out.

*Required contributions from beneficiaries:* Another key feature of the user committee mechanism is the requirement on contribution, in cash or kind, from the beneficiaries towards the development of their project. In theory, such contributions are meant to ensure a degree of personal investment of the beneficiaries into the project resulting in increased ownership and commitment. The amount of contribution varies as local governments have established different levels, which they specify in their municipal specific *Procedures on the Rules of Business of User Committees*.

For example, in Waling Municipality, the level of contribution is based on two sets of criteria: the first has to do with the urban-rural divide, where the rural area is further classified as well-resourced, medium-resourced, and less-resourced; and the second has to do with the nature of work being commissioned such as gravel work or blacktopping. So beneficiaries of projects doing gravel work in the urban areas must contribute 25 percent of the project cost, whereas in well-resourced rural areas 25 percent, medium-resourced areas 20 percent, and less-resourced rural areas 12 percent. For blacktopping, this level of contribution would be 20 percent, 20 percent, 15 percent, and 10 percent, respectively.

In reality, the research team found spotty evidence of beneficiaries contributing to the project. It was evident from the interviews that people were finding different ways to circumvent this particular requirement. The most common method applied was to show this contribution as *labor contribution* from the beneficiaries even when that had not been made. In some cases, user committees would require the (illegally contracted out) subcontractors to pay up; but the numbers here are likely to be fabricated. These types of irregularities are known to the government, as was expressed by the municipal officials interviewed for this research and these have been noted in the OAG and CIAA reports. The OAG report also mentions instances where local governments themselves were contributing on behalf of the user committees. Clearly, this practice beats the intended objective of promoting ownership of the beneficiaries.

*Procurement:* As user committees handle a fair size of the public funds we expected them to fall within the ambit of Nepal's procurement laws. But most of the municipal officials interviewed for this research indicated, surprisingly, that while user committees were encouraged to abide by these laws, they were not strictly required to adhere to them. The general practice followed for any procurement of material, labor, and equipment was that user committees would abide by the rates estimated and established by the municipal technicians during the design phase, but were free to transact in a manner they preferred, provided they had the legit bills to show at the end.<sup>37</sup> On the one hand, such flexibility helps minimize the bureaucracy associated with the procurement process resulting in relatively more efficient user committees. But it also opens up avenues for questionable business practices.

The most obvious of such behaviors involves transactions with conflicts-of-interest. This can be, for example, by procuring materials at a higher rate, albeit under the municipal rate, when the market could probably offer something cheaper. We should note here that the municipal rate itself may not truly reflect the market rate, given that these rates have some in-built wiggle room for

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<sup>35</sup> Auditor General's Report, 2073. 133.5. p 87

<sup>36</sup> This was the case in the projects detailed out from Godavari and Jeetpursimara

<sup>37</sup> In some cases, user committees were careful and made some attempt to follow the general procurement law, such as getting quotations from three vendors and picking the lowest offer. But there are doubts about whether or not these laws were strictly followed and that most of these quotations were manufactured.

transgressions. The user committee may also decide to purchase materials from only those businesses that are closely networked with its officials. The Nepali media is rife with articles about local politicians who own construction-related businesses and exploit this conflicts-of-interest for their benefit. Such businesses can range from the ownership of heavy machinery such as an excavator or a tipper, the quarrying and supply of aggregates, to serving as proprietors of local construction companies, among others. This was evident in all three municipalities documented for this research. In Gosaikunda, the respondents mentioned that their federal parliamentarian<sup>38</sup> had provided them with the excavator for their project, albeit, as per the locals, “at a cheaper rate.” In Jeetpursimara, the ward chairperson owned a tipper, which he claimed he had not used in local road construction projects. In Godavari, the ward chairperson is a construction professional who, as per the members of the user committee interviewed by the research team, had footed the required contribution of their project.

*Monitoring and oversight:* The law requires all user committees to constitute a separate three-member monitoring committee from among themselves at their very first meeting. This committee has the responsibility of providing oversight on the quality and timely completion of the project and is to report to relevant officials should they notice anything errant during the implementation of the project. In reality, this monitoring committee is severely limited in its ability to function.

The first challenge it has is that it does not have the necessary teeth to enforce most of its decisions, especially when it comes to having the authority to stop construction or hold out payment for any work that they deem to be of sub-standard quality. There were many cases reported where the monitoring committee had not approved the bills, but the municipal office had nevertheless released the payments. The second challenge is more structural in that the monitoring committee is not truly independent from the rest of the user committee and does not have adequate incentive to challenge the decisions of the group. There can even collusion between the two groups that ensure mutual benefit. This is exacerbated by the fact that there is a power play happening within the user committee that limits the intended objective of this mechanism: this committee is primarily put together to fulfill the legal requirement and has tokenistic membership, while the key positions like the chairperson and treasurer are usually taken up by powerful members of the community.

The municipal office also has a monitoring committee that is led by the deputy mayor and the vice-chairperson of the urban and rural municipality, respectively. This committee is equipped with some authority, in that it can demand user committees to redo or make necessary changes in the project if they deem any work to be of substandard quality, as the final payment can only be released after their approval. However, this committee, given the number of projects it has to keep a tab of, is limited by its capacity. As a result, monitoring is cursory and penalizes the user committee only if there are serious blunders in construction or cost. Responses from officials who had served in these monitoring committees reveal that their monitoring is based on cursory discussion with the locals and does not get into the minute technical details of the project. For the most part, if the committee finds that the construction to be acceptable in terms of both quality and cost, which is a very subjective judgment, it gives its seal of approval. The municipality then sends out a technical employee for a final inspection.

*Gender and inclusion:* The law requires the formation of user committees to follow the principles of inclusion. As per the law, the membership of all user committees must have 33 percent female and that one of the three key positions, i.e., the chairperson, the secretary, or the treasurer, must

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<sup>38</sup> Mr. Mohan Acharya, a Nepali Congress politician who won the election from Rasuwa in 2017, owns Rasuwa Construction Company.



be occupied by a female member. Even the monitoring committee must have at least one female member. But there is widespread criticism that female members are often placed in the committee only to fulfill the legal requirement and that the quality of their participation is limited.

The research team came across both types of cases where women expressed confidence in their ability to fully participate in their user committees and others who felt that their participation in user committees was simply tokenistic. Those who felt that they were able to participate stated that they have interacted with local candidates during the election and demanded investments in roads that connect their village as well as participated in public hearings that led to the formation of their user committee.<sup>39</sup> On the one hand, women respondents also claimed that they did not have the necessary experience to take part, express their views, and contribute during the committee meetings.<sup>40</sup> While we note that this is a pertinent issue in the areas of gender and development, our research is limited by the small sample size to be able to extrapolate on how effective female participation is within the user committees. We highly recommend a future study on identifying the enabling environment for meaningful participation of women in decision making in local development.

### 3.3 OBSERVATIONS OF THE LOCAL GOVERNMENT

The other side of this coin is the performance of local governments and their ability to work with and provide oversight on the performance of the user committees.

*The context of governance:* Before we write down our observations on how local governments are working with user committees, it is necessary to understand the context of governance within which this particular mechanism is currently being implemented. Perhaps the most important point here is the decision to federalize the country, but with the lack of corresponding homework done to ensure a smooth transition into the new administrative system. As the new constitution has devolved significant authority to the local bodies, including those related to local infrastructure, it is quite evident that many of them do not have the capacity to fully execute them. We discuss the details of this lack of capacity, both at the institutional and technical levels, in a later section.<sup>41</sup>

Two things further aggravate this issue of capacity. First, the absence of local elections from 2002 to 2018 left local bodies at the hands of bureaucrats deputed from the center and local politicians getting limited exposure and lacking experience in governance. Second, the underlying principle of governance during this period, most of which was during the post-conflict era, was the politics of consensus. This consensus was meant to promote peace and harmony, but the unintended consequence was the massive proliferation of the politics of collusion at the local level. This was exemplified by the infamous all-party-mechanisms that became official platforms for political parties to divvy up the development funds. This mechanism was eventually scrapped by the CIAA, but the collusive practices that it helped proliferate continues to date.<sup>42</sup> Local elections were meant to bring an end to this practice as those in opposition were expected, in theory, to demand accountability from those in the government. However, there are indications that even these parties are using their power of oversight to negotiate resources for themselves.

*The practice of planning:* Effective planning allows for a more efficient use of resources and an equitable outcome of the investments. But planning, and more importantly its implementation, has

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<sup>39</sup> Chyangba Rani Tamang, Former Member, User Committee, Gosaikunda Rural Municipality

<sup>40</sup> Ghana Devi Simkhada, Member, User Committee, Ward 4, Jeetpursimara

<sup>41</sup> It should be noted here that back in the 1980s while Nepal was trying to decentralize there was a debate over what should come first: capacity or authority. Eventually, then, as was in the current case of implementing federalism, the verdict was in favor of devolving authority first.

<sup>42</sup> The Asia Foundation. 2012. Political Economy Analysis of Local Governance in Nepal.

not been the strength of past governments in Nepal.<sup>43</sup> And if that is the case of the government at the center, equipped with the necessary human and financial resources as well as decades of experience in planning, it is not difficult to imagine the state of affairs in the local governments who have to begin almost from scratch.

The *Local Level Planning and Budget Allocation Roadmap*, with all the guidance on institutional arrangements and explicit procedures and timeline on budget and planning, was supposed to help local governments in developing their annual plans and budgets. A number of budget cycles have now passed since this *Roadmap* was issued, but it is evident that most of the local bodies do not follow the prescribed measures. For example, the *Roadmap* requires a comprehensive analysis of the revenue stream of the local government, but the preferred approach for many staff at the local bodies, for lack of capacity and/or the incentive to perform, is usually to eyeball the figure from the previous years and simply increase it by an arbitrary but reasonable figure, which generally hovers around the ten-to-twenty percent margin.

When it comes to planning for roads, it is quite evident that there is a significant dearth of it at the local level. First and foremost, it is quite evident that the politics of road development overshadows the technical. We already discussed earlier that politicians often expend their political capital to get certain roads developed. But given the technical nature of the undertaking and the amount of investment required, we would also expect that the final decision of the municipality is guided by its development vision and established technical standards. Additionally, most municipalities are not working from technically sound development plans. Of the three field research locations, only Godavari had approved its *municipal transport masterplan*. And while the municipal officials there stated that their budget follows the recommendations of the masterplan, the dilapidated conditions of the road throughout the municipality raise some serious questions about how well the plan is implementable and executed.<sup>44</sup> Furthermore, this lack of planning for roads is exacerbated by the fact that municipalities do not coordinate their plan across sectors that will lead to the overall development of the municipality. For example, this is most evident in urban municipalities where roads—which provide not only for the movement of people and vehicles, but also as pathways for other infrastructures such as electricity, water supply, storm drainage, and sewage—are often dismantled almost as soon as they are constructed to incorporate the additional services.

The budgeting process for roads, oftentimes, seems to have been completely flipped on its head: instead of planning and allocating the necessary budget to achieve it, the municipality earmarks some funds for a road following which a technical person determines how much can be achieved from what has been allocated. According to a project officer in Jeetpursimara, the budget for roads is often based on *intuition* rather than on technical calculations. Also, given the limited budget available, local governments have to innovate. For example, the width of a road is determined through negotiations as local governments do not have the funds to adequately compensate for the land that has to be acquired. The result, as was the case in one instance in Jeetpursimara, a single road had two different widths, evident at the border of the two wards, depending upon the ward in which the road is located. One of the reasons why municipalities seem to prefer to work with user committees is that they would be able to negotiate better in this regard.

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<sup>43</sup> Limbu, P. (2019). Development Policy Process in Nepal: A Critical Analysis. *International Research Journal of Management Science*, 4, 65-82. <https://doi.org/10.3126/irjms.v4i0.27886>

<sup>44</sup> The development of the municipal transportation masterplan—a document meant to evaluate the existing conditions of the municipality and project and plan future development as per the identified need, is also meant to be involve a participatory approach. For a brief discussion on this, please see Mishra, A.K and Magar, B.R. Implementability [sic] of Municipal Transport Master Plan of Bandipur Inner Ring Road, Tanahun, Nepal

*Institutional and technical capacity:* The ability to deliver development is severely impaired by the inadequate staffing, let alone the necessary experience and expertise, at the provincial and municipal governments to undertake the devolved responsibilities. At the provincial level, to maintain the limited number of ministries, functions that are quite varied both in terms of content and nature have been forced under a single administrative entity. For example, the Ministry of Physical Infrastructure and Development, which is responsible for overseeing rural roads, is also responsible for energy, urban planning, water supply and sanitation, and irrigation, among many others. Each of these tasks has been placed under specific divisions with about 3-5 staff, many of whom may not have sufficient capacity or the time to perform.

A similar challenge exists at the municipal level. First of all, there is a large variance in the capacity of municipalities. On the one hand, there are a number of large urban municipalities with a vibrant economy and are therefore relatively very well endowed with the resources to plan and execute their development vision. But an overwhelming majority of the municipalities across the country, both urban and rural, struggle financially and in terms of human resources. Part of this is the result of the government's hurried decision in 2014 to upgrade the then village development committees into municipalities without taking into consideration their immediate needs leaving many of them devoid of the necessary infrastructure. Then there is also the systemic issue of municipal offices having limited resources and a large number of funded and unfunded mandates they have to fulfill limiting their ability to perform at the desired level or quality.

One area where municipalities struggle immensely is in their lack of technical capacity. Municipal offices generally tend to have a limited number of engineers: in our sample of municipalities, most of them, though not all, had one engineer and up to two sub-engineers to oversee the road sector. The key problem here was that these positions, many of which had opened up in the restructuring of the erstwhile central bureaucracy, remained vacant.<sup>45</sup> This is made worse by the fact that there are a limited number of experienced senior-level engineers in the overall bureaucracy, many of whom prefer postings in areas that have more economic and social opportunities. Thus local governments with lesser resources end up with engineers with less experience and expertise.

But despite this limitation, these technical officers have to make sure that user committees are following the technical specifications in their projects, such as those provided on local roads in the Nepal Rural Road Standards. To ensure this, municipal offices must provide them the user committees with the project design, the cost estimates, as well as any requested technical advice and other necessary support. Given the number of projects that each engineer is responsible for across multiple sectors, they are often overstretched in terms of their workload. Depending on the capacity and availability of human resources of these offices, tasks such as preparing DPRs are done either in-house or outsourced to a consultancy service. In case the municipal office is unable to provide the technical expertise, user committees can contract out the expertise from the market.<sup>46</sup> From the responses we received, it was difficult to discern whether or not user committees actually made use of this provision or, if they did employ this, how effective the external technical support was.

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<sup>45</sup> The government had managed to adjust a large number of its existing bureaucracy into the central, provincial, and local level governments, but two issues remained: there was a significant number of unfilled positions in both the provincial and local level governments and about 10,000 federal employees that had been adjusted had filed grievances with regard to their adjustment. Also, with regard to the recruitment of new staff, while the Constitution provisions for provincial level Public Service Commission PSC with the authority to recruit staff as deemed necessary, this was delayed given the protracted effort of the central government to come up with the necessary standards and the Constitution states that the functions, duties, and powers of the provincial level PSCs are to be defined by the provincial law, which are to be grounded on the standards established by the federal parliament.

<sup>46</sup> Other than for the project design, drawings, and cost estimate which must be provided for by the municipal office. Also, the remuneration cannot exceed three percent of cost estimate.

Most of the local roads do not meet the required engineering specifications on key critical issues.<sup>47</sup> This results in a typical cycle of roads being developed during the dry season and then washed out during the monsoon. Not only does this

*Corruption and collusion:* Many of the media reports that have critically covered the governance aspect of local roads highlight the high degree of corruption and collusion at the local level. Many of these have already been mentioned as observations of this research in this section, such as the hijacking of the participatory processes and conflicts of interest. This fact is also corroborated by the CIAA 2019 report, which, for example, alleges municipal officials of working together with the officials of user committees. An obvious sign of this corrupt and collusive practice is in the decision of the municipal office to release funds to user committees despite their incomplete work. But there is, however, a systemic shift that is promoting this phenomenon, which has to do with the growing nexus between the political and economic elite especially around local elections and campaign finance.

In its 2017 study, the National Election Observation Committee observed that the winners of the provincial level elections had spent, on average, NPR 1.25 crores and the runners up NPR 1.17 crore.<sup>48</sup> They also state that most of this financing is being sourced through local businesses, many of whom are “brokers” and real estate agents, who financially back up the candidates that are likely to win. This highlights the increasing nexus between the local political and economic elites, resulting in the possibility of compromised elected officials that need to return favors to their financial patrons. Furthermore, an increasing number of local business people are also entering the political arena themselves. This is already happening as evidenced by the reporting of CIJ, which shows the increase in the number of elected officials that are local contractors. This is likely to promote more issues of conflicts of interest, where these officials use the user committee mechanism to benefit financially and provide patronage in the process.

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<sup>47</sup> Sudmeier-Rieux et al. 2019. Invited Perspectives: Mountain roads in Nepal at a new crossroads.

<sup>48</sup> We should note here that the authors of the report doubt the credibility of these numbers as almost all politicians and political parties in Nepal do not keep records of their financial transactions as most donations are done through informal channels.

## 4. CONCLUSION

Besides the efficacy of user committees in developing local roads, there are other issues that are closely related to this phenomenon that need to be discussed to fully appreciate what all this investment in this sector means to the general public. These issues are relevant not only to roads developed through user committees but also those procured out to contractors. The underlying incentives and circumstances in both these approaches we should note are quite similar, the result of which is the haphazard development of local roads across the country. Given the scope of our research, we do not get into the details of these issues and limit our discussion to very brief statements to each of them. But during the course of the research, we found these issues to be very pertinent and, therefore, recommend that future scholars take these up in greater detail.<sup>49</sup> We are quite confident to say that only when we take into consideration these issues will these roads contribute to the sustainable development that can uplift the lives of the communities.,

### 4.1 NEGATIVE IMPACTS OF HAPHAZARD DEVELOPMENT OF LOCAL ROADS

Nepal's environmental laws have limited requirements on local governments to examine the social and environmental impacts of certain types of development-related infrastructure. For example, local governments have to conduct an Initial Environmental Examination (IEE) before constructing local roads, a far less comprehensive undertaking than the Environmental Impact Assessment (EIA). In addition to having less technical scrutiny of the impact, the IEE also has a relatively early approval process that can be done at the local instead of having to make its way to the provincial and federal levels. All this is intended to make the development process of smaller infrastructure more cost-effective and efficient for the local bodies. But this also establishes a perverse incentive whereby local governments may place the demand of local political actors and the communities over the true long-term impact of the infrastructure.

Some of these impacts are already visible and are costing the lives of hundreds of Nepalis every year. Nepal ranks among the top seven countries in the world in the number of fatalities from landslides, following such large countries such as China, Indonesia, India, the Philippines, Japan, and Pakistan. Relative to population, Nepal tops this list with 71.1 per million deaths from 1950 to 2009.<sup>50</sup> While the topography of a mountainous country like Nepal makes it naturally prone to landslides, experts note that human-induced activities, such as climate change and haphazard road building, have helped aggravate the issue.<sup>51</sup> As lives are lost to landslides every year, the Nepali media is abuzz with stories highlighting the perils of haphazard development of local roads but very little has been done to tackle this problem more systemically.

There are also some longer-term impacts already, though these may not be as visible as the landslides. As unplanned roads cut mercilessly through the hills, it disrupts the natural process for water to seep back into the earth and regenerate the water sources. A study conducted by the Nepal Water Conservation Foundation and the International Center for Integrated Mountain Development in 2016 finds that the haphazard construction of roads along the Nepali hills has led to the loss of protection of upstream areas that negatively impact the water resources contributing to a substantial deterioration of water sources and a severe shortage of water.<sup>52</sup>

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<sup>49</sup> There is some excellent research being done on some of these issues, which include but are not limited to:

<sup>50</sup> Forbes, K. and Broadhead, J. 2011. Forests and Landslides: The Role of Trees and Forests in the Prevention of Landslides and Rehabilitation of Landslide Affected-Areas in Asia. Food and Agriculture Organization of the United Nations. Accessed at <http://www.fao.org/3/a-ba0126e.pdf>

<sup>51</sup> Bhusal, R. 2020. Why are landslides so deadly in Nepal? The Third Pole. <https://www.thethirdpole.net/2020/09/14/why-are-landslides-so-deadly-in-nepal/>

<sup>52</sup> Sharma, B; Nepal, S; Gyawali, D; Pokharel, GS; Wahid, SM; Mukherji, A; Acharya, S; Shrestha, AB (2016) Springs, storage towers, and water conservation in the mid-hills of Nepal. Nepal Water Conservation Foundation and International Center for Mountain Development. ICIMOD Working Paper 2016/3. Kathmandu: Nepal

The impacts are, however, not limited to the environment only. For example, the indiscriminate development of local roads has diminished the economic opportunities of many areas that had for long relied on trekking. This is not to say that the local communities of these areas should not get this critical infrastructure, but rather the failure to account for and plan around these has hurt the livelihood of many people. Tourists face several hindrances from walking on earthen roads polluted with dust to getting lost due to lack of signboards.

## **4.2 THE IMPLEMENTATION OF FEDERALISM**

A major challenge for the research team in this study had to do with the gradual implementation of federalism in Nepal and the uncertainty around how this would eventually evolve in the coming days. The government has been working towards achieving the established objectives of the new constitution, but there are a number of corresponding laws and institutional arrangements that are yet to be updated to align with the goal of the new political regime. This is quite relevant for local roads given that there is substantial interest at all three levels of the government, whether that is driven by the interest to meet the demands of the communities or to make direct or indirect gains from the financial opportunities that this endeavor brings. We should note that the irregularities described in the user committee process were reported equally from all of the provinces, which goes to show that the issue of governance is a challenge everywhere.

First, there is a level of confusion over jurisdiction resulting from the process of transferring the responsibilities of erstwhile central-level institutions of the road sector onto the provincial and municipal governments. For example, while there is a general understanding of the division of responsibilities, the fact that most roads traverse across multiple political boundaries and there is a significant budget to be controlled over, there may be competing interests from among the political actors at the three levels of government. There are already allegations of the attempt of the central-level bureaucracy to maintain some influence over the sector, there are also allegations of them trying to retake some of the devolved authorities back. Also, as the central government seeks to hand over past and existing road projects down to the local bodies, the local governments may not be comfortable with the central institutions shoving down projects their way, especially when they were never consulted or are not in their immediate interest.

But there is a larger issue that the current approach to the development of local roads brings that needs critical attention and it has to do with accountability measures at the local level in a federal system. We should note that this is not to say that the accountability measures in the pre-federalism days were any better. Nevertheless, it must be discussed if we are to discuss how we make people have faith in the democratic process. Often citing the electoral mandate of the people, local officials are keen to respond to local demand. The local legislature is meant to be the check-and-balance system that provides some oversight over the executive, but this body has limited capacity to do so. They are also driven by the same incentive as the executive and are often working in concert with each other. Instead of becoming the mechanism for participatory development, this becomes the mechanism for political patronage.

The chapters of federalism in Nepal are only recently being written out and how this story unfolds in the days to come is unknown. But there are early signs of where this might be headed and keeping a close read of the pulse on this important sector might provide insights into where this is headed.

## **4.3 PARTING THOUGHT**

This study has examined how user committees function in developing local roads in Nepal. From our analysis, it is evident that there is a general belief that the direct participation of beneficiaries

leads to increased ownership and personal investment that produce better results in terms of the quality of infrastructure and the timeliness of project implementation. Accordingly, there is a stated preference at the local level—of political actors, government officials, and local communities—to work with user committees rather than through contractors and the tendering process where both mechanisms are possible options. But concurrently there is adequate evidence in our research on how the interests of individuals at the local level, especially those with the necessary political and economic clout, tend to undermine the intended outcome of this participatory mechanism.

We conclude this report with one final observation: if we are to step back from just the examination of a single policy of participatory approach in infrastructure development, the core issue here is the relationship between democracy and development. In a democracy, the goal is to promote public participation so that the concerns of those affected by the process of development are adequately factored in. To institutionalize this, we develop the necessary legal and procedural requirements. But what our examination shows is that there is a great degree of an attempt made to comply with all these established. But oftentimes these compliances were limited to paper only, while the perpetrators simultaneously hijack the spirit of the user committee mechanism.

This suggests that no matter how well-intended policies are, it is how they are implemented that matters in the end. And to increase the probability of any of this happening, we should learn to recognize the political economy that drives implementation and develop strategies that take into consideration these ground realities. This is important given that, in today's post-truth world, the limits of democracy are being tested like never before, in Nepal and most places around the world. How democracy will fare in the long run depends largely on the strengths of its foundations—of its institutions and democratic practices, and how we can appreciate the limitations and our responses to them. It begins with upholding people's faith in these institutions.



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