

POLICY BRIEF

ON USERS' ROAD

EXAMINING USER COMMITTEE MECHANISM IN LOCAL ROADS

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Introduction

From 1998 to 2016, Nepal increased its local road network from 4,780 kilometers to 57,632 kilometers. While this increase is a noteworthy development, this phenomenon also deserves a close examination. Roads help connect communities to markets and provide them with better access to schools and hospitals. But the pace at which these roads have been developed has been criticized for failing to meet the technical standards of road building and have had a significant negative impact on the environment.

Nepal has two mechanisms in place to develop local roads. The first is through a process of public tendering, where contractors bid for government projects and, once awarded, carry out the established work order. A second mechanism, which is the subject of this research, is a participatory approach of working with the direct beneficiaries, through their user committees, in projects of under NPR 10 million. The verdict on the effectiveness of these user committees, however, is mixed. On the one hand, people point to its participatory nature and highlight the benefits associated with local ownership. For example, Himal Khabarpatrika, in a September 2018 article, [1] features the work of a user committee in Dhulikhel Municipality that resulted not only in timely completion of a road project but also of, apparently, better quality. On the other hand, the Nepali media is rife with reports on the irregularities associated with user committees. For example, the Center for Investigative Journalism, in a November 2019 article, [2] reports on how user committees in Lamkichuha Municipality are illegally passing through their work to contractors.

Given that the government works with several thousand user committees across the country every year, the reality of their efficacy lies in between these two media stories. This study by the Policy Entrepreneurs Inc., conducted through a review of available literature and discussions with community members, political actors, and government officials during field visits to various locations around the country, provides a more systematic observation of how these user committees function.

Overarching Observations

High demand for roads: The demand for roads from communities, regardless of their geography or political boundary, is extremely high. This is also true at the political level as all political parties have road as a top agenda in their election manifestos. This is not surprising given that roads serve the purpose for both the communities and the political actors. For communities, better roads mean better connectivity with the market and the outside world and it also increases the value of their property. For politicians, investment in roads helps fulfill their campaign promises while also having control of the development funds to further their business interests and provide patronage. Where there are differences, these are usually on matters of procedure, such as the alignment of the roads as people attempt to maximize their personal benefit.

User committees performing better: There seems to be a strong prevailing belief at the local level that user committees perform far better than their contractor counterparts in producing quality results. This is largely credited to the ownership of the project that the mechanism promotes. A particular accusation against contractors is that they try to underbid the competition, which eventually compromises the quality of their construction work. As a result of this stated belief, most officials interviewed for this research expressed their desire to work with user committees, wherever possible.

[1] Pokharel, M. 2018. *Dhulikhel Nagarpalika Bikashma Janapanatwa*. Himal Khabarpatrika

[2] Singh, B.P. and Bista, J. 2019. *User committee mere pass-through work to contractors*. Center for Investigative Journalism.



Observations of the User Committees

Participation and ownership: At the heart of the user committee mechanism is the legal requirement for the participation of beneficiaries in key processes of project development. This is meant to increase ownership resulting in better implementation and management of the infrastructure. However, there is ample evidence to suggest that these processes are frequently co-opted. For example, influential actors, many of whom are legally barred from becoming a member of a user committee, pack the committee with their close aides in key positions thus hijacking the decision-making process. [3]

Restrictions on heavy machinery and sub-contracting: The procurement law prohibits user committees from using heavy machinery. [4] This is meant to generate local employment. However, a significant majority of the user committees continue to rely on heavy machinery. Stakeholders agree that it is impossible to eliminate the use of heavy machinery, given the harsh terrain, especially in the hills, and the difficulty of mobilizing adequate manpower due to the outmigration of able bodies for labor. The law also bars user committees from subcontracting out their work. This is meant to ensure that the beneficiaries take ownership of their project. But user committees across the country were found to be subcontracting their work to private contractors, oftentimes while making a profit.

Required contributions from beneficiaries: A key feature of the user committee mechanism is the required contribution, in cash or kind, from the beneficiaries towards their project. Such contributions are meant to ensure a degree of personal investment resulting in increased ownership and commitment. But there is spotty evidence of beneficiaries actually contributing towards the project as people find different ways to circumvent this particular requirement. The most common method applied was to show this as labor contribution from the beneficiaries even when none had been made.

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 most obvious transgression in procurement is in the form of conflict-of-interest. This can be, for example, by procuring from only those entities that are closely networked with the officials of the user committee. Also, the Nepali media is rife with articles about local politicians who own construction-related businesses and exploit these 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.

Monitoring and oversight: All user committees have a monitoring committee that is responsible for providing oversight. But their ability to function is limited by the fact that it cannot enforce its decisions. For example, it cannot hold out payment for any work that they deem to be of sub-standard quality. Also, these monitoring committees are not truly independent from the rest of the committee and they may not have adequate incentive to challenge the decisions of the group. The municipal office also has a monitoring committee. This committee has the ability to enforce its decisions, given that the final payment can be released only after it has granted approval. But its efficacy is limited by the inherent incentive of interested officials to seek rent and the limited capacity of the municipal offices resulting in a very cursory treatment in monitoring.

[3] Commission on the Investigation of Abuse of Authority. 2019. *Sthaniya Tahasanga Sambandhit Ujuriharuko Anusandhan ra Sawalharu Tatha Aayog ka Tarfa Bata Diyyeka Sujhabharu*.

[4] Government of Nepal. The Public Procurement Regulation, 2007. Article 97



Observations of the Local Government

Governance: The ability of local governments to work with and provide oversight over user committees has been hampered by two past events. The first is the lack of local elections from 2002 to 2018, as a result of which local politicians were unable to get the necessary exposure and experience in governance. The second is the entrenched politics of collusion at the local level, exemplified by the now-defunct all-party-mechanism whose shadow lingers on. [5] There was hope that local election would bring an end to this practice as those in opposition were expected to demand accountability from those in the government. Instead, the opposition seems to be using their power of oversight to negotiate resources for themselves.

The practice of planning: Effective planning allows for more efficient use of resources and an equitable outcome of the investments made. But planning, and more importantly its implementation, is not the strength of Nepali governments at all levels, including the local level. For example, the budgeting process for the road sector is often flipped on its head: instead of a plan determining resource allocation, the municipalities usually earmark some funds for a road following which a technical person determines how much can be achieved from what has been allocated. And while roadbuilding is partly a political project, the politics of roadbuilding seems to completely overshadow the technical aspect of it.

Institutional and technical capacity: An overwhelming majority of the municipalities are struggling in terms of human resources. This is partly due to the government's hurried decision in 2014 to upgrade the then village development committees into municipalities without taking into consideration their structural and institutional needs. But there is also a systemic issue of municipal offices having limited technical capacity. For example, municipal offices have a limited number of experienced engineers who are overstretched with their workload. This is made worse by the fact that many prefer postings in areas with better economic and social opportunities, placing an unfair burden on rural municipalities with lesser resources.

Corruption and collusion: There is increasing nexus between the political and economic elites at the local level that introduces serious challenges in governance. Among other things, this can result in compromised elected officials that are compelled to return the favor to their financial patrons. Furthermore, ambitious local business people are preferring to enter the political arena themselves, showcased by the increase in the number of elected officials who are also contractors. [6] This is likely to promote more issues of conflicts of interest, whereby such officials can exploit their position to benefit financially and to provide patronage.

Conclusion

Besides the efficacy of user committees, there are several other issues that need to be discussed to better appreciate what all this investment in the road sector means. These issues are relevant not only to roads developed through user committees but also contractors.

Haphazard development of roads: Local governments must conduct an Initial Environmental Examination of the local road before construction, which is a less comprehensive undertaking than the Environmental Impact Assessment. This is intended to make the development process more cost-effective and efficient for the local bodies. But this also introduces a perverse incentive whereby local officials may place the demand of local political actors—and communities—over the long-term adverse impact on the environment. Some of these impacts are already visible: for example, haphazard road building is resulting in frequent landslides that are costing the lives of hundreds of Nepalis every year. [7] Or the unplanned development of local roads around villages that have traditionally relied on trekking is diminishing the economic opportunities of many families.

[5] The Asia Foundation. 2012. Political Economy Analysis of Local Governance in Nepal.

[6] Pokharel, M. 2018. Elected Contractors. Nepali Times

[7] Bhusal, R. 2020. Why are landslides so deadly in Nepal? The Third Pole.



Implementation of federalism: A major challenge for the research team in this study had to do with the gradual implementation of federalism in Nepal, the uncertainty around how this would eventually evolve in the coming days, and its impact on the road sector. First, there is a degree of confusion over jurisdiction resulting from the process of transferring the responsibilities of erstwhile central-level institutions onto the subnational governments. Given that most roads traverse across multiple political boundaries and the fact that there is a significant budget associated with construction, there is competing interest among political actors and bureaucrats from all three levels of the government. Furthermore, there are allegations against federal bureaucrats for trying to maintain influence over the sector, with some alleging them of trying to take back the devolved authorities.

Another major issue that needs attention in this area has to do with accountability measures at the local level in a federal system. Citing the electoral mandate of the people, local officials seem overly keen to respond to the demands of their constituencies; at times without considering the technical and procedural requirements. The local legislature is meant to serve as the check-and-balance system that provides some oversight over the executive, but this body is limited by its capacity. They also seem to be driven by the same incentive as their executive counterpart and are often working in unison. As a result, they end up furthering the system of political patronage.

Parting thought: If we are to step back from this examination of specific policy in infrastructure development and place this discourse within a larger theoretical framework, the issues discussed here represent 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 into the decision making process. To institutionalize this, we develop appropriate legal and procedural requirements.

But our examination shows is that there is a great degree of attempts made by some actors to comply with all these established requirements, at least on paper, while simultaneously hijacking the spirit of the intended policy. This suggests that no matter how well-intended these policies are, it is the implementation that truly matters. And to increase the probability 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. How it fares, in the long run, depends on the strength of its foundations—of institutions and democratic practices. One way to ensure this is by upholding people's faith in them.



This policy brief summarizes the key observations of *On Users' Roads: Examining the User Committee Mechanism in Developing Local Roads in Nepal*. Please visit www.pei.center to download the full report

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