Corruption in Timber Production and Trade

An analysis based on case studies in the Tarai of Nepal

by

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Declaration

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university. To the best of the author's knowledge, it includes no material previously published or written by another person or organisation, except where due reference is provided in the text.

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Abstract

Corruption in the production and trade of timber from Nepal's Tarai forests is a historically narrated but little investigated phenomenon. This research explores how various actors interpret, define and practice corruption at different stages of timber trade chains from the three main forest governance and management regimes – government, community and private forests. It focuses on three key questions: 1) the forms and level of corruption; 2) the actors involved in corruption, their motivations, and institutional arrangements and processes enabling them; and 3) anti-corruption responses.

The research applies a case study approach, and uses a value chain framework to structure the analysis of timber production and trade from two Tarai districts. It employs mixed methods, based primarily on qualitative analysis supported by quantitative data. Individual interviews (n=143), focus group discussions (n=10), observations, and a review of official documents and records, were used to collect and triangulate data.

The research suggests that timber governance in Nepal's Tarai is characterised by systemic, institutionalised and decentralised corruption, in which multiple, mutually-reinforcing corrupt practices, including bribery, fraud and theft, patronage and favouritism, illegal pressure, and conflicts of interest, occur as common phenomena along the timber trade chains from all major forest governance and management regimes. In many instances, corruption has involved illegal forest activities that resulted in unsustainable management of forests and reduced revenues to government and communities. Community forests experience a higher degree of corruption than government-managed forests, mainly due to the weak accountability structures of community forest governance.

The core actors engaged in timber-related corruption comprise forest officials and local political and economic elites; they have forged a nexus at the local level, and maintained relations with other powerful social actors from local to central levels, through bribes and political networks. Many of these actors perceived some forms of corruption and illegal forest activities as acceptable behaviours, and rationalised them in various terms. Such perceptions and rationalisations have ultimately facilitated the perpetuation of corruption.

Despite comprehensive legal-institutional arrangements and strong civil society engagement, the response to corruption in Nepal in general, and in the timber sector in particular, has been ineffective; this failure is attributed to issues in both the design and enforcement of anti-corruption strategies. Some of the anti-corruption measures applied in the timber sector have led to negative social, economic and ecological consequences, and have become counter-

productive for corruption control. The findings suggest that although the factors contributing to corruption are primarily visible in the 'loopholes' of legal-institutional arrangements and poor law enforcement, the underlying factors – the broader socio-political and economic contexts of the country – are especially significant in its persistence and ubiquity. In particular, the 'culture of corruption' in Nepali socio-politics, which has flourished under patronage networks and impunity, the growing middle-class culture, poor social security arrangements, and social acceptance of corruption, have fostered timber-related corruption in Nepal's Tarai, as both sectoral and local manifestations of corruption more generally. Hence, an effective anti-corruption strategy is likely to require a 'big push' involving all major social, political and economic institutions.

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Acronyms and Abbreviations

AAH	Annual allowable harvest
AFO	Area (*Ilaka*) Forest Office
afo	Assistant Forest Officer
CA	Constituent Assembly
CCI	Control of Corruption Indicator
CDO	Chief District Officer
CF	Community Forest
CFM	Collaborative forest management
CFUG	Community Forest Users' Group
CIAA	Commission for the Investigation of Abuse of Authority
CoM	Council of Ministers
CPI	Corruption Perception Index
CPN (UML)	Communist Party of Nepal (United Marxist Leninist)
CPN-M	Communist Party of Nepal – Maoist
DAO	District Administration Office
DDC	District Development Committee
DFCC	District Forest Sector Coordination Committee
DFMP	District Forest Management Plan
DFO	District Forest Office
dfo	District Forest Officer
DFPSB	District Forest Products Supply Board
DFRS	Department of Forest Research and Survey
DMLI	Department of Money Laundering Investigation
DoF	Department of Forests
DRI	Department of Revenue Investigation
DTCO	District Treasurer Comptroller Office
FECOFUN	Federation of Community Forestry Users, Nepal
FPCSDD	*Forest Products (Timber/Fuelwood) Collection, Sale and Distribution Directives 2000*
FPEA	Forest Product Entrepreneurs' Association
FY	Fiscal Year
GCB	Global Corruption Barometer
GF	Government-managed Forest
GoN	Government of Nepal
HLIC	High Level Investigation Commission on Deforestation, Forest Encroachment and Community Forests
Hon.	Honourable
I/NGO	International/Non-Government Organisation
MBBS	Bachelor of Medicine and Bachelor of Surgery
MD	Doctor of Medicine

MFSC	Ministry of Forest and Soil Conservation
MJF	Madhesi Janadhikar Forum
MoF	Ministry of Finance
MoLRM	Ministry of Land Reform and Management
MoPIT	Ministry of Physical Infrastructure and Transport
MP	Member of Parliament
MPFS	Master Plan for the Forestry Sector of Nepal
NC	Nepali Congress
NGO	Non-Government Organisation
NID	National Investigation Department
NIS	National Integrity System
NRC	Natural Resource Committee of the Parliament
NRs.	Nepali Rupees
NVC	National Vigilance Centre
OAG	Office of the Auditor General
p. a.	per annum
PF	Private Forest
PFDD	*Private Forest Development Directives 2012*
PI	Public Institution
PS	Public Servant
PSC	Public Service Commission
RFD	Regional Forest Directorate
rfd	Regional Forest Director
RP	Range Post
SC	Supreme Court
SWC	Social Welfare Council
TADA	Tour and Daily Allowances
TAPEE	Transparency, Accountability, Prevention, Enforcement, Education
TCN	Timber Corporation of Nepal
UCPN (M)	United Communist Party of Nepal (Maoist)
UNDP	United Nations Development Program
VAT	Value Added Tax
VDC	Village Development Committee
WGI	Worldwide Governance Indicators

Glossary of local terms in relation to corruption in timber production and trade in Nepal's Tarai

Terminology	Meaning
Aa. Le. Pa., Ma. Le. Pa. kharcha	The abbreviated form of 'internal audit and general audit expenses' in Nepali. This is the informal money that is collected by the Account sections of government offices, generally as a certain percentage of office programme budgets, to pay bribes to auditors from the Financial Comptroller General's Office and the Office of the Auditor General.
Bhansun	Talking to someone, usually from a position of power in regards to the issue concerned, to use personal relation to favour someone
Bhrastachar	Corruption
Chakari	Sycophancy
Chalta-purja	Elite, active person
Chhyakan	Cash that is given to a rival contractor for withdrawing from bidding in the tender process
Chulthe-mundre	A criminal gang extorting money from contractors, also known as *chundre-mundre*
Chyankhe thapne	The act of a contractor who pretends to bid for tenders with the intention of obtaining *chhyakan*
Darupani	Food including alcoholic drinks; it is a common practice for contractors and CF office holders to offer *darupani* for forest officials.
Dayan-banya	Literally means 'right-left' to refer to manipulation and fraud
Don	This refers to the leader of *chulthe-mundre*, a criminal gang. This term is also used for the official (Ranger or AFO) who has stayed longer in a DFO and who works as a focal point in the corruption business including collection of informal money and its sharing. S/he is considered as the DFO's 'right hand'.
Ghus	Bribe, usually in cash
Giroha	Network, usually in a negative sense
Line clear garne	Obtaining a 'green light' of favour from higher authorities, usually through bribes
Margin khane	Taking informal payments for the difference between the actual and the reported volume of timber, specifically as a result of under-measurement of logs
Mathiko manchhe	An official from higher level offices, such as the Department of Forests and the Ministry of Forest and Soil Conservation
Milaune	Manipulation, adjustment
Milemato	Collusion among actors, particularly referring to a cartel formed during a tender process
Pahunch	Access, usually in terms of a personal or political relationship with a higher authority or power

PC	Personal commission, usually set at a proportional or rate basis; it is synonymous with *SAT*, *Tuppi kar*, service charge and system payment.
Rijhaune	To make someone happy, usually through bribes, *chakari* or favour
SAT	The timber contractors introduced this term resembling 'VAT' (Value Added Tax) to refer to a bribe at a certain rate per cubic foot of timber to be given to forest officials at each governance layer during the process of recommendation for and issuance of a transportation permit.
Source-force	Using one's power for favour, usually based on a personal or political relationship
Tala-mathi	Literally means 'down-up' to refer to manipulation and fraud
Tancha puja	Literally means 'worshipping marking hammer'; this term is used to refer to a small payment made to marking officials before starting log marking in the piling site for transportation.
Tuppi kar	Same as '*SAT*'; '*Tuppi*' literally means 'the hair on the top of the head' and '*kar*' means 'tax'. It therefore refers to the compulsory informal payment (tax) to be made to each individual (*tuppi*) through the governance layers, from the CFUG and Range Post to the DFO and above.

Chapter 1: Introduction

1.1 Introduction

Despite growing research on corruption in the forest sector in general, and timber production and trade in particular, in the last few years (Brack 2005; Callister 1999; Cerutti et al. 2012; Contreras-Hermosilla 2002; Gellert 2003; UNODC 2013), the understanding of this 'contextual' phenomenon (Klitgaard 1988) is still limited in the diverse political, economic and social contexts in which it occurs. The lack of this understanding has hindered informed decision making to maintain or strengthen integrity in timber governance. This study analyses corruption and illegal forest activities associated with timber production and trade from the forests of Nepal's Tarai region, which is the main source of timber to the expanding timber markets in Nepal. Based on case studies, the research explores how various actors interpret, define and practise corruption at various stages of timber trade chains originating from the three main forest governance and management regimes – government, community and private forests[1]. This also examines anti-corruption in timber governance, and explores how it can be strengthened. Throughout the thesis, I use the key terms as defined in Box 1-1.

Box 1-1: Definition of key terms used in the thesis

Anti-corruption: Anti-corruption refers to a set of activities introduced to address corruption. It is not only criminalization of corrupt practices and prosecution of corrupt individuals but also prevention of corruption "by building transparent, accountable systems of governance and strengthening the capacity of civil society and the media as well as improving public integrity, strengthening the personal ethics of public and private officials, and perhaps even challenging social norms that encourage corruption"[2].

Corruption/corrupt practice: Following the commonly used definition adopted by Transparency International (Transparency International 2009, p. 14), corruption is defined as the "abuse of entrusted power for private gain". A corrupt practice may be legal or illegal, but satisfy the following criteria: 1) it involves abuse of entrusted power, 2) it enriches private interest at the cost of public, and 3) it is an intentional act.

Illegal forest activities (IFAs): Based partly on Tacconi et al. (2003), IFAs are defined here to refer to all illegal acts related to forests, including those committed at different stages of timber trade chain, from pre-harvesting planning, to harvesting operations and transportation, to marketing and use of timber products. For the purpose of this research, IFAs also include collusion among contractors in tendering (*milemato*), which results in the loss of revenue to government or communities, although this act is not explicitly illegal in the forest sector in Nepal.

Legalised timber: Legalised timber is defined here to refer to the illegal timber that is produced and/or marketed as if it is legal, using fraudulent documentation at some point(s) along the trade chain.

[1] The *Forest Act 1993* has provisions for a total of six forest governance and management regimes in Nepal. They comprise government-managed forests, protected forests, community forests, leasehold forests, religious forests, and private forests. All other than private forests are national forests. Government-managed, community and private forests are the main regimes producing timber in Nepal.

[2] http://www.u4.no/articles/the-basics-of-anti-corruption/ (Accessed: 12/03/2015)

Timber governance: Timber governance refers to the governance of timber production and trade. Timber governance is a sub-set of forest governance; the latter "comprises a) all formal and informal, public and private regulatory structures, i.e. institutions consisting of rules, norms, principles, decision procedures, concerning forests, their utilisation and their conservation, b) the interactions between public and private actors therein and c) the effects of either on forests" (Giessen and Buttoud 2014, p. 1).

1.2 Corruption and illegal forest activities in the timber sector globally

As indicated by the annually published country-specific indices, such as Corruption Perception Index (CPI) of the Transparency International and Control of Corruption Indicator (CCI) of the World Bank, corruption is a worldwide phenomenon, although its nature and extent may vary across time, location and sectors. A burgeoning literature has explored corruption in various sectors, including politics (e.g. Rose-Ackerman 2001), economics (e.g. Mauro 1995), development (e.g. Davis 2004), and natural resource management, such as forestry (e.g. Contreras-Hermosilla 2002), wildlife (e.g. Lee 1995), fisheries (e.g. Hanich and Tsamenyi 2009), water resource (e.g. Asthana 2003) and mining (e.g. Petermann et al. 2007). Although they demonstrate sector-specific consequences of corruption, most studies conclude that corruption has negative social, economic and environmental impacts for society.

A range of studies shows that corruption and illegal forest activities (IFAs) are common features of the timber industry, specifically in the developing world. Illegal logging, which is primarily reinforced by corruption (Amacher et al. 2012; Callister 1999; Contreras-Hermosilla 2002; Palmer 2001; Smith et al. 2003; Transparency International 2010a), is reported to be taking place in 70 countries in the world (Toyne et al. 2002, cited in Hansen and Treue 2008). At least half of the logging activities in the "vulnerable regions" such as the Amazon Basin, Southeast Asia, Central Africa and the Russian Federation, have been estimated to be illegal (Brack 2002). Similarly, it is estimated that over 80 per cent of the timber logged from Latin American forests are illegal (Guertin 2003). According to UNODC (2013), Southeast Asia exported about 10 million cubic metres of illegal timber, valued at some US$3.5 billion, to the EU and the rest of Asia in 2010; and East Asia and the Pacific exported illegal forest products equivalent to US$11 billion in 2012. The World Bank (World Bank 2008) estimates that the world governments are losing revenue equal to US $15 billion a year due to timber-related crime alone, that is illegal logging and timber smuggling.

Country specific estimates of the scale of illegal timber trade, which are generally higher from highly corrupt countries as identified by Transparency International's Corruption Perception Index, indicate that corruption in the timber industry is a subset of the overall state of

corruption in a country. For example, a recent assessment estimates that the nine timber producer countries that account for about 10 per cent of global exports of wood-based products – Brazil, Cameroon, Democratic Republic of the Congo (DRC), Ghana, Indonesia, Laos, Malaysia, Papua New Guinea (PNG) and the Republic of the Congo – produced more than 80 million cubic metres of illegal timber in 2013; this was equivalent to about one-third of their total production of timber (Hoare 2015). Six of these nine countries have rampant corruption as indicated by the CPI score in 2013 (Transparency International 2013a). More than 80 per cent of the wood-based products exported from Myanmar, Cambodia, Papua New Guinea and Solomon Islands, about two-thirds from Lao PDR, and nearly one-third from Vietnam is illegally sourced (UNODC 2013); and extensive illegal extraction and trade of timber are reported from Burma and Thailand (Elliott 2007). Nearly half of the total exports, some 200,000 cubic meters, of timber exported from Mozambique to China in 2012 were illegal (EIA 2013); in Russia, 2-4 times more than the permitted quantity was logged for export to China between 2004 and 2011 (Kabanets et al. 2013). These levels of illegality are long-standing in many countries. For example, in the early 2000s, it was estimated that Cambodia lost US$0.5-1 billion due to illegal harvesting of 4 million cubic meters of timber each year (Brack 2003), corresponding to be more than 90 per cent of the total harvest (Contreras-Hermosilla 2002). Around the same time, at least 80 per cent of timber harvested in Bolivia and Brazil (Contreras-Hermosilla 2002), and 70 per cent in Ghana (Hansen and Treue 2008), was illegal.

1.3 Corruption and illegal forest activities in timber production and trade from Nepal's Tarai

Nepal, with an area of 147,181 sq. km., is a landlocked country bordered with China to the North and India to the East, South and West. It is one of the least developed countries in the world with a per capita income of US$703 p. a. (CBS 2014). The country is divided into three main ecological regions namely the Tarai (Southern plains), Hills and Mountains, each characterised by distinct topography, natural endowments and culture. The Tarai region occupies 13 per cent of the total area of the country, and hosts more than half of the 26.5 million people in Nepal[3]. Historically, this region has been the centre of forest politics in Nepal, mainly because of extensive timber yielding forests endowed with high value species, specifically *Sal* (*Shorea robusta*). The Tarai forests are the main sources of timber supply to growing cities throughout the country.

The recent forest inventory report of the Tarai reveals that the region has 20.4 per cent forest cover (411,580 ha), which was declined at an annual rate of 0.44 per cent in between 2001 and

[3] The population statistics is based on the 20 Tarai districts, many of which also include parts of the Chure region.

2010/11 (FRA/DFRS 2014). The report also indicates that the high-value Sal forests have been degraded in between 1994 and 2010. Corruption and associated illegal forest activities (IFAs) are widely perceived as one of the main causes of deforestation and forest degradation in the Tarai of Nepal (Satyal Pravat and Humphreys 2013). Transparency International has ranked Nepal as a country with rampant corruption throughout the last decade, with a CPI of 27 (out of 100, in which 100 is the cleanest) in 2015 (Transparency International 2015a). Similarly, the World Bank shows a continued deterioration of Nepal's position in combating corruption with the CCI of 0.0 in 1996 and -1.0 in 2012 (at a scale of +2.5 to -2.5) (World Bank 2014b). The country's poor performances in these indices truly reflect the governance status in the timber sector as seen in the frequent reports on timber-related corruption and crime in the Nepalese media in the last few years.

Historically, the Tarai forests have been known for corruption. Generally, political corruption has been linked mainly with distribution of forestlands and bureaucratic corruption with distribution and sale of timber. The Rana rulers of the pre-1951 familial regime and the Kings, who had assumed absolute powers until 1990, distributed a large area of fertile forestlands of the Tarai to their families, aides and political elites (Bhattarai et al. 2002; Regmi 1978; Shaha 1990). Similarly, after reinstatement of multi-party democracy in 1990, political parties distributed forestlands to their supporters, either abusing the policies related to landless people (*sukumbasi*) or using coercive measures. On the other hand, Nepali forest bureaucracy has long been known to be corrupt, often linking to corruption associated with timber from the Tarai forests (Bhattarai et al. 2002; Gyawali 2004). Paudel et al. (2006) reveal that forest officials forge a nexus with timber contractors and community elites to produce illegal timber, which constitutes up to three times the legal quantity. In recent years, corruption in community-based forest management is being increasingly reported (Iversen et al. 2006; Khanal 2012). However, despite being a widely realised and historically persistent phenomenon, corruption in timber production and trade from Nepal's Tarai is a poorly explored topic.

1.4 Research overview

1.4.1 Research questions

The general question that this research examines is:

> How do various actors interpret, define and practice corruption in timber production and trade from Nepal's Tarai?

To answer this, the following three sub-questions arise.

1. In what forms and scales does any corruption occur at each stage of timber trade chain?

2. What actors are involved in any corruption at each stage of the timber trade chain, what are their motivations, and what institutional arrangements and processes enable them?
3. What have been the responses to any corruption in timber production and trade?

1.4.2 Significance of the research

With increasing awareness of corruption in the timber industry as a challenge to the governance of forest resources at local, national and global levels, anti-corruption efforts are increasingly in place at all levels with varying results. Since corruption is a contextual phenomenon (Hasty 2005; Klitgaard 1988), the success of anti-corruption depends on how well the phenomenon is understood in a particular context. Despite an increasing global literature on timber-related corruption in the last few years, the case in Nepal is little explored.

There is a large number of studies on forest governance in Nepal in general, and in the Tarai in particular, and many of them have mentioned corruption associated with the timber sector as one of the main challenges of forest governance (e.g. Banjade 2013; Banjade et al. 2011; Bhattarai et al. 2002; Nightingale and Ojha 2013; Ojha et al. 2007). Nevertheless, only a few studies have been conducted to explore this issue in-depth. Gyawali (2004) assesses the socio-economic dimensions of small-scale illegal logging and associated corruption in a Tarai district. In a case study of an Inner Tarai district, Paudel et al. (2006) investigated the abuses of the forest product verification system, including that of timber, and give an account of illegal timber and informal monetary transactions. While this scoping study lists several factors contributing to corruption, particularly associated with the verification institutions, it does not explain the phenomenon with due consideration of the wider socio-political and economic contexts. Similarly, Iversen et al. (2006) present corruption taking place in the Tarai community forests in terms of elite captured subsidy and hidden transactions. The study identifies mainly corruption associated with the 'internal' distribution of timber in a Community Forest User Group (CFUG) but not with 'external' sales, which is an important issue relating to timber corruption in the Tarai.

Against this backdrop, this research aims at contributing to the knowledge through explaining the nature of timber-related corruption occurring in the specific political, economic and social-cultural contexts of Nepal's Tarai. It is also expected to inform policy makers with the gaps and strengths of timber governing and anti-corruption policies, laws and institutions to help necessary reform for reducing corruption and improving integrity in timber governance. It is also aimed to help anti-corruption practitioners identify possible areas of intervention to tackle different forms of corruption and illegal forest activities happening along the timber trade chain.

1.4.3 Summary of research framework

Informed mainly from political and economic theories of corruption, discussed in Chapter 2, I have conceptualised that corruption in timber production and trade is a result of interaction among the following four factors: 1) actors, their motivations and power-relation, 2) institutions and processes governing timber production and trade, 3) anti-corruption institutions and actions, and 4) political, economic and social-cultural contexts. Thus, the research framework has been designed so as to explore various facets of corruption through analysis of these four components individually and their interactions with each other.

1.4.4 Summary of research methodology

Broadly, this research has followed interpretive social science methodology, so as to understand how various actors in timber governance interact and interpret their actions in their context (Neuman 1994). It has employed primarily a qualitative approach; however, quantitative data have been used to support the qualitative information.

As discussed in Chapter 3, the research has applied a case study approach, taking two districts as two case studies. Case study districts were strategically selected considering the size of timber harvesting and trade, accessibility to markets, and other socio-economic parameters. In addition, the availability of officials who were expected to help the researcher based on prior personal relationships was also accounted while selecting the case study districts. The whole research methodology was designed using a value chain analysis framework. Multiple methods, such as observation, in-depth interviews, focus group discussions, and review of documents and records from government agencies were used to collect and triangulate data. A pilot study was conducted before carrying out actual data collection.

I have adopted three consecutive components of data analysis – data reduction, data display, and conclusion drawing and verification – as suggested by Miles and Huberman (1994). To draw conclusion and verify assumptions through the displayed data, I have applied the iterative process of explanation building (Yin 2009). For ethical reasons, I have avoided using identifying features such as real names of persons, organisations or places throughout the thesis.

1.5 Organisation of the thesis

The thesis begins with introduction (Chapter 1). Chapter 2 and Chapter 3 present my literature review and research methodology, respectively. Chapter 4 sets out the context in which the researched phenomenon was occurring. Research results are presented in four sections, from Chapter 5 to Chapter 8. The last chapter (Chapter 9) discusses key research findings and derives conclusions. A brief outline of each chapter is presented in Table 1-1.

Table 1-1: Organisation of the thesis

Chapter	Description
Chapter 1. Introduction	This chapter gives an introduction to the entire project presenting the context, research questions, and the rationale of the study. It summarises the research framework and methodology used, and presents the organisation of the thesis.
Chapter 2. Literature review	It presents the relevant theoretical and descriptive literature on corruption in general and that related to timber industry in particular.
Chapter 3. Research methodology	This chapter describes the methodology used in the research, including the conceptual framework, description of the study area, and the processes of data collection and analysis.
Chapter 4. The context of corruption and the Tarai forest governance in Nepal	This chapter presents the national-level scenario of corruption and the political, economic and social-cultural context, in which timber-related corruption is happening. This also describes the context of the Tarai forest governance, including organisational arrangements.
Chapter 5. Corruption along the timber trade chains from government-managed forests (GFs)	These chapters respond mainly to research questions 1 and 2. Chapters 5, 6 and 7 describe different forms of corrupt practices and illegal forest activities taking place at various stages of timber trade chains originating from government-managed, community and private forests, respectively. These also demonstrate what actors are engaged and how, and identify how institutional and procedural arrangements have provided opportunities for corruption.
Chapter 6. Corruption along the timber trade chains from community forests (CFs)	
Chapter 7. Corruption along the timber trade chains from private forests (PFs)	
Chapter 8. Anti-corruption in the timber production and trade from Nepal's Tarai	This chapter deals mainly with research question 3, and gives an account of the anti-corruption responses in Nepal in general and in timber production and trade in particular.
Chapter 9. Discussion and conclusion	This chapter discusses key findings of the research in relation to existing theories and knowledge, and draws conclusions from the thesis.

Chapter 2: Literature Review

2.1 Introduction

In this chapter, I review global literature on corruption and anti-corruption, in general and that associated with timber. The chapter begins with a brief review of the ways different scholars and organisations define corruption. I then present various forms or types of corruption discussed in literature. Next, I review dominant theoretical perspectives on the causes of corruption, followed by approaches to anti-corruption. I also discuss briefly the relationship between decentralisation and corruption. Lastly, I appraise corruption associated with timber in terms of its scale, forms and causes.

2.2 Defining corruption

The term corruption is derived from the Latin word *'corruptus'*, meaning to destroy or decay, which is equally applicable to physical materials as to people (Perry 1997; Robbins 2000). Various meanings of corruption given by the Oxford English Dictionary such as "destruction or spoiling of anything", "moral deterioration or decay" and "perversion or destruction of integrity in the discharge of public duties by bribery or favour" simply suggest that corruption is a change in something – a material, a person, or a social system – from good to bad. However, the term is now most commonly understood in its meaning associated with human agency – as used in the economics and political science literature – rather than that related to physical objects.

Since something good or bad is normative, corruption is a value-laden term (Robbins 2000); what is regarded as corruption can vary from context to context (Hasty 2005; Klitgaard 1988) and even from person to person (Truex 2011). An activity considered as corrupt in one culture might be a part of routine social life in another (Bardhan 1997). For these reasons, there is no universally-accepted definition of corruption (Farrales 2005; Johnston 2001). The UN Convention against Corruption (United Nations 2004) does not define the term, while national legislation usually lists particular activities as corrupt rather than defining it in general terms (Larmour 2007).

Nevertheless, scholars have long been defining and refining the concept in different ways. Three threads of definition, namely public office-centred, public interest-centred and market-centred, are those most cited in the corruption literature (Larmour 2007; Philp 1997); there are also legal concepts, and those derived from public opinion. Almost all scholars emphasise that the notion of corruption has different meanings in different social and cultural contexts, and therefore no universal definition is appropriate.

The public office concept of corruption, also known as the behaviour-focused concept, focuses on the responsibilities of public office bearers, and considers deviation from the standards expected of them as corruption. The definition adopted by many international organisations such as the World Bank and UNDP – the "use of public office for private gain" (Huther and Shah 2000, p. 1) or the "abuse of public office for private gain" (UNDP 2008, p. 12) – is a typical example of this framing of corruption. In a similar tone, the criminological literature which assumes corruption is a white-collar crime (Sutherland 1949) defines corruption as "the criminal misuse of power" (Zimring and Johnson 2005, p. 793). The following definition proposed by Nye (1967, p. 419) further elaborates the public office concept of corruption:

> Corruption is behaviour which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence.

Public office definitions are the most widely used in the analysis of corruption. However, they are not free from critique; two shortcomings are generally discussed. First, it is difficult to identify the standards or the accepted behaviour against which the 'abuse' or 'deviation' can be judged (Johnston 2001; Larmour 2012; Philp 1997) and, second, this concept does not cover corruption taking place in non-government organisations and the private sector (Hodgson and Jiang 2007; Larmour 2007). Consequently, the definition currently adopted by Transparency International – "abuse of entrusted power for private gain" (Transparency International 2009, p. 14) – is intended to cover corruption in the non-government and private sector, as well as in the public sphere. As corruption is generally an activity undertaken through a network comprising both public and private actors (Rose-Ackerman 1997), the distinction between public and private may be unnecessary.

A public interest definition of corruption considers whether or not the power-holder's action is against the public interest. It focuses on the outcomes rather than rules and roles (Larmour 2012). It holds that an act is corruption if it harms the public interest, as Friedrich (1966, p. 74) argues

> …corruption can be said to exist whenever a power-holder who is charged with doing certain things i.e. who is a responsible functionary or office holder, is by monetary or other rewards not legally provided for, induced to take actions which favour whoever provides the rewards and thereby *does damage to the public and its interests* [emphasis added].

Since 'abuse of entrusted power (or public office) for private gain' harms the public interest, this concept is distinct from the public office concept only in the way in which the expected behaviour of the power-holder is interpreted (Philp 1997). The public interest concept may be particularly useful to assess policy corruption – the making of laws in the private interest – in which legal or other standards may not be very useful in interpreting standard of behaviour

expected from the power-holder. Nevertheless, the problem of whose interest to count remains, as there may be conflicting interests in the society (Larmour 2012).

Market-centred definitions of corruption refer to the "buying, selling, and hiring out of public office" (Larmour 2012, p. 82). They generally share the application of public choice methods to analyse corruption or "more crudely, the use of economic methods and models for the analysis of politics" (Philp 1997, p. 443-444). As an example of this concept, Heidenheimer and Johnston (2002, p. 8) cite Van Klaveren (2002) as saying "a corrupt civil servant regards his public office as a business, the income of which he will…seek to maximise. The office then becomes a maximising unit. The size of his income depends…upon the market situation and his talents for finding the point of maximal gain on the public demand curve". Similarly, (Tanzi 1998, p. 8) defines corruption as "the intentional noncompliance with arm's length relationship aimed at deriving some advantage from this behaviour for oneself or for related individuals", meaning the biased treatment of all economic agents in economic decisions (Begovic 2005). According to this concept, corruption essentially involves economic transactions between more than one party.

The legal definition of corruption simply considers as corruption those acts defined as such by the prevailing laws of a jurisdiction. This is straightforward, but many countries do not define corruption in their laws; rather, they merely list some activities as corruption, leaving certain type of corruption excluded (Larmour 2012). Formal laws might also contradict traditional norms of a society (Philp 1997). The public opinion definition follows its namesake, and considers corruption as whatever people say it is (Larmour 2012). This definition is clearly dependent on whose opinion counts, since there may be different opinions in a society based on caste, ethnicity, economic classes and other divisions. It can also be argued that legal codes and public opinions do not form distinct concepts of corruption, but rather provide standards against which corruption can be assessed using the public office and public interest definitions, respectively (Philp 1997).

While different concepts focus on different dimensions of corruption, all of them share some general characteristics of an act to qualify as corruption, so that it can be distinguished from other unaccepted behaviours of the entrusted power-holders, such as 'incompetence' or 'improper conduct' (Philp 1997). It is generally accepted that corruption involves misuse of entrusted power; it enriches private interest at the cost of the public interest; and it is an intentional act. Opinions, however, are divided on whether corruption is essentially illegal (Philp 1997) or can also be legal (Bardhan 1997); and whether it requires exchange between two or more parties, such as bribery (Begovic 2005; Huberts et al. 2006; LaPalombara 1994;

Von Alemann 2004), or it may also include an act accomplished by a power-holder him/herself, without involving other parties – such as fraud (World Bank 1997).

In the case of the country of primary interest to this study, Nepal, the *Commission for the Investigation of Abuse of Authority Act 1991* defines corruption as "an offence punishable under the prevailing laws related to the prevention of corruption" (Section 2h), and thus follows legal norms as the standards against which corruption can be judged. The prevailing law – the *Prevention of Corruption Act 2002* – does not define corruption as such, but specifies a number of activities as corruption, as will be discussed in Chapter 4. The list of specified activities generally follows the public office concept of corruption; however, it includes some of the activities that are named as corruption which are accomplished solely by private actors.

2.3 Forms/types of corruption

As discussed above, what is considered corruption may vary spatially and temporally. Therefore, it may be neither possible nor useful to list 'corrupt' activities without referring to any social or cultural context (Kondos 1987). However, the growing involvement of researchers, activists, and development agencies in the area of corruption and anti-corruption globally in the last two decades has fostered a level of common understanding on what type of activities are corruption, at least amongst these actors. Thus, a number of activities are commonly characterised as corruption, although the degree of their condemnation (or tolerance) may be different in different contexts (Zimring and Johnson 2005).

Bribery is the most common form of corruption, equally understood and condemned universally (Klitgaard 1988). Patronage, cronyism and nepotism, which violate the arms-length principle (Begovic 2005) as much as bribery, are generally considered as corruption; nonetheless, they are far less condemned than bribery in many countries, including – for example – Nepal (Kondos 1987). Fraud, theft, misappropriation and embezzlement (that is, activities undertaken by an official without involving another party or parties) are considered as corruption by some (World Bank 1997), while others regard these as crime of a kind but not corruption (Begovic 2005; Von Alemann 2004). Huberts et al. (2006) see corruption as a sub-set of a broader typology of integrity violations (Box 2-1). Of the nine types of integrity violations proposed, they consider only the first two types (bribing, and nepotism, cronyism and patronage) as corruption, while other scholars such as Zhang et al. (2009) include at least those activities classified as Types 3 or 4 in Box 2-1. Fjeldstad (2002) considers Types 1 and 2 as external corruption, viz. involving at least one party out of office, and others such as Types 3 and 4 as internal corruption, viz. involving only office holders. Graycar (Graycar 2015) presents

a list of corrupt practices, which includes bribery, extortion, misappropriation, creating or exploiting conflicts of interest, and nepotism, clientelism and favouritism.

Box 2-1: A typology of integrity violations

1. *Corruption: bribing*
   Misuse of public power for private gain; asking, offering, accepting bribes.
2. *Corruption: nepotism, cronyism, patronage*
   Misuse of public authority to favour friends, family, party.
3. *Fraud and theft*
   Improper private gain acquired from the organisation (with no involvement of external actors).
4. *Conflict of (private and public) interest*
   Personal interest (through assets, jobs, gifts etc.) Interferes (or might interfere) with public interest.
5. *Improper use of authority* (for noble causes)
   To use illegal/improper methods to achieve organisational goals (within the police for example illegal methods of investigation and disproportionate violence).
6. *Misuse and manipulation of information*
   Lying, cheating, manipulating information, breaching confidentiality of information.
7. *Discrimination and sexual harassment*
   Misbehaviour towards colleagues or citizens and customers.
8. *Waste and abuse of resources*
   Failure to comply with organisational standards, improper performance, incorrect or dysfunctional internal behaviour.
9. *Private life misconduct*
   Conduct in one's private life which harms the public's trust in administration/government.

Source: Huberts et al. (2006)

Scholars have made useful distinctions between different types of corrupt practices in order to facilitate analysis of corruption for varying purposes. A distinction between petty, grand, and policy corruption is one of the most commonly made, to reflect the scale of corruption as well as the type of actors involved (Larmour 2007). Petty corruption is a small scale corruption, such as 'speed money' to expedite the formal process (Isaksson 2015), and usually involves junior officials. Grand corruption refers to a larger scale corruption (such as a kickback from a contract), usually involving senior officials and/or politicians. Policy corruption, which is also known as state capture, is a situation where the law is changed to serve private interest. The former two are illegal, while the third is legal but undermines public interest (Larmour 2007). Some also see the distinction between political and administrative/bureaucratic corruption referring to the corruption committed by politicians (mostly policy but also grand) and that by bureaucrats who commit grand as well as petty corruption (Goudie et al. 1997; World Bank 1997).

'Black', 'grey' and 'white' typologies are used to refer to the level of public tolerance of different corrupt practices (Heidenheimer 2002; Von Alemann 2004; Zimring and Johnson 2005). This classification represents a continuum along which highly tolerated and highly

condemned corrupt practices are placed at the white and black ends, respectively, and others in between ('grey'). The position of the same activity along the continuum may be different through time and space. For example, gift exchange during business transactions or loyalty to friends and families is a widely accepted phenomenon in most developing countries (Bardhan 1997), while such acts may be highly condemned in many Western countries. Two studies on corruption in Nepal – Caplan (1971) and Truex (2011) – exemplify how tolerance of corrupt practices changes over time. For example, favouritism, which was widely accepted as a part of the culture of Nepali society (Bista 1991; Caplan 1971; Kondos 1987) has been dramatically challenged in the last few decades (Truex 2011). Truex argues that the level of unacceptability of some forms of favouritism is closer to that of grand cash bribery – the highest, most unacceptable form of corruption in Nepal. Conversely, in the Nepali context, petty gift and petty cash corruption, which were once at the white and black ends of the acceptance continuum (Caplan 1971), have now come nearly together in the grey area (Truex 2011).

Non-collusive and collusive corruption (Carlsen and Hansen 2014; Dutta and Mishra 2013; Dzhumashev 2014; Laurance 2004; Smith et al. 2003; Sundström 2015), also described in other terms such as corruption 'without theft' and 'with theft' (Bardhan 1997; Shleifer and Vishny 1993; Wadho 2013) or need and greed corruption (Bauhr and Nasiritousi 2011), is another important characterisation of corruption that focuses on the relationship between actors and their basic motivation for engagement in corruption. Non-collusive corruption refers to those instances in which officials charge citizens something extra for themselves for services to which they are entitled; however, they do not rob the government of revenue. In collusive corruption, the officials and the clients collude to rob the government of revenue for their private gain. The former type builds on extortion and coercion; there is a perpetrator-victim relationship between officials and clients, and therefore detectability is expected to be higher (Smith et al. 2003). On the contrary, the latter builds on mutual benefits; the victims, in this case the general public, do not know they have been victimised, and therefore it becomes less detected and more persistent (Bardhan 1997; Bauhr and Nasiritousi 2011; Coleman 1987). Collusive corruption is seen as more detrimental to the society as it compromises society's control over resources (Irland 2008), and undermines the just implementation of public policies (Begovic 2005). However, it is also reasonable to consider that widespread non-collusive corruption may diminish people's trust in the government and undermine the rule of law. Comparing corruption during and after the Suharto regime in Indonesia, Smith et al. (2003) show that non-collusive corruption is more prevalent in a strongly centralised form of government, while collusive corruption is a characteristic of a weak, decentralised and more fragmented form of government.

The dichotomy between centralised and decentralised corruption is used to assess how the 'industry' of corruption is organised in an economy or a society (Shleifer and Vishny 1993). In the centralised system of corruption, a single deal or transaction is made for a specified government service, while in its decentralised form, one has to deal with multiple agencies and many officials for a single service (Begovic 2005; Shleifer and Vishny 1993). Centralised corruption occurs when there exists a strong agency to monitor behaviour throughout a country (such as the KGB of the former USSR), whereas decentralised corruption is more pervasive in the new democracies or during political transitions from strong authoritarian states to democracies (Bardhan 1997; Goudie and Stasavage 1998; Smith et al. 2003). Centralised corruption is considered preferable to decentralised corruption in terms of economic efficiency, largely because the centralised form would reduce transaction costs (Shleifer and Vishny 1993). This does not, however, mean that it is necessarily 'better'.

Making the distinction between isolated and systemic corruption (World Bank 1997) offers a sense of the pervasiveness of corruption phenomena in a society. When corruption is an isolated phenomenon, it would be straightforward to detect and punish individuals who have been engaged in corrupt behaviour, but when it is systemic, formal rules are often suppressed by informal ones and informal transactions become more persistent. Systemic corruption can prevail throughout the public sector or it may be confined within a particular sector or agencies.

Transparency International (2010a) differentiates demand-side corruption from supply-side corruption, to characterise whether corruption (such as bribery) is demanded by public officials or is supplied by clients or the private sector. In general, demand-side corruption is dominant in non-collusive forms of corruption, while supply-side corruption is more prevalent in collusive forms of corruption. This is because one does not have an incentive to offer a bribe for a service to which one is legally entitled, while offering a bribe could be important for the safe undertaking of an illegal activity (Shleifer and Vishny 1993).

2.4 Causes of corruption: theoretical perspectives

The question of why corruption occurs and is perpetuated has long been a question of focus for scholars, especially economists and political scientists. However, I discuss here the dominant theoretical perspectives explaining corruption.

2.4.1 Economic perspectives

Economic explanations of corruption are founded on the rational choice principle, and generally hold that the causes of corruption lie in an individual's perception of the potential costs and benefits from a corrupt act. Three basic frameworks – principal-agent, collective

action, and the Kleptocratic state – are most used to explain corruption from an economic perspective.

The principal-agent model assumes an agent is working on behalf of the principal in a situation where there is an asymmetry of information between the two, and the agent as a rational individual takes advantage of the situation to maximise his/her utility. It is argued that an agent engages in corruption when his/her perceived benefit of doing so overweighs the costs – primarily the moral cost plus the perceived chance of being caught by the principal (Klitgaard 1988); therefore, the causes of corruption lie in factors that directly and indirectly influence the actor's perceived costs and benefits (Rose-Ackerman 1978; Shleifer and Vishny 1993). Using the formulation "Corruption = Monopoly + Discretion – Accountability", Klitgaard (1988) suggests that the greater the extent of monopoly of an agent over a public good, and the greater the discretionary power given to him/her for its governance, the higher the opportunity for corruption given that accountability arrangements are weak. The principal-agent model has been used to explain both bureaucratic and political corruption. The model considers decision makers (politicians and high level bureaucrats) as principals, and executive officials as agents, to explain bureaucratic corruption (Klitgaard 1988); and voters (the public) as principals, and politicians as agents, to explain political corruption (Groenendijk 1997). Nevertheless, this model is often criticised for its limitations in analysing political corruption (Begovic 2005; Johnston 1996). It is also criticised for neglecting factors responsible for corruption beyond the individuals' control, in the larger social context (De Graaf 2007).

The collective action framework is used to explain corruption in a context where corruption is a systemic phenomenon. This framework assumes that everyone behaves corruptly if corruption is the expected behaviour in society (Bauhr and Nasiritousi 2011; Mungiu-Pippidi 2011; Persson et al. 2010, 2013; Rothstein 2011). This is because, in such a situation, a rational individual's benefits of being engaged in corruption outweigh the costs involved, for two reasons: first, the moral cost is negligible as it is an expected behaviour; second, the cost of being detected and punished is low because there is the lack of individuals who play the roles of 'principals' as assumed by the principal-agent framework (Persson et al. 2010, 2013).

In an alternative economic framework, such as that proposed by Charap and Harm (1999), corruption is considered as a form of rent[4] appropriation by the ruler, known as the kleptocracy (as in the political literature also). In contrast to the principal-agent model, which is based on the general assumption of conflicting interests between benevolent rulers and profit- maximising bureaucrats, this framework understands corruption as cooperation

[4] Rent is defined as "a return in excess of a resource owner's opportunity cost" (Tollison 1982, p. 575).

between the rulers and the bureaucrats, for rent appropriation. According to this framework, the bureaucracy is created as a machinery to assist rulers in accumulating resources. Since the bureaucrats are allowed to share a cut of the corrupt benefit, their rational behaviour is to co-operate with the rulers in rent appropriation, thus leading to a strong relationship of patronage and loyalty, a patron-client relationship, between the rulers and bureaucrats (Charap and Harm 1999). Similarly, this type of relationship may extend further, to the lower levels; for example, between a bureaucrat as a patron and a private actor or a community elite as a client (Khan 1998; Malla 2001). Subversion of formal rules by informal ones, lack of a distinction between public and private interests, and rent seeking by the high-level officials are some of the characteristics of a kleptocratic state (Andvig et al. 2000).

2.4.2 Political perspectives

There is no clear boundary between the economic and political perspectives on corruption, in part because economic decisions are shaped mainly by political institutions. However, unlike economists who emphasise the rational behaviours of economic agents, political scientists focus on the design of political institutions to understand the causes of corruption. According to Lederman et al. (2005), the design of political institutions affects corruption in two ways: first, through shaping political accountability, and second, through defining the structure of the provision of public goods. In terms of political accountability, three features are considered as primary sources of corruption: the lack of political competition (that is, authoritarian rule); weak checks-and-balances mechanisms across state agencies, including poor separation of powers; and poor transparency in the system (e.g. lack of press freedom) (Rose-Ackerman 1999). In terms of the provision of public goods articulated by the political institutions, which is the focus of most economists, a monopoly over a public good is regarded as an important cause of corruption in the public sector (Bardhan 1997). Because political institutions largely govern the relationships between government and citizens, including economic transactions, in a country, the pattern and scale of corruption are largely considered to be the function of a political regime (Charap and Harm 1999).

Thus, the political perspective of corruption generally holds that the level of corruption declines with the level of democracy (Andvig et al. 2000; Doig and Theobald 2000). However, some also argue that democracy may have no or even a negative effect on corruption (Jetter et al. 2015; Kalenborn and Lessmann 2013). According to Treisman (2000), the maturity of democracy matters in relation to the level of corruption, which can be expected to decrease as democracy matures.

2.4.3 Organisational perspectives

Organisational perspectives of corruption are based mainly on theories related to crime and delinquency, which assume corruption as a workplace crime or, more specifically, a white-collar crime (Sutherland 1949). It believes that the causes of corruption are rooted in the culture and structure of an organisation in which an agent works. Three models are used to explain corruption from an organisational perspective: social acceptance, equity, and structural. The social acceptance and equity perspectives focus on the 'motivation' of an official for corruption created through the organisational culture, while the structural explanation considers 'opportunity' for corruption provided by the organisational structure.

The social acceptance model holds that people are involved in corruption if this is a common phenomenon in their organisation, and thus is one socially accepted by their colleagues. The newcomers in an organisation are prepared for their engagement in corruption through 'socialisation', often in conjunction with 'rationalisation' tactics (Anand et al. 2004; Gorta 1998). Anand et al. (2004) identify three socialisation tactics, namely co-optation, incrementalism and compromise. In co-optation, a change in attitude is induced using rewards such as commissions. In incrementalism, one is gradually introduced to corrupt practices – from a slight deviation toward more corrupt acts – using different rationalisations at each step. In the third form of socialisation, one is trapped tactically by the network of colleagues in a situation in which s/he compromises her/his own ethical principles; for example, a benevolent leader has to compromise her/his principles to favour her/his followers.

The equity perspective suggests if people perceive that they are not treated as equally as their colleagues, they are motivated to engage in corruption to compensate for the perceived inequity (ICAC/ANU 2012). This may explain petty thefts of public property by lower ranked officials. However, this perspective may not explain a situation in which high ranking officials are involved and corruption is considered to be, in Uslaner's (2005, p. 5) words, "the story of how the rich exploit the poor – and how the poor have neither the political or moral resources to rebel".

The structural explanation blames poorly-designed organisational structure, including its mechanisms and division of work, for corruption occuring (ICAC/ANU 2012). This perspective considers all officials as potentially corrupt and pays attention to the analysis of situational factors (Gorta 1998) that are attributed to the structure of the organisation. Situational factors are believed to create opportunity for offence and also influence choice and behaviour of the offender (Clarke 1980). Acknowledging that not all individuals in the same situation, and so with similar opportunity, are equally engaged in crime, the offender's perception of the

situation is regarded as a significant variable (Gabor 1990; Gorta 1998). Gorta (1998, p. 70) remarks:

> Individuals may differ in the way they view situations and potential crime opportunities. For these reasons it is important to explore the offender's perspective to identify which factors the offender considers when deciding whether or not to carry out a crime.

2.4.4 Social-cultural perspectives

Social-cultural perspectives see corruption as a function of society at large, rather than of an individual or an organisation. The core of this perspective lies in the understanding that the values and norms of society influence the values and norms of individuals, which ultimately influence the behaviour of individual officials (De Graaf 2007). This perspective makes a distinction between one's private obligations and his/her public role, which is blurred in many societies (De Graaf 2007; Rose-Ackerman 1999). Schwartz (1999, p. 24) defines values as "conceptions of the desirable that guide the way social actors … select actions, evaluate people and events, and explain their actions and evaluations" , and proposes seven types of cultural values – conservatism, hierarchy, mastery, affective autonomy, intellectual autonomy, egalitarianism, and harmony – leading to varying social-behavioural outcomes in each culture.

2.4.5 Institutional perspectives

In an attempt to explain corruption associated with natural resources, Robbins (2000) proposes an institutional theory of corruption. Opposing the general idea of institutional deficit (Dreher et al. 2009; Oyono 2004) as a determinant of corruption, Robbins (2000, p. 426) argues that "corruption is not the absence of state institutions, but the presence of differing institutions". Claiming corruption to be a "system of normalised rules, transformed from legal authority, …and cemented through cooperation and trust", Robbins (2000, p. 424) shows that corruption resembles all the characteristics of other resource institutions as claimed by the institutional theorists. For example, it builds on local social capital, sets rules of operation, works around *de jure* and *de facto* rules, is based on mutual cooperation and trust amongst participants, and has rules for punishment in case of non-compliance (Robbins 2000).

2.5 Approaches to anti-corruption

Because the meaning, definition and causes of corruption may all vary from context to context, approaches to anti-corruption may vary accordingly. Anti-corruption strategies largely depend on how corruption has been explained in the particular context. For example, the explanation of corruption as a principal-agent problem would suggest anti-corruption strategies such as deregulation and decreasing the role of government in the provisioning of public goods, devising anti-corruption laws, and establishing and strengthening anti-corruption agencies (Bardhan 1997; Begovic 2005; Rose-Ackerman 1978). When corruption in a particular context

is explained as a collective action problem, anti-corruption reform demands a 'big push' or a 'revolutionary change' in all economic, political and social institutions, so that actors' beliefs that other actors in society behave corruptly can be changed (Persson et al. 2010, 2013). A political explanation would focus on promoting democracy, press freedom and civil society (Chowdhury 2004; Rose-Ackerman 1999). Similarly, a social-cultural explanation of corruption recommends establishing codes of conduct and their enforcement as an important anti-corruption strategy (De Graaf 2007). Nevertheless, effective anti-corruption usually requires a mix of different strategies taking into account multiple factors that simultaneously facilitate corruption (Sung 2002).

Ades and Tella (2009) summarise anti-corruption approaches into three groups. The first, the economist's approach, assumes that corruption takes place in imperfect competition. Therefore, it suggests unleashing "the forces of competition in both the bureaucratic market and the briber's market against corruption" (Sung 2002, p. 140). Thus, the arrangement of overlapping jurisdictions for the same public good, and creation of an environment for a competitive production market, are the main anti-corruption initiatives recommended under this approach. The second, the lawyer's approach, recommends increasing monitoring of public activities and enhancing detection and punishment of perpetrators as an anti-corruption strategy. This approach, therefore, focuses on devising anti-corruption laws, establishing powerful anti-corruption agencies, empowering judicial institutions and strengthening enforcement capacity. The third, the businessman's approach, assumes that a public official would have less incentive to engage in corruption if s/he is offered formal earning and satisfaction exceeding the economic return generated from corruption. Increasing public sector wages at least to their private sector equivalents, and providing non-financial incentives such as career opportunities, are therefore recommended as anti-corruption measures.

Sung (2002), while acknowledging the analytical strengths of each of the approaches proposed by Ades and Tella (2009) as discussed above, sees problems with their use as competing frameworks. He suggests, because "the legal tradition, political configuration, and economic dynamics of a society mutually reinforce each other", accounting for their cumulative effect is a significant determinant of corruption and anti-corruption (Sung 2002, p. 140). Sung therefore proposes what he calls a convergence approach, which posits that the opportunity for corruption comes from temporal as well as spatial convergence of at least three causal factors – structural incentives, risky government policies, and the absence of institutional guardians for monitoring and punishing corrupt officials; and that all of these factors need to be addressed concurrently.

2.6 Decentralisation and corruption

Since the 1980s, decentralisation, defined broadly as the "shifting of responsibility for decision-making from central to local institutions" (Hirons 2014, p. 22), has become one of the key elements of development agendas in many developing countries (Larson and Soto 2008; Work 2002). Decentralisation has also been a part of aid agencies' anti-corruption strategies (World Bank 2000). In theory, decentralisation reduces corruption by bringing government close to people; however, opinions about whether decentralisation reduces corruption are mixed (Bardhan and Mookherjee 2006; Fjeldstad 2004). While some theoretical and empirical analyses show that decentralisation reduces corruption (Arikan 2004; Fisman and Gatti 2002; Gurgur and Shah 2005; Shah 2006; World Bank 2000), others see possibilities of 'elite capture' and increased corruption in decentralised governance, specifically in developing countries (Asthana 2003; Bardhan and Mookherjee 2000, 2006; Kandel 2015; Persha and Andersson 2014; Tambulasi and Kayuni 2007).

However, most studies place conditional statements for their claims. For example, Bardhan and Mookherjee (1998) suggest that the level of corruption in decentralised governance is determined by political and economic institutions, in terms of whether they have increased (or decreased) local democracy and reduced (or increased) asset inequality. Freille et al. (2007) hold that a higher level of fiscal decentralisation reduces corruption, but higher political decentralisation with low level of fiscal decentralisation increases corruption. Shleifer and Vishny (1993) claim that an intermediate level of decentralisation is more susceptible to corruption than a very centralized or very decentralised governance. Similarly, Asthana (2012) suggests that although corruption increases 'significantly' immediately after decentralised governance is introduced, the increase is 'substantially' reduced when decentralisation gains maturity. In contrast, Persha and Andersson (2014) find increasing 'elite capture' with increased duration of time since decentralisation. A range of literature, including that relating to natural resource management, indicates that the relationship between decentralisation and 'elite capture' or corruption depends on the accountability arrangements (Chomba et al. 2015; Hirons 2014; Larson and Soto 2008; Persha and Andersson 2014; Véron et al. 2006).

2.7 Corruption associated with timber

Early studies on corruption were concentrated around either political corruption or corruption associated with customs administration. They generally used a variety of theoretical models to explain corruption; empirical research was limited, and often focused on cross-country analysis using macro level parameters. Particularly since the 1990s, empirical studies on corruption have focused on the sub-national levels – a political unit, a sector, or a particular agency. Now, one can find a considerable body of literature related to forest sector corruption in general,

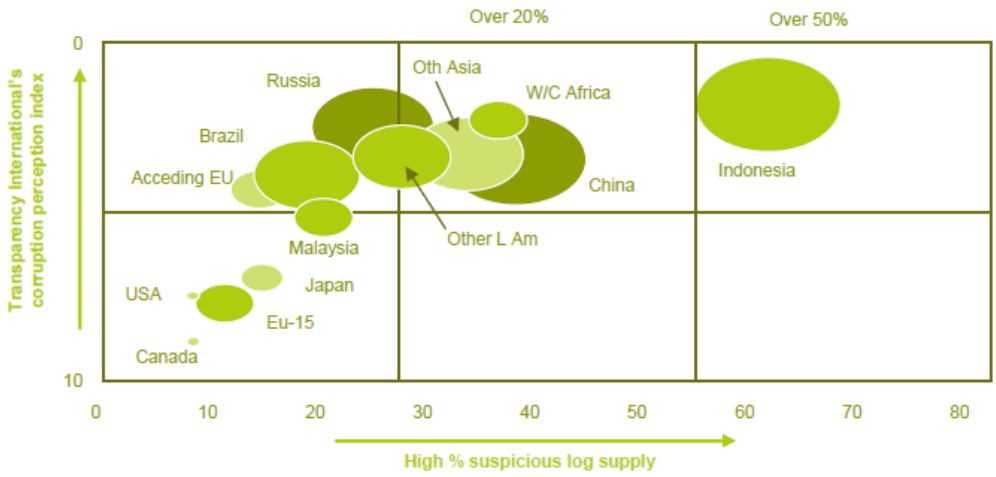
and to timber harvesting and trade in particular. The latter ranges from assessment at the community level (Iversen et al. 2006) to international markets (Gellert 2003).

2.7.1 The scale of the problem

Natural resources, including forests, generate rents; therefore, they are prone to corruption. This is probably why phenomena of corruption in natural resource governance "are the rules, not the exceptions" throughout many parts of the world (Robbins 2000, p. 424). A range of studies shows that there is widespread corruption in the forest sector in general, and in timber governance in particular, especially in developing countries (Amacher et al. 2012; Callister 1999; Contreras-Hermosilla 2002; Hansen et al. 2012; Transparency International 2010a). Since about half of the world's forests are found in countries that experience rampant corruption (Irland 2008), their protection has been a pressing challenge.

Various perception-based measures, such as Transparency International's Corruption Perception Index (CPI) and The World Bank's Control of Corruption Indicator (CCI), are used to understand the general level of corruption across countries. However, efforts to measure the scale of corruption in a particular sector such as forestry have been limited. In fact, there have been no direct measures of the scale of corruption in the forest sector or the timber sub-sector. Nevertheless, the extent of illegality, which is primarily reinforced by corruption, is often used as a proxy indicator to show the scale of corruption. Illegal forest activities also perpetuate corruption (Hoare 2015). Figure 2-1 presents estimates of suspicious log supply from different countries; it reveals that the level of illegal logging generally increases with an increase in the level of corruption. Studies also show a positive relationship between corruption and deforestation (Koyuncu and Yilmaz 2009, 2013).

Figure 2-1: Corruption and Illegal logging



Note: Size of bubbles represents the volume of suspicious logs.

Source: Reproduced from WBCSD/PwC (2009, Figure 3, p. 27), citing SCA/WRI (2004)

There are also limitations to estimates of illegal timber. Most studies relating to timber corruption have estimated the proportion of illegal timber based on the discrepancy between export data from the source country and import data from the recipient country. Thus, it is difficult to accurately estimate illegality within a country, such as Nepal, where timber is traded primarily in the domestic markets. In these cases, estimates commonly rely on assessments of levels of harvest or trade; for example, a case study from a Tarai district of Nepal suggested that actual harvest is often two to three times the permitted quantity (Paudel et al. 2006).

2.7.2 The forms of timber related corruption

Literature on forest corruption has discussed the many forms of corruption that are associated with timber production and trade. In a manual for analysing forest corruption, Transparency International (2010a) identifies three main forms of corruption that take place in the forest sector. First, public officials take bribes, either by forcefully demanding them (extortion), or accepting those supplied by private actors for various services, legal as well as illegal (bribery). Second, they engage in rent-seeking through direct or indirect involvement in forestry operations; for example, they use their power to obtain logging concessions for themselves, their families (nepotism) or associates (cronyism). Third, they control the distribution of forest rents through devising policies and rules in favour of themselves or their associates (rent-seizing or state capture). The manual also describes two different illicit services for which an official takes bribes – commission of crime (engaging in illegal acts) and omission of duty (turning a blind eye to violations of rules). This distinction is notable for monitoring and prevention of corruption because omission of duty is usually more socially acceptable and is therefore more persistent (Transparency International 2010a).

Referring to the state of kleptocracy, Kolstad and Søreide (2009) argue that rent-seeking and patronage as the two main forms of corruption in the natural resources sector, including forestry, contribute greatly to the under-performance of resource-rich countries in economic terms, known as the 'resource-curse problem'. Amacher et al. (2012) describe three forms of illegality that exist in timber harvesting due to corruption: harvesting of a greater volume than permitted, removal of only the highest valued and best formed trees, and breaching harvesting rules to reduce harvesting costs. Similarly, Callister (1999), Contreras-Hermosilla (2002) and Transparency International (2010a) have identified a number of illegal forest activities (IFAs), at each stage of the timber value chain, effected under the influence of corrupt exchanges: these include logging without a permit, or inappropriately obtaining a logging permit, over-harvesting, transportation of illegally logged timber, timber laundering, and preventing

prosecution if caught. In many countries, such as some in East Asia and the Pacific, corrupt exchanges between state officials and private actors during issuance of harvesting permits or concessions is a significant issue (UNODC 2013).

Almost all empirical studies conducted in different countries refer to bribes, either petty or grand, as the main form of corruption prevalent in timber governance; however, other forms, such as patronage and favouritism, are also well-established. Cerutti et al. (2012) and Sikor and To (2011) show how bribery takes place through different stages of the timber value chain in Cameroon and Vietnam, respectively. Pellegrini (2007) claims that petty bribery, particularly for the omission of duty, is the 'way of life' for most of the lower ranked forest officials in Pakistan. The prevalence of both collusive and non-collusive forms of corruption, and collusion between political elites, officials and the private sector, are common features of timber corruption in many countries around the world, including Indonesia (Smith et al. 2003), Ghana (Teye 2013), Mozambique (EIA 2013), Vietnam (To et al. 2014), DRC, Liberia and Cameroon (Global Witness 2013). Similarly, most informal trade tends to be embedded within formal trade using fraudulent documentation, rather than as entirely clandestine trade (UNODC 2013).

Paudel et al. (2006) identified widespread bribery at each stage of the timber trade chain in Nepal's Tarai. They argue that both non-collusive and collusive forms of corruption are often embedded in routine exchanges, since officials charge contractors a standard rate of bribes for legal activities, such as permitted harvest, and an additional amount for illegal activities, such as harvest above the permitted level, which is usual. In addition to these payments, officials usually receive kickbacks from the contractors in return for under-measurement or under-valuation of the produce. Paudel et al. (2006) also claim that other forms of corruption such as extortion, patronage and favouritism are also present in the timber industry of Nepal.

2.7.3 The causes of timber related corruption

With only a few exceptions (e.g. Robbins 2000), studies of timber-related corruption have rarely used particular theories to investigate the causality of corruption; rather, they have tried to identify immediate causes or determinants nurturing corruption in the context of particular studies. Many of these studies have identified causal factors similar to those generally found in the political science and economic literature. The institutional factors causing corruption include a monopoly over timber resources and the significant discretionary power given to the forest officials (Contreras-Hermosilla 2002), ambiguous rules (Cerutti et al. 2012), inadequate mechanisms for checks and balances (Iversen et al. 2006; Transparency International 2010a), and conflicting property rights structure (Robbins 2000). Some of the political determinants

that facilitate corruption associated with timber are unequal power relations and inequity in the society (Robbins 2000; Transparency International 2010a), political instability (Smith et al. 2003), political patronage (Yasmi et al. 2010), and weak civil society (Transparency International 2010a). The low wage rate of forest officials (Yasmi et al. 2010) and the presence of organised crime syndicates (Elliott 2011) are also believed to contribute to corruption in this sector.

In addition to the general causes of corruption as discussed above, there are some factors typically linked to corruption that are associated with timber production and trade. Three structural preconditions for corruption – rent, authority and opportunity – are generally available in this sector due to the increasing scarcity of timber, the relatively high discretionary power given to forest officials, their lower accountability because of being placed in remote areas away from public scrutiny, and the technological as well as procedural complexities of timber governance (Contreras-Hermosilla 2002; Kishor and Damania 2007; Kolstad and Søreide 2009). Also, it is easier to integrate illegally sourced timber into the legal market than many other commodities (Farah 2010). The widespread petty corruption associated with timber may also be attributed to the nature of its wider geographical distribution (that is, a diffused source), day to day utility, and relatively cheap operational costs as compared to other sectors such as oil (Kolstad and Søreide 2009).

Various country-specific studies have identified some particular factors contributing to corruption in the timber industry in those contexts. For example, weak institutional capacity in terms of regulatory framework and enforcement is thought to be one of the main determinants of corruption in Cambodia (Callister 1999) and Pakistan (Pellegrini 2007). Inter-organisational conflict in regards to rights and responsibilities over forest affairs is considered as a significant source of corruption in Indonesia (Smith et al. 2003), Mexico (Honey-Rosés 2009) and Papua New Guinea (Callister 1999). Cerutti et al. (2012) identify contradictory legal texts that invite confusion and arbitrariness in decisions as one of the important factors facilitating corruption in Cameroon's timber governance. McCarthy (2002b) and Robbins (2000), with their empirical studies in Indonesia and India respectively, describe corruption as an institution around the nature-society interface and find its causes embedded in the local political economy as a whole, rather than identifying particular immediate causes. Paudel et al. (2006) cite a long list of factors facilitating corruption in the timber production and trade from Nepal's Tarai, including excessive regulation, the discretionary power given to officials, enforcement failures, and elite domination in community forests.

Corruption has a positive feedback mechanism that favours self-perpetuation. The powerful elites who are involved in corruption defend the status quo, and try to prevent a smooth transition through any institutional reform process (Cerutti et al. 2012; Kolstad and Søreide 2009). In many instances, the involvement of politicians, bureaucrats, security personnel, and business organisations in the illegal markets of timber have constituted shadow states, and undermined the state-based forest governance (Elliott 2007).

2.8 Conclusion

This research is concerned with timber-related corruption and associated illegal forest activities. In this chapter, I have explained how understandings of corruption have evolved. Despite varying definitions and understanding of this phenomenon across societies, it is generally agreed that corruption essentially 1) involves the misuse of entrusted power, 2) enriches private interests at the cost of public interests, and 3) is an intentional act. Bribery is the most commonly identified corrupt practice worldwide; other corrupt practices include nepotism, favouritism, patronage, fraud and theft, conflicts of interest, and extortion or illegal pressure. I have also discussed how corruption is distinguished in various ways, in various forms, such as non-collusive and collusive corruption, isolated and systemic corruption, centralised and decentralised corruption, and demand-side and supply-side corruption; all these concepts inform this research.

This research is informed from different theoretical explanations of corruption, which I have discussed in this chapter. Economic explanations of corruption are based on rational choice principles, and see corruption as an outcome of an individual's perception of potential costs and benefits from a corrupt act. Political explanations focus on the quality of political institutions, which shape accountability and transparency in the system and define the structure of the provision of public goods. Organisational perspectives assume causes of corruption to be rooted in the culture and structure of the organisation in which an agent works. Institutional perspectives explain corruption as an informal institution, in which actors engage in a social setting with informal rules of operation, mutual trust and cooperation. Anti-corruption approaches in a particular context are guided largely by how corruption is explained in that context. As I have shown in this chapter, three anti-corruption approaches are generally in place – the economist's approach focusing on increasing competition in the bureaucracy as well as market; the lawyer's approach focusing on increasing monitoring, detection and punishment; and the businessman's approach focusing on increasing the wages of public officials. However, there is consensus that it is neither effective nor practical to use a single anti-corruption approach, but rather a mixed approach tailored to context.

I have shown in this chapter that timber-related corruption globally is a sectoral manifestation of corruption in the national context; and that corruption and illegal forest activities reinforce each other. Many forest-rich developing countries are plagued by rampant corruption, and are producing large volumes of illegal timber every year. For example, a recent assessment reveals that more than 80 million cubic meters of illegal timber was produced from the nine main timber-producing countries in 2013, and that despite continued international efforts to reduce illegal forest activities, the proportion of illegal forest products in international trade has remained the same over the last one and half decades (Hoare 2015).

The corrupt practices evident in timber production and trade are similar to those manifested more generally. As I have identified in this chapter, the general factors affecting timber-related corruption include monopoly and discretionary power given to officials, ambiguous rules, conflicting property rights and weak accountability structure, unequal power-relations in society, the low wage rate of officials, and the presence of political patronage networks and organised crime syndicates. The forest sector is considered to be highly prone to corruption because of the rent associated with it, the relatively great authority of officials, and poor accountability due partly to poor accessibility, technological complexity, and ease with which timber can be 'legalised'. This has made developing effective anti-corruption measures in timber production and trade more challenging than in many other sectors.

In the next chapter, I will describe the methodology I used for this research.

Chapter 3: Research Methodology

3.1 Introduction

In this chapter, I present my research questions and conceptual framework, and discuss the research methodology. I provide an overview of my research approach followed by a review of the methods used in corruption research in the forest sector, as the basis for describing the methodological framework used in this research. I then describe methods of data collection and analysis. Finally, I discuss the role of the researcher in the specific context of this research, and the ethical issues associated with the research.

3.2 Research questions

As introduced in Chapter 1, the general question this research addresses is: *how do various actors interpret, define and practise corruption in timber production and trade from Nepal's Tarai?* It examines the following specific questions to answer the general question:

1) *In what forms and scales does any corruption occur at each stage of the timber trade chain?*

In addressing this question I explore which, if any, different forms of corrupt practices occur, and at what scale, at different stages in the timber trade chain, for timber originating from the three main forest governance and management regimes: government-managed, community and private forests.

2) *What actors are involved in any corruption at each stage of the timber trade chain, what are their motivations, and what institutional arrangements and processes enable them?*

The intention of this question is to identify the actors involved in corruption and explore their motivations and power-relations, analyse the institutions and processes that enable corruption, and uncover the similarities and differences in actors and processes in the different forest governance and management regimes.

3) *What have been the responses to any corruption in timber production and trade?*

This question explores state and non-state responses to timber-related corruption, analyses gaps and suggests ways to strengthen anti-corruption efforts.

3.3 Research conceptual framework

As discussed in Chapter 2, the research literature shows that a range of political, economic, social-cultural, organisational and individual causal factors are important in examining

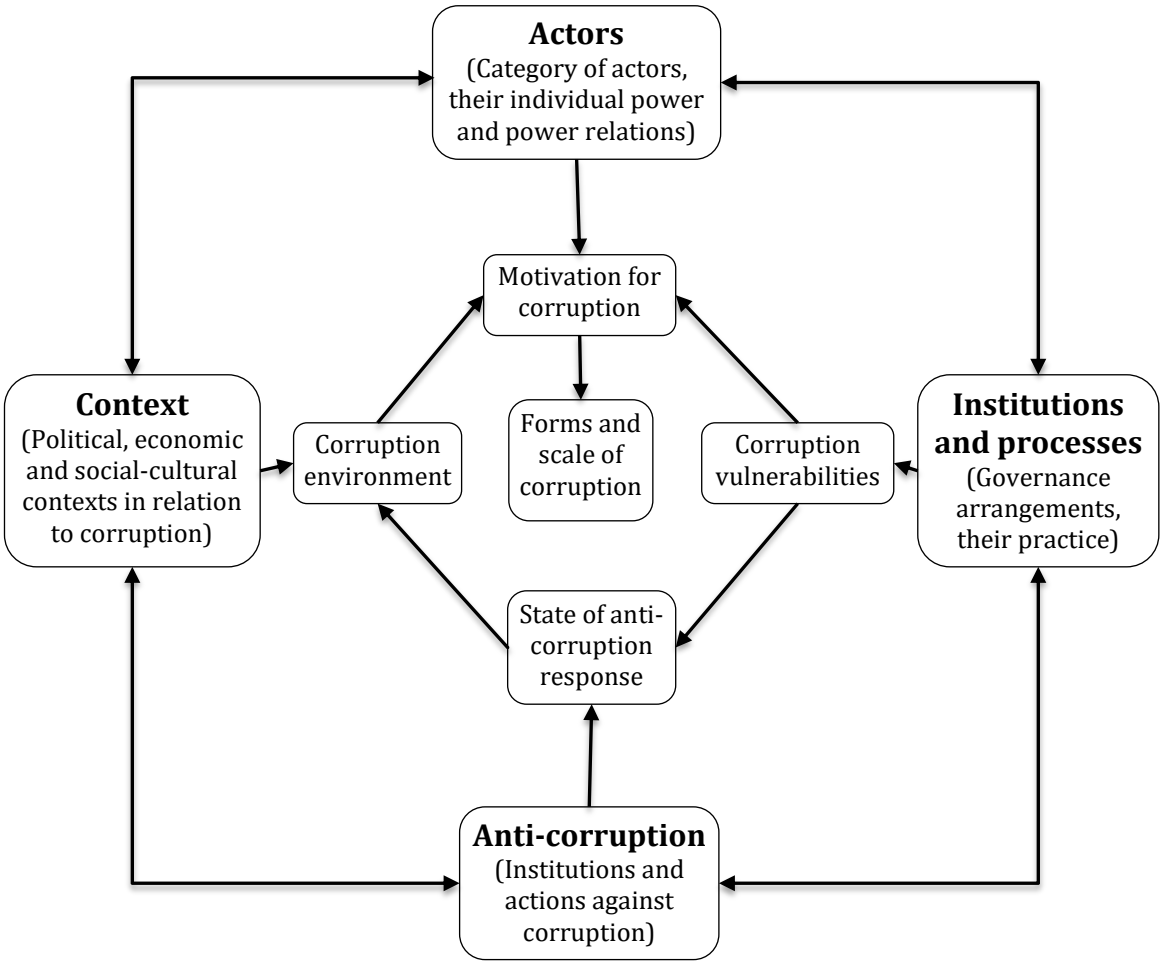
corruption (Fijnaut and Huberts 2002). As noted there, a political perspective on corruption focuses on the quality of institutions governing public resources, specifically in terms of accountability, including the concentration of power, checks-and-balances mechanisms, and transparency (Rose-Ackerman 1999). An economic perspective sees corruption as a profit maximising strategy of officials within the opportunities given by the institutions and the larger social context, and thus focuses on the corruption vulnerabilities in the system (Klitgaard 1988). A social-cultural perspective finds corruption to be embedded in the cultural values and norms of society (De Graaf 2007). An organisational perspective focuses on the motivation of actors created by the organisational culture and the corruption opportunities created by the organisational structure (Anand et al. 2004). While different causal explanations lead to varying anti-corruption responses, a 'contextual' explanation of corruption may be important for the design of a mix of anti-corruption measures that work best in that particular context (De Graaf 2007).

Informed by these different theoretical perspectives, I have conceptualised corruption as a function of interactions among the following four factors:

1) actors – who they are, how powerful each of them is, and what are their power-relations;
2) institutions and processes – legal-institutional arrangements for governance and their practice;
3) anti-corruption – legal-institutional arrangements and actions against corruption; and
4) context – political, economic and social-cultural contexts in relation to corruption.

Therefore, following the commonly used definition of corruption as 'abuse of entrusted power for private gain' (Transparency International 2009), I have investigated variables relevant to these inter-related factors to understand different dimensions of corruption associated with timber production and trade in the Tarai of Nepal. Figure 3-1 presents a visualisation of the conceptual framework.

Figure 3-1: Visualisation of the conceptual framework



3.4 Overview of research approach

Broadly, this research follows an interpretive social science methodology. This is used when researchers seek to understand details of interactions in the context experienced by participants, taking into account "the social actor's reasons and the social context of action"; it often involves carrying out field research (Neuman 1994, p. 62). Rather than causal explanation, which is mainly attributable to quantitative analysis (Neuman 1994), this research uses qualitative methods, and offers theoretical explanations of the phenomenon of corruption.

The research adopts a case study approach, taking two districts in the Tarai region of Nepal as cases. The case study districts were selected strategically, as being most likely to inform the research within the constraints of the time and resources available for the study. Multiple case studies and the strategic selection of the cases enhance generalizability of the research outcome (Eisenhardt 1989; Flyvbjerg 2006; Yin 2009). Timber production and trade associated with the case studies was conceptualised using a value chain (trade chain) analysis framework

(Kaplinsky and Morris 2001; Ribot 2005), which was based on institutional and functional analysis (FAO 2005; Faße et al. 2009) and access mapping (Ribot 1998, 2005) methodologies. Multiple methods, such as interviews, observation, and a review of documents and records from government offices were used to collect and triangulate data. The analysis of data followed the iterative process of explanation building from multiple case studies (Yin 2009).

3.5 A brief review of methods used in corruption research in the forest sector

Heinrich and Hodess (2011) discuss three generations of tools used in corruption "measurement". The first generation includes perception surveys, such as the Corruption Perception Index (CPI) (Transparency International 2015b, c) and Worldwide Governance Indicators (WGI) (Kaufmann et al. 2010), which focus on the big picture of corruption and measure it at aggregate level. The second generation of tools offers more actionable indicators pointing to patterns of corruption and corruption risks, such as the Global Corruption Barometer (GCB) (Transparency International 2013c), the International Crime Victim Survey (ICVS)[5] and the Public Expenditure and Financial Accountability Framework (PEFAF) (PEFA Secretariat 2011). These tools include surveys of the experience of corruption, and focus on inputs of corruption. The third generation tools focus on assessing specific corruption risks, and provide a comprehensive assessment of a corruption issue in a specific context. Participatory approaches, a process focus and method triangulation are some of the important features of the third generation tools. Heinrich and Hodess (2011, p. 26) suggest that "to elucidate the complex ways in which actors and institutions interact with each other in a given governance context", researchers should draw on a range of tools, including public opinion surveys, key informant surveys, legal reviews, survey of public sector officials or firms, and analysis of official records. Reinikka and Svensson (2006) show that public expenditure tracking surveys, service provider surveys and enterprise surveys can be used for measuring corruption and understanding the mechanisms through which it is operating. Similarly, Recanatini (2011) recommends applying surveys of public officials, businesses and households for diagnostic studies of corruption.

The third generation tools as discussed above have been widely used in the assessment of corruption in the forestry sector. Cerutti et al. (2012), in order to assess the extent and impacts of illegal logging and corruption in Cameroon, used a two-stage process within the framework of commodity chain analysis: first, confidential semi-structured interviews with forestry business operators, and second, with state officials drawing on information from business operators. In their study, state officials were purposively selected for interviews based on pre-

[5] http://www.unicri.it/services/library_documentation/publications/icvs/data/

existing relationships with the researcher. In a similar study in Vietnam, Sikor and To (2011) conducted a commodity chain analysis using observation, semi-structured interviews with actors involved in the commodity chain, and narrative analysis from government reports and newspaper articles. McCarthy (2002a) used observation and open-ended interviews with key informants (such as community leaders, local officials, forestry agents, NGO staff, forest farmers and squatters, and illegal loggers) in a forest sector corruption study in Indonesia. Smith et al. (2003) used confidential semi-structured interviews with key informants (such as government officials, timber industry actors, and local community members) to understand different forms of corruption in Indonesian forestry. Similarly, to investigate illegal logging and corruption in Mexican community forests, Honey-Roses (2009) used confidential interviews with forest owners, entrepreneurs and officials. Iversen et al. (2006) applied a household survey, a key informant survey, and focus group discussions to assess the hidden economy in the community forests of Nepal. In a case study on corruption in forestry in India, Robbins (2000) conducted interviews with key informants such as producers and foresters, and especially with older producers and retired forest officials who had hah long experience in related matters. Ribot (1998) used market survey tools to investigate the pattern of benefit distribution, including the role of extra-legal structures and mechanisms, from Senegal's charcoal commodity chain.

3.6 Value chain analysis: the organising framework

I used the concept of the value chain as an organising framework to analyse corruption along the timber trade chain from Nepal's Tarai. Evolved from the 'filiere' approach used by French academics to analyse agricultural production systems in the 1960s (Raikes et al. 2000), and Wallerstein's (1974) concept of 'commodity chain' used in explaining the world capitalist economy (Faße et al. 2009), value chain analysis has now become an influential descriptive as well as analytical tool for assessment of a wide range of production and distribution systems (Kaplinsky and Morris 2001). Different terms, such as value chain or value system (Porter 2001) and supply chain (Carlsson and Rönnqvist 2005), are used for similar or slightly different approaches within this overall approach. The value chain framework is applied to examine production, distribution and consumption "in terms of a chain linking together different activities and agents" (Bair 2008, p. 3). The terms 'global commodity chain' (Gereffi et al. 1994) and 'global value chain' (Gereffi et al. 2005) are increasingly used to describe and analyse the globalised nature of production and distribution of goods and services.

Value chain analysis is an analysis of the full range of activities which are required to bring a good or service from conception, through the different stages of production and transportation to the consumption or final disposal after use (Kaplinsky and Morris 2001). It is

used to assess patterns of value-addition and identify realms of value appropriation in the commodity market (Jensen 2009). Ribot describes this framework in the following way:

> Commodity chains serve as conduits through which commercialized natural resources—such as forest products—are ushered from the land to their final users, whether rural, urban or 'international'. Commodity-chain analysis is a method for analysing how and for whom such market conduits operate. It is a tool for understanding who benefits from natural resources, how they benefit, and how those patterns of benefit distribution might be changed (Ribot 2005, p. 5).

The framework of value chain analysis has been used in various disciplines including economics, environmental and political science (Faße et al. 2009), and for a variety of purposes such as to examine distributional equity in natural resource governance (Ribot 1998) or to detect competitive advantage in businesses (Porter 2000). In the forest sector, it has been applied to examine the governance and market structure of the forest based industries such as timber (Gellert 2003) and non-timber forest products (NTFPs) (Jensen 2009; Ribot 1998), including bush-meat (Cowlishaw et al. 2005). Sikor and To (2011) and Cerutti et al. (2012) have used this framework to study the political economy of illegal logging and associated corruption in Vietnam and Cameroon respectively.

A variety of methodologies has been used for value chain analysis, to suit different purposes. This research was informed mainly by functional and institutional analysis (FAO 2005; Faße et al. 2009) and access mapping (Ribot 2005) through the value chain. Functional and institutional analysis begins with construction of a 'preliminary map' of a value chain to provide an outline of who are involved (institutional analysis) and how they interact with each other (functional analysis), and for further assessment with quantitative and qualitative information through the flow of the chain (Faße et al. 2009). Access mapping along the trade chain produces two maps, one showing benefit distribution among the actors vertically and horizontally; and the other displaying mechanisms, structures and processes, including social and political-economic factors, by which benefit distribution is maintained and controlled among and within groups (Ribot 2005).

Different data collection processes are employed in value chain analysis of forest products. Cerutti et al. (2012) conducted semi-structured interviews with a large number of actors involved at different stages of timber value chains operating in one country. A similar approach has been used by Cowlishaw et al. (2005) to assess bush-meat value chains operating in a specific market. In contrast, Sikor and To (2011) took specific timber value chains originating from a village and collected data following the natural order of the chain. Jensen (2009) collected data from the specific value chains of non-timber forest products but followed the

reverse order, viz. starting from the final users and following the chain back to the origin through snowball sampling.

In this research project, two types of data were collected and analysed: 1) the discrete trade chain-based data, related to timber trade chains operating generally from the case study districts; and 2) the data characterising the selected individual cases of timber trade chains. The first type consisted of generalised information about corrupt practices that have occurred at different stages of timber trade chains throughout the study districts, in the last few years. These data were collected through observation of trade chain processes and interviews and group discussions with actors involved at different stages of trade chains, from pre-harvest planning, through harvesting operations, log sales and transportation, to marketing. Central-level actors, including high-level officials, were also interviewed. The second type of data comprised those relating to particular lots of timber produced in the year the survey was conducted. These data were collected through observation of trade chain processes and/or interviews with actors involved at different stages of the trade chains of those particular lots of timber. For both types of data, generic maps of timber trade chains and guide questions were prepared, based on key informant interviews and a review of relevant legal documents, to guide interviews, group discussions and observation.

To assess anti-corruption in timber production and trade, as anticipated by the third specific research question, I used the TAPEE (transparency, accountability, prevention, enforcement, and education) analytical framework proposed by USAID (USAID 2005). Following its name, the TAPEE framework examines five aspects of institutional integrity - transparency, accountability, prevention, enforcement, and education (Table 3-1) – "to diagnose sectoral corruption vulnerabilities and design programs to reduce those vulnerabilities" (USAID 2005, p. 58).

Table 3-1: TAPEE analytical framework for assessing anti-corruption

Integrity aspects (TAPEE pillars)	Definitions and brief descriptions
Transparency	Transparency refers to public availability of information about decisions and participation of the public – directly, through delegated representatives, or through full reporting of results – in the process of decision making. Thus, transparency can be 'substantive' – referring to reducing information gap between the principal and agent – and 'procedural' – referring to the openness of decision making processes.
Accountability	Accountability refers to the responsibility of officials to do their duty and their answerability to those to whom they report and ultimately those whom they serve. Accountability may be both horizontal – referring to checks and balances across government bodies – and vertical – referring to accountability vis-à-vis higher authority and the general public.

Prevention	Prevention refers to elimination and control of corruption risk factors and vulnerabilities by means of institutional reforms that reduce corruption opportunities and align the incentives of government 'agents' with the public they are supposed to serve. Setting of rules, regulations and laws falls under the category of prevention.
Enforcement	Enforcement refers to the police and judicial enforcement of criminal and civil law as well as to the setting and implementation of standards that ensure government integrity. Establishment of anti-corruption rules enforcement units, audit bodies, and centralised anti-corruption agencies is placed under this category.
Education	Education refers to the provision of the public with information that raises their awareness of corrupt behaviour in the government, and inculcation of citizens – beginning at the school level – with moral values that militate against corrupt behaviour.

Source: USAID (2005)

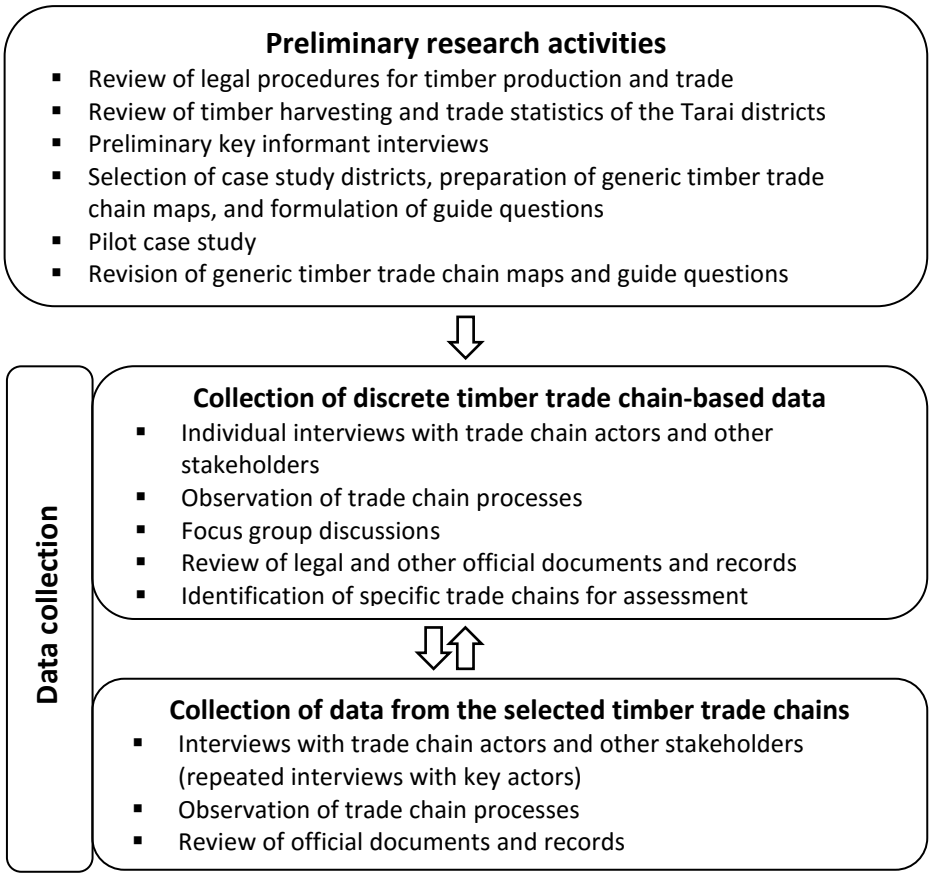
I analysed the strengths and weaknesses of the legal-institutional arrangement for each of the five integrity elements and their practice, based on a review of laws and government documents and primary data sources, including interviews and group discussions.

3.7 Fieldwork

3.7.1 Overview of the data collection process

The data collection process broadly consisted of three steps, although the last two overlapped. I carried out various preliminary research activities, including a pilot survey, before starting actual data collection. Once I selected the case study districts, I first collected discrete trade chain-based data. At this stage, with the help of interviewees, I identified the specific cases of timber production and trade to be examined. I then focused on data collection from the selected cases of timber trade chain; however, I continued to collect the discrete trade chain-based data. I applied various methods of data collection, such as individual interviews, focus group discussions, observation, and review of government documents and records. Figure 3-2 presents an overview of the data collection process, followed by a description of the processes in detail.

Figure 3-2: Overview of the data collection process



3.7.2 Preliminary research activities

The preliminary research activities consisted of a review of legal and other official documents, key informant interviews, and a pilot field survey. I reviewed legal documents including Acts, Regulations, and procedural guidelines to produce generic maps of 'formal' timber trade chains originating from the major timber production regimes in Nepal's Tarai – government, community and private forests. I interviewed key informants (N=4), viz. officials who have worked in the Tarai districts. This helped me to conceptualise what forms of corruption occurred and where, and who (in general) was involved and how. With this information, I produced maps of the 'actual' timber trade chains incorporating extra-legal variables in the formal chains. Based on these, I prepared guide questions and checklists for field research. The guide questions for interviews were designed to address the conceptual framework of the research, and comprised questions relating, sequentially, to background information on the participant, general timber governance, and corruption related information.

3.7.2.1 Selection of case study districts

The generalizability of small-*N* research relies on the case selection; therefore, this is a crucial stage in any case study research (Flyvbjerg 2006). In case studies, unlike other approaches such as survey-based research, cases are chosen for theoretical reasons but not for statistical

reasons; therefore, random sampling (or selection of average cases) is not preferred (Eisenhardt 1989). Selection of 'extreme cases' is a commonly recommended strategy (Eisenhardt 1989; Neuman 1994); however, this is specifically suited to 'unusual' phenomena (Flyvbjerg 2006). Flyvbjerg suggests for strategic choice of 'critical cases' to analyse usual phenomena. Defining a critical case as "having strategic importance in relation to the general problem", he asserts that selection of critical cases is important "to achieve information that permits logical deductions of the type - if this is (not) valid for this case, then it applies to all (no) cases" (Flyvbjerg 2006, p. 229-230). One of the strategies used for finding critical cases is to identify polar cases using 'most likely' and 'least likely' criteria in regards to the research issue (Flyvbjerg 2006). For analysing corruption in timber production and trade from Nepal's Tarai, which was a 'usual' phenomenon, it was therefore desirable to select 'critical cases'.

I reviewed the District Forest Management Plans (DFMPs) and the recent timber production and trade statistics of the Tarai districts obtained from the Department of Forests (DoF). Using information from this review and key informant interviews, I first selected four potential case study districts based on 1) the turnover of timber, 2) accessibility to the capital city and the main timber markets, 3) the proportion of forest area under community forestry, and 4) the level of 'extra' income for officials as perceived by key informants. In consultation with a few DoF officials and my own colleagues, I inquired whether any officials who could potentially cooperate with me in the field research were available in those four districts. Studies show that personal relations with some of the actors is important when examining sensitive issues like corruption (Cerutti et al. 2012; Sikor and To 2011). Finally, based on identification of officials willing to cooperate, I selected two of those four districts, also keeping in mind the 'most likely' and the 'least likely' criteria of the case selection. Although the criteria for 'most' and 'least' likely could not be identified clearly, I could assume that district B, which had higher turnover of timber, was farther from the capital city (so poorer monitoring from the central-level agencies) and main timber markets (so lower level of competition), and where perceived level of 'extra' income for officials was higher, was more likely to have corruption than district A. Table 3-2 presents a general description of the two case study districts.

Table 3-2: Description of the study districts

Indicators	District A	District B
Timber turnover	Moderate	High
Distance from capital city and timber markets	Near	Far
Forest Area	<100,000 ha	>150,000 ha
Area of CF	>15% of the total	<15% of the total
Level of 'extra' income for forest officials	Moderate	High

3.7.2.2 Pilot survey

Before starting the actual data collection, I conducted a pilot survey at a dummy site in case study district A. I applied most of the methods proposed for primary data collection; I interviewed a few officials, contractors and community leaders; observed a site where timber harvesting was taking place from a government-managed forest; and I also observed a general meeting of a Community Forest User Group (CFUG). This brief survey was helpful for me to identify the challenges of using various data collection methods and to conceptualise the phenomenon of corruption in the real world. Based on insights from the pilot study, I refined the methodology and guide questions, and formulated strategies to face practical problems in the field. I also realised that the pilot survey enhanced my confidence in conducting data collection in real cases.

3.8 Data collection

During a six month period of fieldwork in 2013, I started data collection in case study district A, then moved to district B, and again revisited district A. In each district, I spent the first few days building rapport, observing official-client interactions in forest offices, collecting background information, and identifying key trade chain actors in the district with the help of officials with whom I had a personal relationship. Then, I started to collect discrete timber trade chain-based data, specifically through interviews with trade chain actors and other stakeholders, and through observation of trade chain processes. During this process, I identified two specific cases of timber trade chains – one each from a community forest and a private forest – for detailed assessment. However, it was difficult to follow the specific trade chains of timber from the government-managed forests.

I applied multiple methods to collect data. The principal methods for collecting primary data comprised interviews, observation and focus group discussions. I also collected secondary data from government documents and records. The secondary data were used to complement and triangulate primary data.

Generally, I followed the natural flow of the trade chain in each specific case. Once I finished collecting data from the case study districts, I collected data from the market as well as the central level organisations. During this fieldwork period, I made repeated visits to some field sites. Similarly, I made two additional subsequent visits to Nepal, 2014 and 2015, and collected complementary data during each visit. During one of these visits I presented a paper based on the preliminary findings of this research at the Sixth Community Forestry National Workshop held in Kathmandu, 16-18 June, 2014. The workshop discussions among more than a hundred

participants from government, community and businesses also helped in collecting additional data and validating my preliminary findings.

I discuss below the methods applied for data collection. My proposed approach was submitted to and approved by the ANU Human Research Ethics Committee (Protocol 2012/663).

3.8.1 Interviews

Initially with the help of the officials with whom I had a personal relationship, and later through a snowball approach, I conducted a total of 146 interviews with various categories of actors and stakeholders relating to timber production and trade. The participants primarily comprised forest officials, timber contractors and CFUG executive members. Other government officials, including those from anti-corruption and oversight agencies, politicians and journalists were also interviewed. The list of interviewees, which is coded for anonymity, is given in Annex 1.

Interviews were personal and semi-structured, guided by the guide questions (Annex 2). They were also guided by the information obtained from observations, previous interviews with other actors, media reports, and official documents. Similarly, interviews took place repeatedly in some cases, especially in relation to specific cases. I employed local assistants, who helped me to access participants. Personal interviews started once I was sufficiently familiarised with the participants. A wide range of questions, including those that were not sensitive, was asked so that it was legitimate for anyone to talk with me. I was flexible about the time and venue of the interview, and informants were assured that information was strictly confidential. Notes were taken for all interviews, and I tape-recorded some participants' responses, with their consent.

3.8.2 Observation

Observation of illegal activities including corruption is difficult, as it usually takes place in secret. However, I was able to observe some activities with cooperation from some officials. There were some crucial points in the process of timber harvesting and trade where informal activities could be observed. I had already identified those crucial points through the general trade chain maps during the preliminary survey. I built a rapport with some of the actors, such as officials, at the beginning and, with their help, I observed the processes and interactions between actors at those crucial points. Similarly, I attempted to go to locations where corruption phenomena could be observed, such as the log accumulation and measurement spots (*Ghatgaddi*) and check posts. I also observed the officials' day to day interactions with their clients in the offices. I took notes of every observation immediately after leaving the location.

3.8.3 Focus group discussion

I conducted focus group discussions (FGD) with a total of ten small groups of homogeneous actors. The FGDs comprised those with forest officials (N=3), contractors (N=2), members of CFUG executives (N=3), and the general public (N=2). These were organised informally in an ad-hoc basis. FGDs were focused on general issues related to timber corruption, rather than on specific cases. Apart from gathering general information, FGDs were used to triangulate information from interviews and other sources, such as observation and media reports.

3.8.4 Review of documents and records

Timber harvesting and trade, unlike trade involving wildlife or drugs, is a legitimate business in Nepal; it always involves lengthy official processes. Therefore, a range of documents associated with timber trade chains were available in government offices for review, to triangulate data obtained from other sources. The documents reviewed included the prevailing laws, regulations and procedural guidelines, official decisions and correspondences, and the records of timber transactions, including tendering documents from the District Forest Office (DFO), the TCN (Timber Corporation of Nepal) and the CFUG. I also reviewed reports of official investigations into corruption cases and available media reports.

3.9 Data analysis

According to Neuman (1994, p. 405), data analysis in qualitative research is a part of data collection in which "the results of early data analysis (while collecting data) guide subsequent data collection". I continued to analyse data during the data collection process to guide further data collection. The triangulation approach –data triangulation, method triangulation, and theoretical triangulation – were used during data collection, preliminary analyses and data analysis to maintain reliability of the results. Data from multiple sources were used to reach conclusions about a single phenomenon. An example of how data was gathered, analysed and triangulated is given in Annex 3.

I adopted three consecutive components of data analysis – data reduction, data display, and conclusion drawing and verification – as suggested by Miles and Huberman (1994) to analyse qualitative data. Data reduction is a "process of selecting, focusing, simplifying, abstracting, and transforming the data that appear in written-up filed notes or transcriptions" (Miles and Huberman, p. 10). Data display means "an organised, compressed assembly of information that permits conclusion drawing and action" consisting of various forms such as charts, graphs and networks (Miles and Huberman, p. 11). To draw conclusion and verify assumptions through the displayed data, I applied the iterative process of explanation building (Yin 2009). In this approach, the initial case study is analysed to compare with the preliminary assumptions, and the explanation is then refined with analysis of subsequent cases.

While I used manual approaches to analyse qualitative data, simple mathematical and statistical operations (such as means and percentage) were applied to analyse quantitative data using MS Excel software.

3.10 Researcher in the research context and ethical issues

3.10.1 Researcher in the research context

I was partly a local and partly an outsider in the research context. I had lived entirely in the rural hills until my early 20s before my family moved to the Tarai. Thereafter, I spent most of my time in the hills, including in Kathmandu; however, I had frequently visited different parts of the Tarai region in my personal as well as professional capacities. Therefore, I had a good knowledge of the geography, demography and culture of that region.

I had worked in the Department of Forest Research and Survey (DFRS), which conducts forestry research and forest inventory in Nepal, for about eight years. There was a separate department – the Department of Forests (DoF) – that takes care of forest management, timber production and timber trade through its administrative units at district and local levels. Thus, I had never been involved in timber production and trade. However, I had heard many stories of corruption in timber production and trade from my colleagues at DoF as well as elders in my village. Similarly, as a government officer, I had observed many instances of corruption in the public service in Nepal. This had triggered me to do my PhD research on corruption.

Since I had spent six years for my Intermediate and Bachelor's degree in a residential college at the Institute of Forestry, Pokhara (one of the two forestry institutes in Nepal until recently), I had formed close personal ties with many foresters working in the government as well as non-government sphere of the forest sector in Nepal. Moreover, as DFRS and DoF are located together, I had the opportunity to meet many forest officials working in the DoF. Therefore, many forest officials in the research area knew me personally, but the local people and timber contractors did not. In this context, I was in both positions – as an insider for the officials and an outsider for the locals and contractors. In the conduct of the fieldwork, I was normally introduced to local people and timber contractors by DoF officials; through this introduction, they became aware of my identity as a Forest Officer as well as a research student. Their awareness of my dual identity did not appear to inhibit their willingness to respond to my questions. The personal relationship with some officials, specifically mid-level forest technicians, was most beneficial, for obtaining information from themselves as well as identifying other participants. Similarly, as a forestry professional, I had a comparative advantage in acquiring information through observation and interviews about the technical as well as procedural matters relating to timber production and trade.

3.10.2 Ethical issues

During the course of my research, I was informed about particular cases of corruption and illegal activities and individuals who were engaged in those activities. One of the ethical dilemmas I had to face in this context was that I had to maintain confidentiality of the information as a researcher; as a citizen, it was my duty to report any criminal activities. However, I followed the relevant code of research conduct (ANU 2016) and did no harm to any individual. I hope that the contribution of this research to the policy will assist in reducing corruption in the forest sector, and that may be far more significant compared to reporting a few illegal activities and individuals. It is possible that I will work in the MFSC in the future, potentially as a supervisor of some of the participants. I may also be given responsibility to examine corruption cases in the future; DFRS officers are often included in the investigation commissions. As required by the ANU Code of Research Conduct (ANU 2016), I am committed to never using the information obtained during this research to cause harm to any individual. I will never make reference to my research findings or to information collected during this research to blame someone in the future investigations. Rather, I will try to use the information and knowledge acquired through this research to improve policies and procedures to combat corruption.

As a principle of ethical research, I have taken every possible action to negate, minimise and manage the risks of potential social and legal harm to participants while conducting fieldwork, handling data, and reporting the results. Provision of informed consent, confidentiality of the interview and the data, arrangement of the interview time and venue according to the participant's preference, and anonymity in the thesis and the future publications are the major strategies employed to give effect to this commitment. Names or other information which can help identify a participant or the one s/he gives information about have not been used in the thesis. Common names and general terms such as a district, a Community Forest User Group (CFUG), a forest official, a CFUG member, and a contractor have been used when reporting, so that a particular individual may not be identified as they are all from large pools. The case study locations have also not been revealed in the thesis.

In the next chapter, I discuss the context in which the timber-related corruption is occurring in Nepal. In particular, I describe corruption in the national context, political, economic and social-cultural environments of Nepal, and the historical context of the Tarai forest governance.

Chapter 4: The Context of Corruption and Tarai Forest Governance in Nepal

4.1 Introduction

Corruption in a particular sector cannot be viewed as an isolated phenomenon, but within the overall social context. In this chapter, I describe the context in which different forms of corruption are occurring in the production and trade of timber from the forests of Nepal's Tarai. The chapter begins with a brief description of how corruption is understood in Nepali society. I then give an account of the level of corruption in the country across time and sectors, as perceived internationally and locally. Next, I describe the historical-political context of corruption in Nepal, followed by an explanation of the economic and social-cultural context as an enabling environment for corruption. Lastly, I present the context of forest governance in Nepal with particular reference to timber production and trade from the Tarai forests.

4.2 Understanding corruption in the Nepali context

A literal translation of the term 'corruption' in the Nepali language is '*bhrashtachar*'. Rooted in Sanskrit, the word is made up of two words – '*bhrashta*' and '*achar*' –meaning 'decadent conduct'. The term '*sadachar*' (*sad* + *achar*), meaning 'good conduct' is an antonym of *bhrastachar*. Although some acts or behaviours in the Nepali society are commonly understood as either *sadachar* (such as helping others without expecting returns) or *bhrastachar* (such as taking a bribe), many of these acts lie somewhere along the continuum between these two; their relative positions along the continuum have been shifting through time.

King Prithvi Narayan Shah's[6] popularly referred to statement – 'bribe takers and bribe givers are the great enemies of the King' – reveals that corruption in Nepali society is a long existing phenomenon, evident for about two-and-a-half centuries (NVC 2014). However, during Kingship and kinship-based rules before the 1950s, the rulers and their families were never questioned about whether they had 'abused' power. The rulers were only concerned with taking and giving *ghus* (bribery) involving their agents as it would reduce their revenue or undermine power. It was only after the fall of the Rana regime in 1951 that the anti-corruption law introduced the term '*bharstachar*' and gradually expanded its definition beyond bribery. The *Prevention of Corruption Act 1961* captured the contemporary notion of corruption as 'abuse of power for private gain' through incorporating a range of decadent acts beyond bribery and bringing in public office holders other than civil servants. Since then, the laws have

[6] King Prithvi Narayan Shah is known for unifying several petty states into what is now known as Nepal during his reign 1743-1775.

been amended or replaced, in part, to respond to the changing understanding of corruption in society. Table 4-1 presents a summary of activities that are considered to be corrupt by the *Prevention of Corruption Act 2002*, labels them with the common typology of corruption, and indicates whether they were introduced in 1961 or later in Nepali law.

Table 4-1: Summary of corrupt acts as defined by the *Prevention of Corruption Act 2002*

Activities	Typology	Year introduced
Accepting graft by public servants (PS) or by others with an intention of influencing PS or abetting these acts	Bribery	1961
Giving graft to a PS or another, or abetting others to do so	Bribery	2002
Accepting (by PS) goods or services free of cost or at lower prices from one who is related to any act/function of the office	Bribery/conflict of interest	1961
Accepting (by PS) gift, present, award, donation that is supposed to impact his/her work, or borrowing money from a person who is related to his/her work in the office	Bribery/conflict of interest	2002
Concealing the gift/present, commission, or any benefit obtained while performing duties	Fraud and theft	2002
PS causing revenue leakage including embezzlement of the revenue collected or abetting others to do so	Fraud and theft	2002
Getting illegal benefit (by PS) or causing illegal loss to government or public institution (PI) with *mala fide* intention	Fraud and theft	1961
Not abiding (by other than PS) by the terms and conditions of contracts, licence or permit entered into PI with *mala fide* intention of personal gains or loss to PI	Fraud and theft	1982
(By PS) disclosing secrecy of question papers or altering results of exams taken by PI	Fraud and theft	1961
(PS) engaging in businesses, taking part in auction/bidding, and becoming partner in company/cooperative if prohibited by law	Conflict of interest	1961
(By PS or other) claiming false designation or using symbols, dress or marks with the intention of leading others to falsely believe that s/he is PS	Fraud and theft/illegal pressure	1961
Giving false particulars (e.g. qualification) with the intention of securing or continuing in a position of PS or getting benefit or facility	Fraud and theft	1961
(By PS) acquiring property illegally or giving false statement of his/her property	Fraud and theft	2002
Misappropriation, damage, misuse or destruction of public property (by PS)	Fraud and theft	1982
Exerting illegal pressure on PS or others to violate this act (by PS or others) exercising fear or threat	Illegal pressure	1961
Giving false audit report with *mala fide* intention by an authorised auditor (PS or other)	Fraud and theft	2002
Preparing false investigation report by a PS or other under duty of submitting report	Fraud and theft	2002

As reflected in the law, bribery and fraud/theft involving cash have long been considered as corruption. Nevertheless, although a popular notion of 'bribe takers and bribe givers are equally corrupt' has existed for about 240 years, bribe givers were not considered as corrupt under the 1961 anti-corruption law. Considering the increasing collusion between public office

holders and private actors particularly after 1990, the 2002 anti-corruption law has made bribe givers equally accountable to the briber takers.

A further range of activities was introduced as corrupt acts in the 2002 anti-corruption law. However, the list does not include nepotism, favouritism and patronage, which are key forms of corruption identified in the literature. This probably reflects the deep-rooted culture of Nepali society having strong family ties and practising the exchange of favours and patronage. In Nepal, favouring families and friends is a traditional moral obligation rather than corruption (Kondos 1987). However, it is nevertheless increasingly perceived to be a corrupt act (Truex 2011).

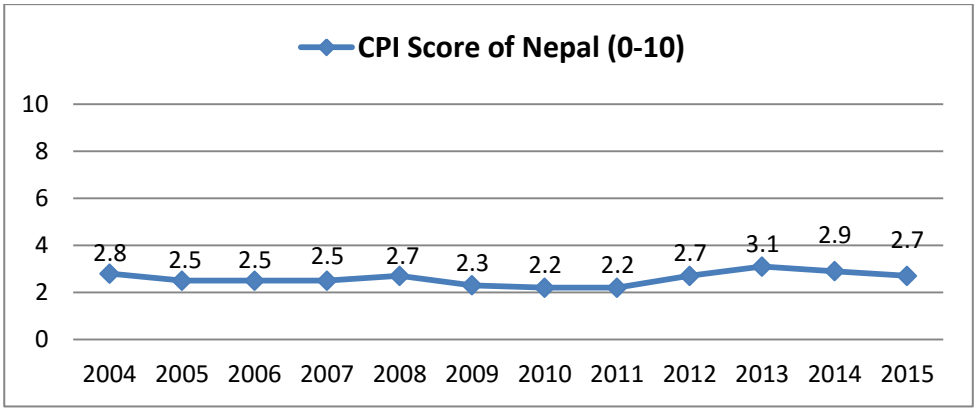
4.3 Corruption in Nepal: global perception and local reality

Nepal is perceived internationally to be one of the most corrupt countries in the world. All three relevant influential international indices, namely the Corruption Perception Index (CPI), the Worldwide Governance Indicators (WGI) and Global Corruption Barometer (GCB), suggest that widespread corruption has prevailed in Nepal for many years. Each of these indices is discussed below.

4.3.1 Corruption Perception Index

Transparency International's Corruption Perception Index (CPI) assesses countries' perceived levels of public sector corruption on a scale of 0 to 10 (0 to 100 for 2012 to 2015), assigning higher scores to the less corrupt countries. The CPI is based on expert opinion. A CPI score below 4.0 is defined as rampant corruption. Since Nepal was first included in this index in 2004, its score has always been under 4.0, reflecting the widespread corruption of the last decade (Figure 4-1). Its 2015 rank of 130 out of 168 countries places Nepal in the worst third of countries for corruption globally.

Figure 4-1: Trend of Corruption Perception Index for Nepal

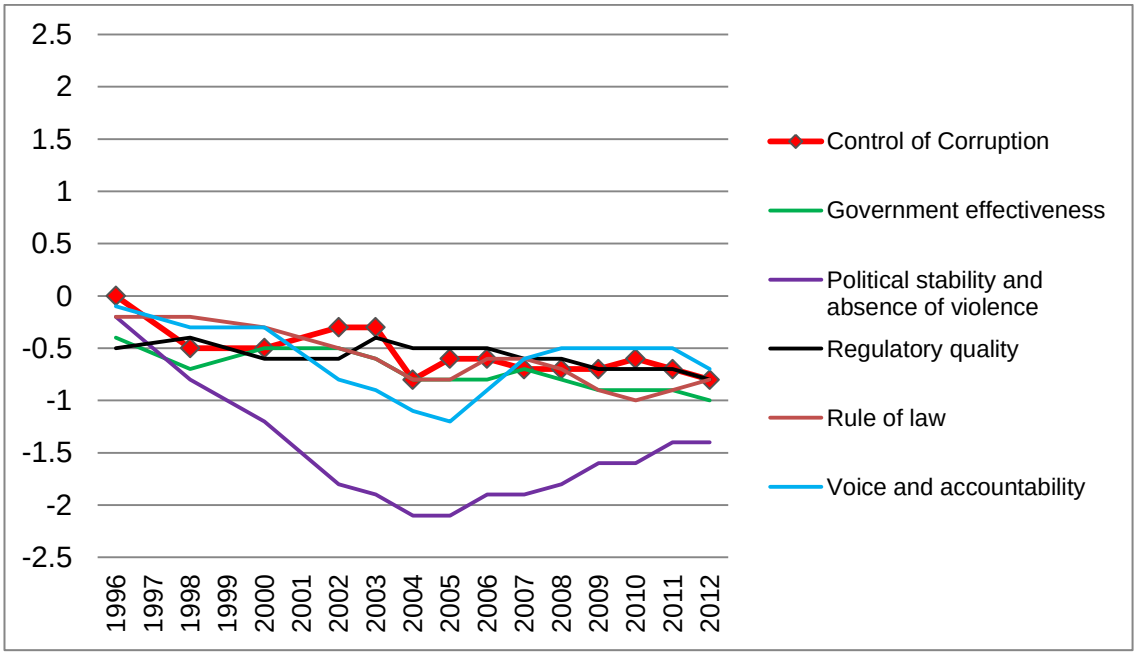


Source: Transparency International, CPI results 2004-2015
Note: CPI scores for 2012, 2013, 2014 and 2015 are 27, 31, 29 and 27 out of 100, which were derived to fit into the scale out of 10

4.3.2 Worldwide Governance Indicators (WGI)

The World Bank's Worldwide Governance Indicators (WGI) is another influential index that assesses a country's state of governance using six indicators, including 'control of corruption'. Each of the governance indicators is scored between 2.5 to -2.5, the negative score indicating poor governance. Consistently negative scores for all the six governance indicators reflect the poor state of governance in Nepal throughout most of the last two decades (Figure 4-2). The control of corruption indicator (CCI), which was 0.0 in 1996, gradually declined to -0.8 in 2012. Similarly, other governance indicators including 'voice and accountability' and 'rule of law', which are pre-requisites for corruption control, are consistently poor.

Figure 4-2: Trend of Governance Indicators in Nepal

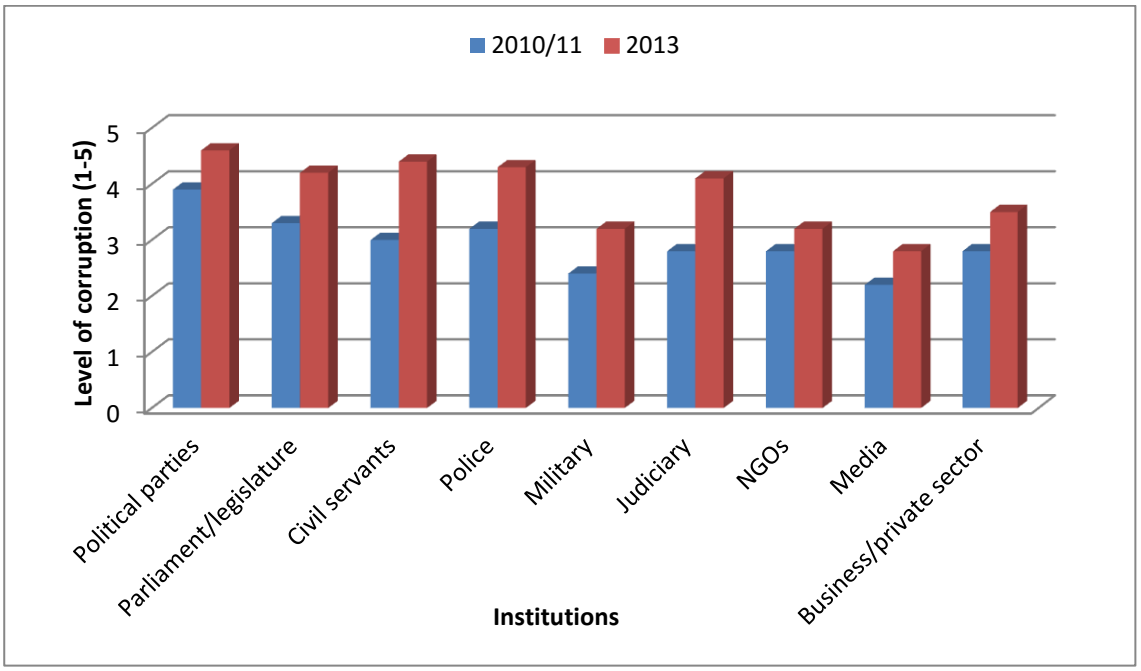


Source: World Bank (2014b)

4.3.3 Global Corruption Barometer (GCB)

Transparency International's Global Corruption Barometer (GCB) assesses corruption based on a public opinion survey of a number of questions relating to corruption in a particular country. Two consecutive surveys, carried out in 2010/11 and 2013, demonstrate that respondents believe that all major institutions in Nepal are highly affected by corruption. The perceived level of corruption, as measured on a scale of 1-5 (in which 5 represents extremely corrupt), is seen to have increased in all institutions in the last two years (Figure 4-3). During the 2013 survey, 72 per cent of the respondents believed that the level of corruption in the country had increased in the last two years (Transparency International 2013b).

Figure 4-3: Level of corruption in Nepali institutions (Global Corruption Barometer)



Source: Transparency International, GCB Reports (2010/11, 2013b)

Political parties are perceived to be the most corrupt institution in Nepal, followed by civil servants and police. With scores above 4.0 in 2013, legislature-parliament and the judiciary are also perceived to be highly corrupt, as is the private sector which scores 3.5. Civil society institutions such as non-government organisations and the media are perceived to be the least corrupt; however, the score assigned to them (3.2 and 2.8, respectively) nevertheless suggests that these institutions are also perceived to be substantially affected by corruption.

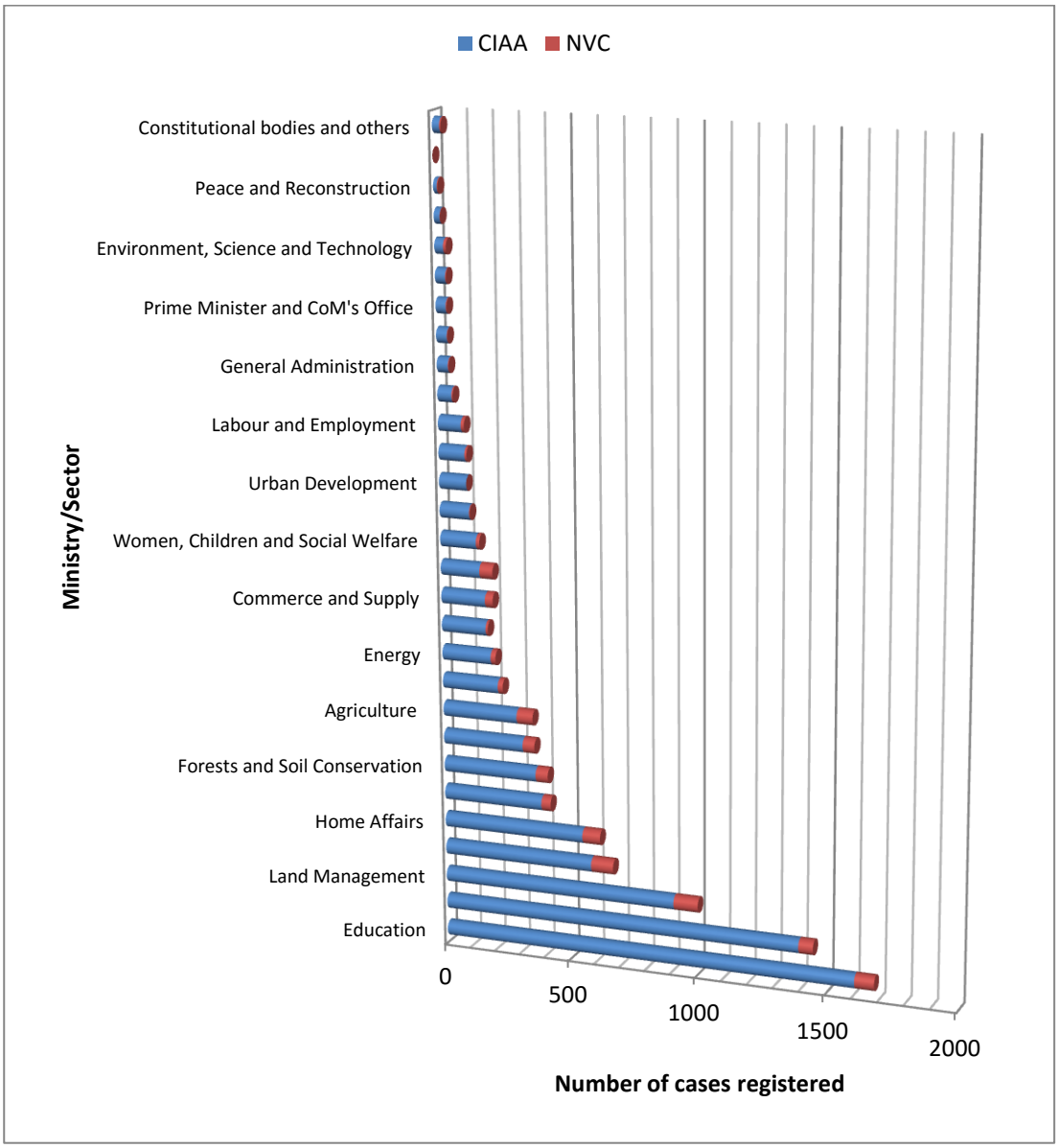
While these indices generally reflect the level of corruption widely believed to prevail in Nepal, there are a number of marked contradictions among them. For example, the CPI shows that the level of corruption gradually reduced during 2011 – 2013, while GCB shows that it had substantially increased in all sectors in the same period. Similarly, the WGI also indicates an increase in corruption in 2012. Perceived level of corruption may have decreased in that period, as the CPI suggests, for three reasons. First, three former and one sitting ministers were prosecuted for corruption charges in late 2011 and 2012. This was the first time in Nepal that high level politicians were prosecuted for corruption. Second, the Chief Justice headed the government with a small cabinet of former bureaucrats in 2013. The ministers of this government were not reported to be involved in any remarkable corruption scandals. Third, the anti-corruption agency – the Commission for the Investigation of Abuse of Authority (CIAA) – has been perceived to be more active after the appointment of the Chief Commissioner in 2013 after a long vacancy.

4.3.4 Level of corruption across sectors

The number of corruption cases registered in two anti-corruption agencies, CIAA and the National Vigilance Centre (NVC), in the Fiscal Year 2011/12 provides an insight into the level of corruption across ministries/sectors; this varies significantly (Figure 4-4). The highest number of corruption cases reported was associated with the Ministry of Education (1606 in CIAA and 76 in NVC), followed by the Ministry of Local Development (1392 in CIAA and 56 in NVC). Corruption in the Ministry of Local Development is widely perceived to have increased due to the absence of elected local bodies for more than a decade, as a consequence of the Maoist insurgency. The Ministry of Forests and Soil Conservation (MFSC), with a total of 415 reported cases (366 in CIAA and 49 in NVC), is the sixth most corrupt Ministry in the country. During interviews, many MFSC officials claimed that corruption in the forest sector is far less than many other sectors, but the potential of corruption being reported is higher due to the more visible nature of timber production and trade operations.

The number of corruption cases reported generally reflects the reported frequency of corruption rather than the size of informal transactions. For example, the size of informal transaction may be far more in the Ministry of Finance (MoF, under which the Revenue Department operates) and the Ministry of Physical Infrastructure and Transport (MoPIT) compared to the Ministry of Land Reform and Management (MoLRM). However, the MoLRM, in which petty bribery during land registration has long been an informal rule, has more cases of corruption reported compared to the MoF and MoPIT. In the latter cases, it is common that secret 'win-win' negotiations take place between the officials and traders and officials and contractors, respectively. In my own professional experience, I have observed that *PC* (personal commission) is a most regular and common form of corruption in the development sectors, in which a certain percentage of budgets allocated for projects is taken back by officials as a kick-back from contractors or user groups. Therefore, the size of an informal transaction is generally proportional to the allocated budget. Further, as an interview with one tax official revealed, bribery and tax evasion are common practices in the revenue sector, but are hardly reported.

Figure 4-4: Numbers of corruption cases associated with different ministries registered in anti-corruption agencies in FY 2011/12



Source: CIAA (2012); NVC (2012)

Note: According to the Interim Constitution of Nepal (2007), Commissioners of constitutional bodies, judges and Nepal Army officials are outside of these anti-corruption agencies' jurisdictions.

Corruption is also associated with the constitutional bodies that are deemed as oversight agencies for corruption control (Ghimire et al. 2013). For example, payment of *PC* to auditors from the Office of the Auditor General (OAG) during annual audits is a well-established practice. The accounts sections of offices informally collect a certain percentage of office programme budgets as *'Aa. Le. Pa., Ma. Le. Pa. Kharcha'* (internal audit and general audit expenses) to bribe auditors from the Financial Comptroller General Office (FCGO) and the OAG. Similarly, judges, including the Chief Justice, are frequently reported to be involved in corruption (AHRC 2014). Various serious instances of misconduct, including corruption, were

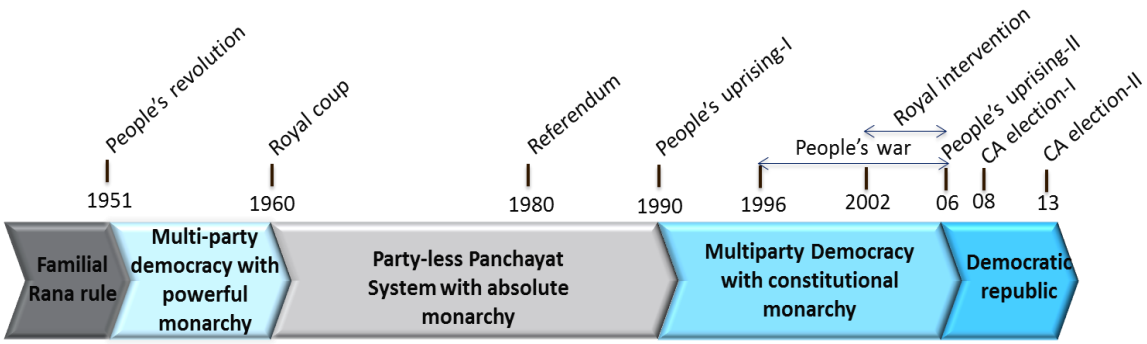
claimed by the public and media against most of the Supreme Court (SC) judge nominees (nominated by the Judicial Council) during the process of their parliamentary hearings in May 2014[7]. Nevertheless, all of those candidates passed through the hearing process and were appointed as SC judges due to nepotism and political favouritism (AHRC 2014).

4.4 Historical political context of corruption in Nepal

4.4.1 Corruption: an unending political blame game

Since the downfall of the familial Rana regime in 1951, Nepal has undergone recurrent political upheavals producing progressive as well as regressive turns in democracy (Figure 4-5). The monarch dismissed the democratically-elected government and introduced a party-less political system called 'Panchayat system' in 1960. In 1990, multi-party democracy was reinstated through a people's uprising, known as *Jana andolan - I*, organised by political parties. Soon after in 1996 the Communist Party of Nepal (Maoist) launched the 'people's war' against the prevailing political and economic system. In the meantime, King Gyanendra assumed power partially in 2002 and absolutely in 2005. In 2006, another people's uprising, known as *Jana andolan - II*, jointly organised by the parliamentary political parties and the Maoists overthrew not only the King Gyanendra's rule but also the 240-year long monarchy. Election of a constituent assembly (CA), which was overdue since the 1950s, took place in 2008 but it could not produce a constitution. Election of the second CA took place in 2013, and it is on its way to formulate a constitution for the 'new Nepal'[8].

Figure 4-5: Recurrent political upheavals and shifting regimes in Nepal



Proponents of new regimes, whether they are 'regressive' Kings, 'democratic' or 'revolutionary' political parties, have often used prevailing corruption as a tool to defame the

[7] The Kathmandu Post (May 4, 2014). The details of charges against the candidates are found in Nepali newspapers, including the *Kathmandu Post*, *Kantipur Daily* and *Setopati* online, published in May 2014.
[8] The term 'new Nepal', which was coined after the *jana andolan – II*, is a key word in the Nepali political discourse. It indicates people's aspiration for a massive change in the state of governance in Nepal in the context of a republican state. However, the term is now widely used as a joke to indicate the further worsening state of governance.

existing regime and bring in people's support for the desired one. However, every successive regime has failed to reduce the level of corruption; instead, it is perceived to have increased. For example, King Mahendra blamed the democratic government for being unable to control corruption as an explanation of why he had to dismiss democracy in 1960 (Dix 2011). He formulated a tough anti-corruption legislation immediately after the introduction of the new regime, the Panchayat system. This helped to increase people's sentiment in favour of the King's anti-democratic move but the autocratic regime is believed to have failed in curbing corruption, instead the level of corruption gradually increased in three decades of its tenure (Khanal et al. 2007; Uprety 1983). The banned democratic political parties continuously criticised the Panchayat regime for indulging in widespread corruption to garner people's support in favour of democracy. For instance, it is still within the memory of many people that the parties' accusation that Queen Aishwarya deposited a large sum of money in foreign bank accounts received much attention during the 1990 people's uprising.

However, the restored democracy could not bring about positive change in controlling corruption. Instead, a number of corruption scandals associated with ministers and lawmakers had already become public by the mid-1990s (Shrestha 2001). Pervasive corruption and abuse of authority became one of the rationalisations for the Maoists to initiate the 'people's war'. The famous 40-point demand presented by the Maoists to the government just before they launched the war included the following two points[9],

> Brokers and commission agents should have their property confiscated and that money should be invested in industry.
>
> Corruption, black marketing, smuggling, bribing, the taking of commissions, etc. should all be stopped.

Nevertheless, corruption, such as public fund embezzlement, bribery, nepotism and favouritism, went almost unchecked throughout the twelve years of democratic governments until 2002. The level of corruption in this period (1990-2002) can simply be projected by the Supreme Court (SC) verdicts on the corruption charges against four ministers of that period, which was filed by the Commission for the Investigation of Abuse of Authority (CIAA) after the King dismissed the democratic government in October 2002. In its verdict of 16/03/2011, what is known to be the first verified case of political corruption involving a minister in the post-1990 Nepal, SC declared Chiranjivi Wagle a culprit for amassing illegal property of NRs. 20.3 million through abusing authority when he assumed seven ministerial offices for four-and-a-

[9] <http://www.humanrights.de/doc_en/archiv/n/nepal/politics/130299_40demands_Maoist.htm> (Accessed: 01/08/2014)

half years between 1991 and 2002[10]. Similarly, SC found JP Gupta, a five-time minister (SC verdict on 21/02/2012), Govinda Raj Joshi, a seven-time Minister (SC verdict on 25/07/2012) and Khum Bahadur Khadka, a seven-time Minister (SC verdict on 14/08/2012), guilty of amassing illegal property equalling millions of rupees.

The rampant corruption prevailing in the democratic period was one of the excuses for King Gyanendra to take over power. In an attempt to garner support from the people, he used prevailing corruption to defame the democracy and gave anti-corruption a high priority in his 2005 proclamation as follows,

> Corruption, which has been continuously spreading its tentacles, has not only cast a shadow over politics and administration, but has also obstructed the nation's march towards progress. Corruption has struck at the very core of our society, the result of which the common man's confidence in the laws of the land has been shaken. Therefore, in keeping with the popular will and to fulfil the main criterion of good governance, effective measures will be adopted to curb corruption…[11]

The royal government's 21-point working policies gave anti-corruption a high priority in line with the proclamation (Khanal et al. 2007). The King also formed a Royal Commission for Corruption Control[12]. However, he could not assure people that he would bring about positive change because of his unpopular public image[13]. At the same time, the political parties criticised his anti-corruption move as a tool for demoralising the democratic politicians.

The level of corruption was not perceived to improve even after the country moved into a republican state. The Maoists, who emerged as the largest party in the CA and formed coalition governments twice, could not stop corruption as they had demanded before launching the 'people's war'. Instead, corruption scandals associated with the party leaders and activists were reported frequently in the newspapers.

The cycle of accusations of corruption, promises to curb it, and failure illustrated by cases of changing governance regimes also prevailed in the case of frequently changing governments in the post-1990 democracy. There is hardly any opposition party which has not accused the government of failing to control corruption. Similarly, there is hardly a Prime Minister who has not given 'control of corruption' a high priority in his first address to the legislature or to the

[10] The *Kathmandu Post* (Mar 17, 2011)
[11] <http://www.nepal-dia.de/Aktuelle_Lage_/King_Gyanendra_Statement_1_2_2/king_gyanendra_statement_1_2_2.html> (Accessed: 05/08/2014)

[12] The Supreme Court had declared it to be unconstitutional, and it was automatically dissolved in 2006.
[13] King Gyanendra was crowned after the 2001 royal massacre in which his brother Birendra, a relatively popular King, and his entire family were killed. Although the investigation report made the then prince Dipendra (who was also killed in the same incident) responsible for the massacre, a large section of the population believed that King Gyanendra's hand was there behind it.

nation. However, it is rarely perceived that any government has markedly reduced the level of corruption.

4.4.2 The vicious circle of power and corruption

Political instability as seen in the frequent changes of government has been one of the main features of the post-1990 political era in Nepal. A total of 24 governments have been formed in the last 25 years (Table 4-2). Many 'dirty games' were played, and 'unnatural' and 'unholy' alliances, in the opposition parties' terms, were formed in ousting and retaining governments (Hachhethu 2000; Humagain and Seo 2013; Parajulee 2000). For example, during the formation of seven governments in between two consecutive legislative elections of 1994 and 1999, majority of the lawmakers were offered ministerial posts in attempts to retain or obtain their support of the government.

Political instability continued even when the country became a republican state after the decade-long Maoist insurgency. A total of six governments were formed between two constituent assembly elections in 2008 and 2013. Instead of constitution making, the legislature was more engaged in ousting and forming governments. The new parties such as the Maoists and Madhesi Janadhikar Forum (MJF), which emerged through the 'people's war' and '*madhes*[14] uprising', respectively, could not prove themselves to be different from the old players such as Nepali Congress (NC) and Communist Party of Nepal (United Marxist Leninist – UML). In an attempt to retain the government, the Maoist leader BR Bhattarai (Prime Minister 2011-2013) formed a 49-member cabinet[15], breaking the record of NC's SB Deuba's 48-member cabinet in the 1990s – what is popularly known as a 'jumbo cabinet' in the Nepali political discourse. The MJF split almost every time the new government was formed, and a faction joined the new government.

Table 4-2: Post-1990 governments of Nepal

Prime Minister	Type of government and participating parties	Date of formation	Duration (months)	Election of Legislature
KP Bhattarai (NC)	Interim, NC-ULF coalition	1990 Apr	13	1991 May
GP Koirala (NC)	NC majority	1991 May	43	1994 Nov
MM Adhikari (UML)	UML minority	1994 Nov	9	
SB Deuba (NC)	NC-RPP-NSP coalition	1995 Sep	18	
LB Chand (RPP)	RPP-UML-NSP coalition	1997 Mar	6	
SB Thapa (RPP)	RPP-NC coalition	1997 Oct	6	
GP Koirala (NC)	NC minority	1998 Apr	5	
GP Koirala (NC)	NC-ML coalition	1998 Aug	4	
GP Koirala (NC)	NC-UML-NSP coalition	1998 Dec	5	1999 May

[14] This is a more political term for the Tarai region.
[15] The *Kathmandu Post* (Nov 14, 2011)

KP Bhattarai (NC)	NC majority	1999 May	10	
GP Koirala (NC)	NC majority	2000 Mar	28	
SB Deuba (NC)	NC majority	2001 Jul	14	
LB Chand (RPP)	RPP (appointed by the King)	2002 Oct	7	
SB Thapa (RPP)	RPP (appointed by the King)	2003 Jun	11	
SB Deuba (NC-D)	NC-D and UML (appointed by the King)	2004 Jun	8	
King Gyanendra (Chair of Ministerial Council)	Direct rule by the King	2005 Feb	15	
GP Koirala (NC)	Interim, coalitions	2006 Apr	28	2008 Apr (CA-I)
PK Dahal (Prachanda) (CPN-M)	CPN (M)-UML-MJF coalition	2008 Aug	9	
MK Nepal (UML)	UML-NC-other small parties coalition	2009 May	21	
JN Khanal (UML)	UML-UCPN (M) coalition	2011 Feb	7	
BR Bhattarai (UCPN-M)	UCPN (M)-MJF (L)-other small parties coalition	2011 Aug	19	
KR Regmi (Chief Justice, Chair of Ministerial Council)	Non-party, formed to accomplish CA election	2013 Mar	11	2013 Nov (CA-II)
S Koirala (NC)	NC-UML coalition	2014 Feb	20	
KP Oli (UML)	UML-UCPN (M)-other small parties coalition	2015 Oct		

Abbreviations: CA = Constituent Assembly; CPN (M) = Communist Party of Nepal (Maoist); MJF = Madhesi Janadhikar Forum; MJF (L) = Madhesi Janadhikar Forum (Loktantrik); ML = Communist Party of Nepal (Marxist Leninist); NC = Nepalli Congress; NC-D = Nepali Congress (Democratic); NSP = Nepal Sadbhavana Party; RPP = Rastriya Prajantantra Party; UCPN (M) = United Communist Party of Nepal (Maoist); ULF = United Leftist Front; UML = Communist Party of Nepal (United Marxist Leninist)

Source: Riaz and Basu (2007); local newspapers

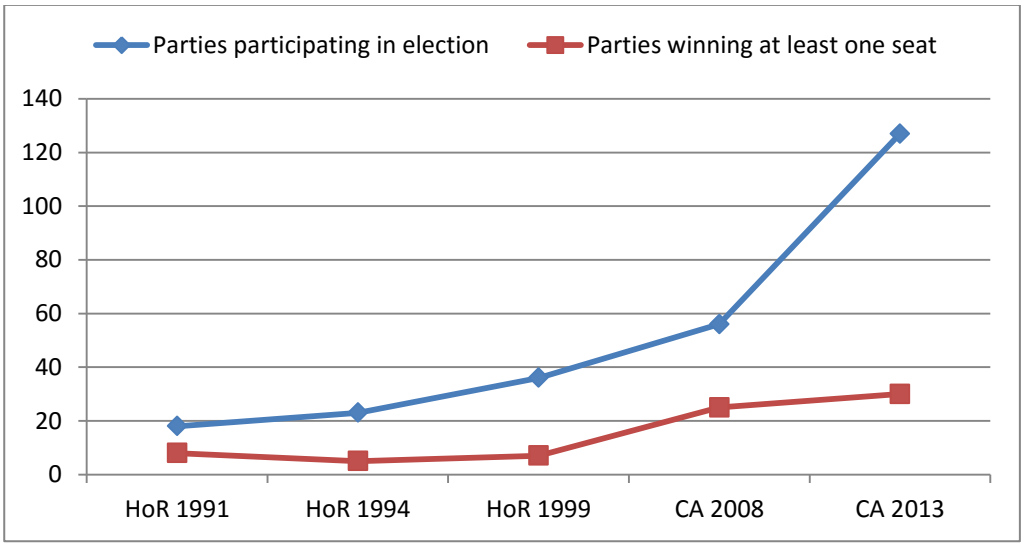
Inter- and intra-party intrigues have become regular phenomena. All major parties which joined the government once – NC, CPN (UML), Rastriya Prajatantra Party, Nepal Sadbhavana Party, U/CPN (M), and MJF – split at least once, and the cause of the split in most of the cases was apparently associated with the lawmakers' intention to gain power, more specifically to be ministers. Why politicians are determined to be ministers can be simply explained by what four ministers –Wagle, Gupta, Joshi and Khadka- did, as discussed in the previous section. Once they were in power, they became engaged in different forms of corruption - they amassed illegal money, redirected government funds to their constituencies, and favoured their supporters in various ways including offering jobs, influencing prosecution in case of offences, and providing cash and kind. This eventually helped them to be re-elected as members of parliament (MPs), influence party decisions, and regain power. Although all of them were widely perceived to be among the most corrupt politicians, from the time of their first ministerial tenure, each of them won three consecutive elections, and every time they became ministers. Many other politicians have used politics in a similar way as a profitable business.

The business of politics was further promoted through the proportional electoral system introduced by the Interim Constitution of Nepal (2007), by which 335 out of a total of 601 seats in CA/legislature-parliament are proportionately elected based on total votes obtained

by each political party. This provision aims "to ensure proportional representation of the women, *Dalit*[16], oppressed communities/indigenous peoples, backward regions, *Madhesi*[17] and other classes"[18]. However, this provision is widely perceived to have been abused for the private benefit of party leaders.

The proportional electoral system has served to ensure representation of marginal political parties rather than marginalised people. For example, fourteen political parties, each of which obtained less than one per cent of the total votes cast, were able to obtain one to three seats each in the first CA. Leaders of some of these fringe parties were able to take advantage of the 'dirty games' during the forming and ousting of coalition governments, and become ministers. This is the main attraction motivating many people to form new parties (Figure 4-6) (Jeevan 2014). Most of the small parties are run as family businesses with the leader's family and friends in the core decision-making team.

Figure 4-6: Number of political parties participating in post-1990 legislative elections



Note: HoR - House of Representatives; CA - Constituent Assembly

Abuse of the proportional electoral system is perceived to have increased in the 2013 CA election compared to the previous one. Leaders of almost all parties, large or small, were reported to have been involved in "greed, partiality, nepotism, cryonism and factionalism" while nominating lawmakers from their parties (Jeevan 2014). For example, leaders of a number of parties nominated 'hitherto politically unknown wives as CA members' (Jeevan

[16] Term used for the so-called untouchable castes in the Hindu hierarchical caste system
[17] The people of Indian descent residing in *Madhes* or the Tarai
[18] The *Interim Constitution of Nepal 2007*, Article 63, Clause 4, Sub-clause b

2014). Dissident leaders of many parties have publicly accused their party chiefs of involving *natabad-kripabad* (nepotism and favouritism) and selling CA seats[19].

4.4.3 *Dhan-bad, don-bad and gun-bad* in politics

In a public event before the ninth national convention of the CPN (UML) in July 2014, MK Nepal announced his candidacy for the Party Chair. He said that his candidacy was against the *'dhan-bad, don-bad and gun-bad'* (Lit. money-ism, don-ism and gun-ism). He was clearly indicating that his rival, KP Woli, was protecting corrupt and criminal people in the party. The convention elected KP Woli, the former Home Minister and Deputy Prime Minister, who is frequently reported by the media to have connections with some renowned *dons*[20], as the chairperson of Nepal's second largest political party for the next five years.

It may be questioned whether MK Nepal, the former CPN (UML) chief and prime-minister, had a role or not in promoting this culture in the party and also in the country, but the term he coined – *'dhan-bad, don-bad, gun-bad'* – truly reflects the reality of present politics, where state and party affairs are largely influenced by illegal exchanges and informal power. During the early years of democracy after 1990, members of political parties and their supporting organisations worked voluntarily for their parties. However, voluntarism gradually diminished with increasing corruption including nepotism and favouritism, and the use of money and muscle in politics increased (Gyawali 2004). This situation was further exacerbated after 2006 when the Maoists entered into the peace process. NC and CPN (UML) perceived the Maoists' paramilitary youth organisation (Youth Communist League - YCL) as a threat, and they formed similar organisations (such as UML's Youth Force) to counter YCL. These organisations sheltered and used criminals, including renowned *dons*, to counter each other, leading to widespread impunity from prosecution in the country. Frequent violent clashes between these organisations were mainly related to accessing financial gains such as those that could be realised during tender processes (The Carter Center 2011).

Dons have long run a shadow state in the country. They have seized most of the government contracts including those associated with extraction of natural resources. Entrepreneurs are often required to receive permission from the *dons* before starting any business, and to pay rents regularly. Despite dozens of criminal offences including possessing illegal arms, abduction of people and even murder in the police records, *dons* are rarely arrested due to

[19] Widespread media reports in early January 2014, when parties had nominated CA members in the proportional seats, published voices of dissident leaders against the party decisions.

[20] *Dons* are the leaders of criminal gangs (usually known as *chundre-mundre, or gundas*), who extort rents from contractors and business persons. Commonly, each *don* has his/her own territory. *Dons* are frequently reported to fight each other mainly when they claim the same territory.

political patronage[21]. When they are arrested, political leaders exert pressure on the police to release them. In exchange, *dons* offer money and muscle to political parties when needed, including during election campaigns and party functions.

4.4.4 Institutionalised patronage and impunity

Patronage and favour, such as *bhansun* and *source-force*[22], are long existing phenomena in Nepal. However, during the party-less Panchayat system before 1990, patronage was limited to a small number of people close to palace or Panchayat leaders. After 1990 when citizens were organised into political parties and their associated organisations, political patronage became more institutionalised. Almost every issue, including crime, is politicised, and the criminals are privileged with political patronage. There have been frequent cases in which political parties and/or their supporting organisations have organised shut-down strikes to release their cadres who were involved in purely criminal activities without any political motive.

All political parties are organised hierarchically. Party committees are in place from central to village levels. Similar hierarchical structures of their many supporting organisations such as those of women, farmers, students, youths, and even civil servants have also been created. For example, NC has 13 sister organisations including youth, women and students, and 17 'well-wisher organisations' including that of forest technicians[23]. Similarly, CPN (UML) has formed 18 mass organisations (*jana-sangathan*) and 10 coordinating bodies in various public organisations including forest user groups[24]. Each of the lower committees is sub-ordinated to an upper one. Thus, a majority of the people, at least most of the elites, are affiliated with one or another political party. A reciprocal relationship of patronage and favour prevails between the leaders and their supporters. This has inevitably contributed to widespread impunity. Professor Krishna Khanal, a renowned political analyst of Nepal, identifies this cadre-based party structure responsible for increasing corruption and impunity, and undermining democracy[25].

[21] The *Kathmandu Post*, Editorial (Apr 2, 2012)
[22] *Bhansun* refers to talking to someone (usually the power holder in regards to the issue concerned) using a personal relationship to favour someone. *Source-force* refers to using one's power to obtain a favour, usually based on a personal or political relationship.
[23] http://www.nepalicongress.org/index.php?linkId=30
[24] http://www.cpnuml.org/content/mass-organizations.html
[25] *Kantipur Daily* (Apr 11, 2014)

4.5 Economic and social-cultural context: enabling corruption environment

4.5.1 Growing middle-class culture and consumerism

Until 1990, a state-led economy prevailed in Nepal, and there were limited economic activities in the country. People's income was limited, and the area of expenditure was further limited. Globalisation and economic liberalisation in the 1990s brought about marked increases in urbanisation, foreign migration, and international trade; these expanded the area of expenditure and changed consumption behaviours of the people. Migration from villages to towns, and from small towns to big cities, became an increasing trend. The urban population of Nepal increased from 1.7 million in 1991 to 4.5 million in 2011 (CBS 2007, 2013a), and the urban areas witness burgeoning middle-class culture and consumerism, as Liechty (2003, p. xi) remarks,

> Nepalis are frequently reminded that among the world's 'least developed countries' (LDCs), Nepal ranks near the bottom. Yet hundreds of thousands of people in Kathmandu lead lives riddled with both the problems and pleasures of modernity.

The growing culture of consumerism can now be seen in increasing numbers of shopping malls selling imported goods, including top brands from around the world, a variety of restaurants, and music and dance bars in the cities. Imported and heavily tariffed cars and motorcycles are increasingly sold in the Nepali market. For example, the number of cars and motorcycles sold increased from 5,152 and 29,291, respectively, in 2000/01 to 9,595 and 175,381, respectively, in 2012/13 (Thapa 2013). Cultural ceremonies, including festivals, have been blended with more costly 'modern' practices, and people compete with each other to show themselves to be modern and well-off (Liechty 2003).

4.5.2 Costly education and health services

The liberal economic policies of the 1990s attracted the private sector to invest in education and health services among others. Attendance in private schools increased from 7.5 % of the total school enrolments in 1995/96 to 26.8 % in 2010/11 (CBS 2011). Similarly, private colleges accommodate a large share of students in tertiary education; for example, 14 out of a total of 19 medical colleges are operated by the private sector[26]. Private education is far more expensive than public education. However, private schools and colleges are preferred for two reasons. First, they are believed to provide better education, as exemplified by a greater disparity in the passing out rates between public and private schools (NPC 2002). Second, they provide education in some of the highly demanded subjects such as medicine and engineering for which the public colleges have limited seats. One needs to make a one-off payment of roughly NRs. 4 million (which is equivalent to a sum of seven years' salary of the top Nepali

[26] http://dohs.gov.np/hospitals/medical-colleges/ (Accessed: 12/02/2016)

bureaucrat, the Chief Secretary) to enrol in an under-graduate degree in medicine (MBBS) in a private medical college, increasing to NRs. 12 million for a post-graduate degree (MD) (Gautam 2013).

While public education is significantly cheaper than private education, it is not the case in the health care sector. The government health facilities offer some services such as visits to a doctor and diagnostic tests at cheaper rates, but the patients need to buy medicines and equipment from the market. In cases of acute diseases like cancer, one has to spend millions of rupees even in the government hospitals. Most of the prominent doctors have their own private clinics, which are expensive. In the last three decades, the number of private hospitals increased exponentially from one in 1984 to 61 in 1996 (Hotchkiss et al. 1998) and 301 in 2013 (CBS 2013b). People choose to go to private hospitals not only because they are believed to provide timely and better services, but also because there are limited numbers of public hospitals and they cannot offer services to all. Thus, with the increasing costs of medical education and growing private health care facilities, the cost of health care for Nepalis is increasing.

The involvement of the private sector in education and health services has increasingly divided people into two classes: those who go to government schools and hospitals and those who go to private ones. This has motivated people to try to earn money by any means and increased social acceptance of illegal income. At an informal meeting, when I tried to ask about corruption taking place in the timber industry, a senior forest guard (who informed me that he was suffering from cancer) told me, without waiting for my question to end: “Sir, unless education and health care is free [of cost], let’s not talk about corruption, it is never possible to control.” Like him, many people believe that the increasing costs of these basic services are responsible for increasing corruption in the country, given the salaries of public officials are too low to accommodate these expenses.

4.5.3 Poor salaries of public servants

Nepali civil servants are among the lowest paid public officials in South Asia. Their salaries have always been insufficient to satisfy their basic requirements, in the 1970s and 1980s (Chew 1992), in the 1990s (Gyawali 2004), and subsequently. As an indicative figure, Gyawali reports that the entire salary of a mid-ranked government official (Gazetted III) could buy 30 kg of mutton in a month around the early 2000s. The same is true at present, and interviews with officials revealed that this was also the case in the 1980s and 1990s. However, during interviews, the long serving officials revealed that the insufficiency of salaries has been realised increasingly since 1990, despite the fact that the salary increment has been greater

than the rate of increase in the average prices of goods and services in the country. For instance, the basic salaries of civil servants (entry levels in different ranks) increased by an average of 3.6 times between 2000 and 2014 (Table 4-3), while the price of general goods and services in the same period increased only by 2.5 times (World Bank 2014a, calculated from annual consumer price index). The realisation of increased insufficiency may be due to increased areas of expenditure as discussed in the previous section.

Table 4-3: Basic salary of Nepali civil servants (such as forest officials) in 2000 and 2014

Rank	July 2000		July 2014	
	NRs.*	USD	NRs.**	USD
Non-Gazetted IV (Forest Guard)	3300	47	13780	144
Non-Gazetted III (Forest Guard)	3630	52	14670	153
Non-Gazetted II (Forest Assistant)	4100	58	17730	185
Non-Gazetted I (Ranger)	4900	70	18800	196
Gazetted III (Assistant Forest Officer)	7500	107	24400	254
Gazetted II (District Forest Officer)	8650	123	27370	285
Gazetted I (Regional Director/Director General, DoF)	10500	149	32120	335
Gazetted – Special (Secretary to MFSC)	14000	199	41130	429

Sources: *Gyawali (2004); **GoN (2014b)
Note: NRs. were converted to USD with USD 1 = NRs. 70.40 (as of July 1, 2000) and USD 1 = NRs. 95.98 (as of July 1, 2014) (NRB 2014)

Until the mid-1980s, when Nepal started academic forestry courses in the country, the Forest Research Institute (FRI), Deharadun, India was nearly the only destination for Nepali students studying forestry. They were trained together with Indian and Bhutanese colleagues. There are still some forest officials in higher positions in the Ministry of Forests and Soil Conservation (MFSC) who graduated from the FRI. They frequently complain about the poor salaries in the Nepali public service, often in reference to the salary scale of their counterparts in India or Bhutan, where the salaries of bureaucrats are significantly higher (Table 4-4). Noticeably, Nepal imports a range of products including foods, fabrics and vehicles from India, and the basic cost of living in Nepal is higher than that in India.

Table 4-4: Monthly salary scale of five top ranked positions in civil service, 2014 (in NRs.)

Level	Nepal [a]		India [b]		Bhutan [c]		Nepali equivalents
	Min	Max	Min	Max	Min	Max	
Highest	43670	45270	144000 (Fixed)		120256	132296	Chief Secretary
2nd highest	41130	43130	128000 (fixed)		105488	116048	Secretary
3rd highest	32120	36720	77120	128000	87320	113480	Joint Secretary
4th highest	27370	32050	33600	76000	73256	95216	Under-secretary
5th highest	24400	28240			61920	80520	Section officer

Source: [a] GoN (2014b), [b]GOI 2008 (it excludes yearly increments @ 2.5%), [c] RGB (2014)
Note: Indian (IRs) and Bhutanese (Nu) currencies were converted to Nepali currency (NRs.) as 1 IRs = 1 Nu = 1.6 NRs as of 14/08/2014

Given their poor salaries, it is difficult for civil servants to make an adequate basic living. However, most of them send their children to private schools and colleges. They are among those who make up the middle-class and enjoy 'modernity' (Liechty 2003). Many of them build *buildings* (big houses) in the cities. Similarly, many of them educate their children in the subjects of their choice in private colleges, and send them abroad for study. It is quite clear that it would not be possible for civil servants to do this unless they have additional sources of income and that the additional source of income for many of them is most likely to be corruption. The following statement of an MFSC official (under-secretary) during interviews reveals how an honest official is motivated to be corrupt.

> "…I worked honestly for more than two decades, and I was proud of my honesty. But now I am regretting for that when I could not pay for what my daughter wanted to study. She wanted to study MBBS together with some of her close friends but I could not afford it" (F-O-29).

The motivation for corruption has been encouraged not only by the lifestyles of corrupt colleagues within the government service, but also from that of counterparts working in the mushrooming International/Non-Government Organisations (I/NGOs) and private sector. The salary of officials in I/NGOs is significantly higher than that of civil servants. Similarly, the salary of officials, other than lower ranks, in the private sector is also higher compared to civil servants.

4.5.4 Corruption friendly social structure and cultural notions

Some features of Nepali society and cultural norms and notions have helped corruption to persist. Historically, Nepali society has been characterised by strong hierarchy and association. The social constructs of *thulo manchhe* (man of higher status) and *sano manchhe* (man of lower status) (Ojha 2006) rooted in the pre-1951 feudal socio-political system have continued to exist, although their strength is gradually declining along with recurrent political movements. The hierarchy that exists in the society is well-reflected in the formation of bureaucracy and political parties, in which, patronage and favour are routine phenomena. *Pahunch* (access) to *thulo manchhe* has often been a pre-requisite to access to many

government services (Kondos 1987). *Dalals* (commission agents) at various levels are increasingly active in almost all sectors to bridge service seekers and service providers or clients and decision makers; and such bridging usually involves informal transactions (Panday 2000). Similarly, the culture of strong association with family, relatives and friends prevailing in Nepali society has naturally led to nepotism and favouritism in politics and public service delivery. Further, this has motivated public officials toward illegal exchanges for amassing assets for their families including for future generations.

Likewise, some cultural notions prevail that have made corruption acceptable behaviour in the society. For example, during my field survey, a District Forest Officer told me that the cultural notion of '*rajako sampati kasle chordaina ra'* (who does not steal a King's property?) has long existed in Nepali society, particularly in the Tarai region. While 'stealing' in general is one of the most condemned behaviours in the Nepali society, stealing government property is accepted, as indicated by this social construct. It is directly associated with the power relationships of the society. While 'stealing' in general is associated with the poor, stealing government property is relevant to the powerful, usually public officials, whose act is accepted as '*saknele garchha'* (one who is able acts). Similarly, a popular Nepali proverb '*maha kadhnele hat chatchha'* (one who extracts honey gets to lick the fingers) (Gyawali 2004), acknowledges that one working on behalf of all deserves an additional personal benefit.

4.6 Corruption and the Tarai forests

4.6.1 Changing context of forest governance in the Tarai of Nepal

Before 1951, the ownership, management and utilisation of the forests were based on the ruler's discretionary order. The Rana rulers had granted many patches of forestlands to their family members, aides and government employees for their private use in the form of *birta*[27] and *jagir*[28] (Satyal Pravat and Humphreys 2013). After the advent of democracy, all these forests were nationalised through enactment of the *Private Forest Nationalisation Act 1957* and brought under centralised control. Although the government introduced community based management for the Hill forests in the late 1970s (Acharya 2002), the centralised management continued until the early 1990s in the case of the Tarai forests.

Either strict protection or regulated clearing for resettlement were the main management strategies applied in the Tarai forests throughout three decades of the Panchayat regime (1960-1990) (Sinha 2011). The *Forest Act 1961* placed strict restrictions on the use of forests by the people. These restrictions were further strengthened by the *Forest Protection (Special Arrangement) Act 1967* which introduced stronger penalties for several forest offences, set up

[27] Land granted as a gift usually to members of the ruling family or their aides
[28] Land granted to an employee as remuneration

a one-member special court of the Divisional Forest Officer (which was the predecessor of the present District Forest Officer), and authorised field level forest officials to shoot forest offenders on sight. A paramilitary team of forest guards was deployed to patrol forests and capture offenders. The government also established the Timber Corporation of Nepal (TCN) in 1961 to facilitate forest clearance for resettlement and carry out timber production and trade.

Since the early 1970s, the government has gradually introduced people-friendly forest institutions. The *Forest Products Distribution Rules 1970* created a legal opportunity for the public to access basic forest products for domestic use. Amid the realisation of the initial success of the community forestry (CF) programme in the Hills, an attempt was made to introduce the same in the Tarai through a trial project called Tarai Community Forestry Project (TCFP) in the early 1980s but it was later terminated, suggesting that the Hill community forestry experience could not work in the case of the Tarai. In the meantime, a *Master Plan for the Forestry Sector* (MPFS) was prepared in 1989 with special priority to be given to community forestry in the two decades to come.

After the restoration of democracy in 1990, the new government enacted a new forest law, the *Forest Act of 1993*, as the main institution to implement the MPFS. This law, which is regarded as a landmark policy in the history of Nepal's forest management, established the local people's rights over forest resources (Ojha 2006). The government rapidly handed over forest patches to local communities as community forests[29] throughout the country during the 1990s and thereafter. According to a national CF database of mid-July 2013, a total of 1,700, 048 ha of forests had been managed by 18,133 community forest user groups (CFUGs) comprising 2,237,195 user households in Nepal (DoF 2013). In the 25 Tarai and inner Tarai districts, a total of 3,722 CFUGs comprising 725,037 user households are managing 628,275 ha of forests (DoF 2013).

Although Nepal's community forestry is widely cited as a success story in natural resource management, particularly in reference to reclaiming denuded hills (Acharya 2002; Kandel 2010; Ojha et al. 2016), it experienced problem from the very beginning in the case of the Tarai. The distant communities, who were deprived of access to forest resources due to continuous shrinkage of the large tracts of Tarai forests, claimed their rights over the remaining forests (Satyal Pravat and Humphreys 2013). On the other hand, corruption and illegal logging in collusion between community elites and officials were frequently reported. This eventually led to another partnership modality in forest management. While continuing to

[29] A community forest is a national forest handed over to users group to develop, conserve, use and manage the forest, and sell and distribute the forest products independently according to work plan approved by the District Forest Officer (*The Forest Act 1993*).

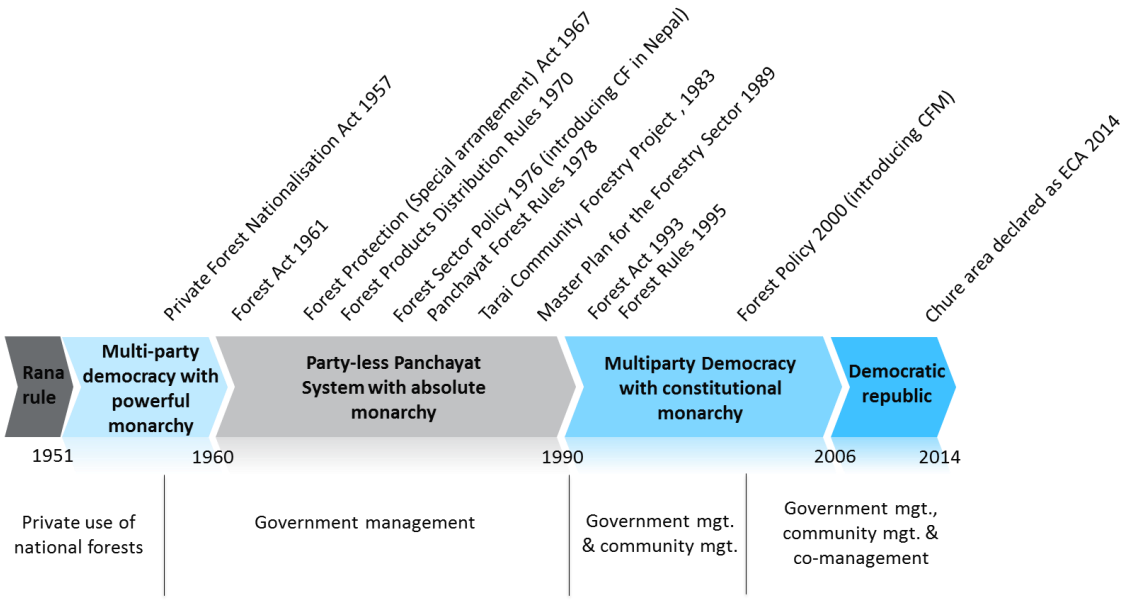
handover small and isolated forest patches as CFs, the government introduced a new forest policy in 2000 that was intended to 'scientifically' manage large blocks of the Tarai forests in collaboration among the government, local bodies and users in the name of 'collaborative forest management' (MFSC 2000). So far, 19 Collaborative Forest Management Groups (CFMGs) have been formed involving 476,732 households to manage 54,072 ha of forests under the CFM scheme (DoF 2012).

Recently, the government declared the *Chure*[30] area an 'Environment Protection Area' citing it as a 'sensitive and risky geographical region' (GoN 2014a). The government has formed a powerful committee called the 'President Chure -Tarai Madhesh Conservation Development Board' to "formulate policy and strategy necessary for the protection and management of Chure area" including "the Chure hilly range, river systems flowing through this area extending up to Tarai Madhesh area, and its water resources area" (GoN 2014c, p. 1, 3) . This has created confusion among stakeholders about how the forest resources in the Chure area will be managed. Most of the Tarai districts cover parts of the Chure area, and a large proportion of the timber that is accounted in the Tarai and inner Tarai districts is produced from this area. Despite the government's assurance of continuing people's participation in the management of the Chure forests, the Federation of Community Forest User Groups (FECOFUN) has contested this move, suspecting that it will undermine the local people's rights over forests[31].

Overall, along with the democratisation of politics in Nepal, participatory approaches have gradually been adopted in managing the Tarai forests. Figure 4-7 traces the evolution of forest governance regimes in the Tarai.

[30] Chure, also known as Churia or Siwaliks, refers to the geographically fragile small mountain range located north of the Tarai plains, covering 12.78% of the total area of Nepal (GoN 2014a).
[31] Press conference note by FECOFUN, 18/06/2014

Figure 4-7: Evolution of forest governance in the Tarai of Nepal



4.6.2 Institutional arrangement of timber governance in the Tarai of Nepal

The rich resource of valuable Sal (*Shorea robusta*) timber is the principal reasons why different actors, including the ruling elites, the techno-bureaucrats, and local as well as distant communities have historically had competing claims over the Tarai forests. Throughout their history, the Tarai forests have undergone 'harvesting' rather than 'management'. Attempts at 'scientific' management of these forests for timber production, whether by the government itself or through the private sector, have been failures (Gyawali 2004). Currently, scientific management has been initiated in some of the collaborative forests and community forests. However, 'management' of a large area of both government-managed and community forests is limited to collecting *dhala-pada* (fallen trees).

There is a hierarchical state mechanism, consisting of more than half a dozen institutional layers, governing timber production and trade in Nepal (Figure 4-8). Authorized by the Constitution of Nepal, the parliament enacts legislation (Acts) relating to timber governance, such as the *Forest Act 1993*. The Government of Nepal (GoN) – Council of Ministers (CoM) - makes the rules, such as the *Forest Regulation 1995*, that are necessary to enforce the legislation. Similarly, the Ministry of Forests and Soil Conservation (MFSC), headed by the sectoral Minister, formulates policies and issues necessary directives, such as the *Forest Products (Timber/Fuelwood) Collection, Sale and Distribution Directives (FPCSDD) 2000*, to implement the rules passed by the GoN. The MFSC also administers a hierarchical forest bureaucracy from the MFSC to the Range Post.

Of the five Departments[32] under the MFSC, the Department of Forests (DoF) is mandated for the management of forests (other than protected areas), including timber production and governance of its trade. The DoF functions at the local level through its extensive administrative units – the District Forest Offices (DFOs), the Area (*Ilaka*) Forest Offices (AFOs), and the Range Posts (RPs) in descending order. The DFO-AFO-RP structure oversees the government-managed forests (GFs) and carries out harvesting and trade of timber from these forests, mainly by itself but involving Collaborative Forest Management Groups (CFMGs) for some forests. The Community Forest User Groups (CFUGs) and the private land owners manage community forests (CFs) and private forests (PFs), respectively; however, the DFO-AFO-RP structure provides technical support to the managers/owners of these forests and conducts monitoring of the production and trade of timber from these forests. The CFUGs operate according to their statues and the CF work plans approved by the DFO. The DFO-AFO-RP structure enforces the laws relating to all forest governance and management regimes, and the District Forest Officer (dfo) also exercises judicial power. The administrative heads of each office unit are organized according to the hierarchical order in the civil service, for example, the Chief Secretary in the CoM, Secretary in the MFSC, Joint Secretary (forestry) in the DoF, Under-Secretary (forestry) in the DFO, gazetted class-III officer (forestry) in the AFO, and non-gazetted class-I officer (forestry) in the RP[33].

Besides this, the Timber Corporation of Nepal (TCN), a parastatal business entity under the MFSC, is involved in 'collection and trade of timber acquired from the management of forests' in selected districts (MFSC 2013). The TCN administration is headed by the General Manager (GM), and policy decisions are made by the TCN Operational Committee, which is chaired by a Joint Secretary of the MFSC. The TCN operates through branch offices (a branch office covering one or more districts), field-camps, sawmills and sales depots. Similarly, in each development region[34], the Regional Forest Directorate (RFD), headed by a Joint Secretary (forestry), has been established directly under the MFSC to facilitate the planning and monitoring of forestry activities in the districts. A District Forest Sector Coordination Committee (DFCC), chaired by the District Development Committee (DDC) Chairperson and comprising a range of stakeholders, has been formed in each district to advise on forest sector planning and

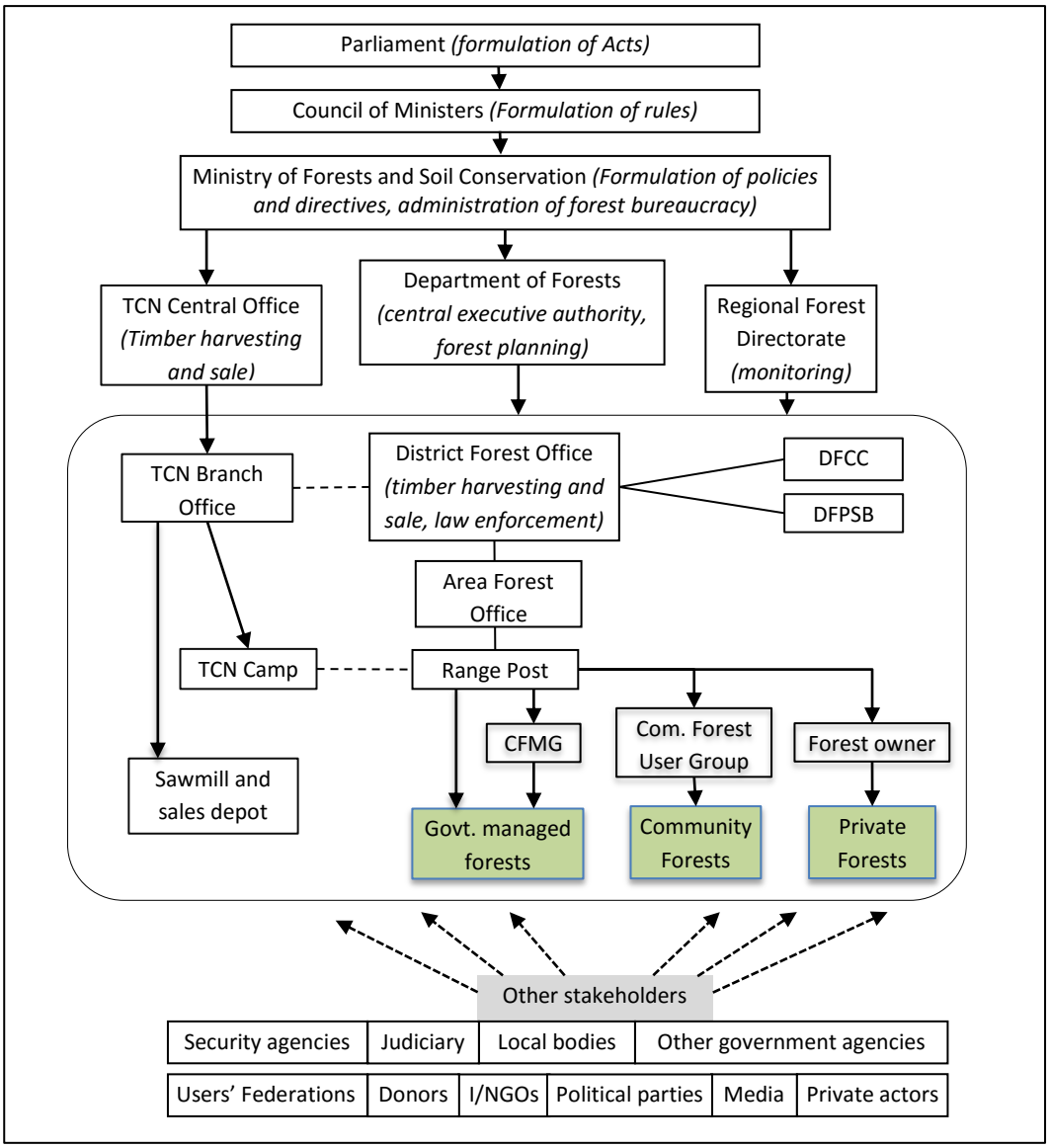
[32] The Department of Forests (DoF), the Department of National Parks and Wildlife Conservation (DNPWC), the Department of Forest Research and Survey (DFRS), the Department of Soil Conservation and Watershed Management (DSCWM), and the Department of Plant Resources (DPR)

[33] In an attempt to adjust the large number of officials who had been given 'special promotion' through the 2007 amendment of the *Civil Service Act 1993*, the RP and AFO have been transformed into the AFO (to be headed by a gazetted class-III forest officer) and the Sector Office (to be headed by a forest officer at under-secretary level), respectively, to be effective from 08/10/2013. However, the functions of these offices have not changed.

[34] There are five development regions in Nepal, each stretching north to south borders of the country and consisting of 9-19 districts.

programme implementation (MFSC 2011). Similarly, to facilitate distribution and sale of forest products, mainly timber and fuelwood, to local people, the District Forest Products Supply Board (DFPSB), chaired by the dfo, has been formed in each district according to the *Forest Rules of 1995*. Apart from these, a range of stakeholders, as shown in Figure 4-8, plays important roles in forest/timber governance.

Figure 4-8: Organisational set-up for forest (timber resource) management in Nepal's Tarai

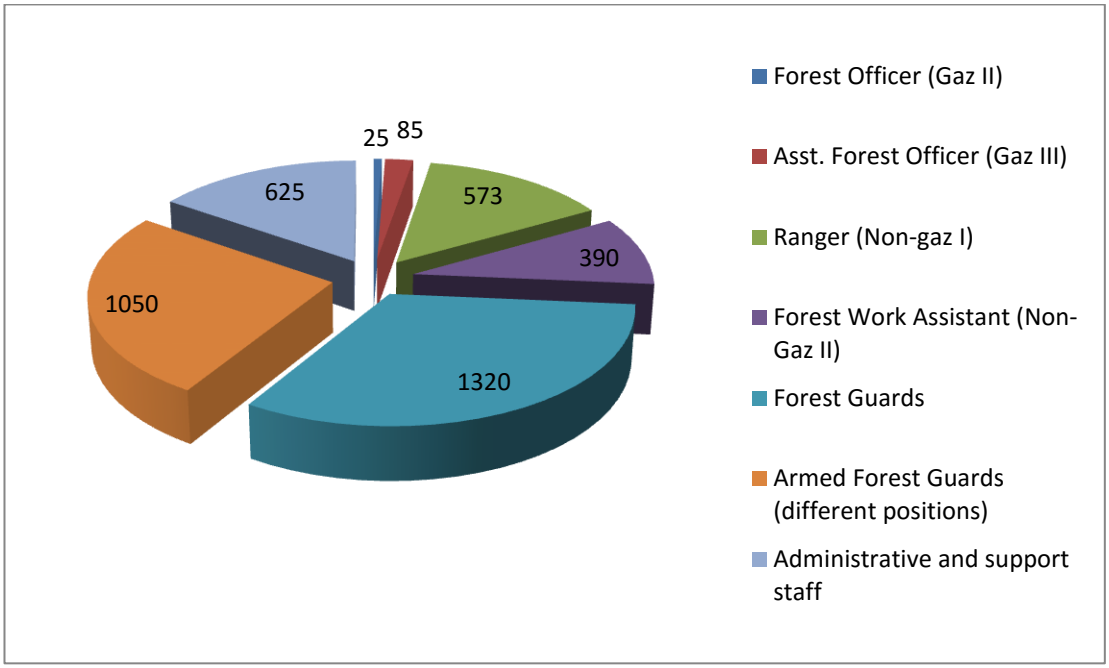


Abbreviations: CFMG = Collaborative Forest Management Group; DFCC = District Forest Sector Coordination Committee; DFPSB = District Forest Products Supply Board; I/NGOs = International/Non-Government Organisation; TCN = Timber Corporation of Nepal

A total of 74 DFOs in Nepal are divided into five classes –A (10), B (16), C (5), D (17) and E (26) – based on the relative area of forest, geography and people's pressure on them (Belbase 2010). Class-A DFOs have the highest number of sub-ordinate office units (3 AFOs with 5 RPs in each) and staff members and Class-E DFOs have the least (e.g. 4-8 RPs). Out of 25 DFOs in the Tarai

and inner Tarai region, ten are classified as Class-A, while the rest are Class-B DFOs. Consequently, more than half of the total employees working in the 74 DFOs throughout the country (4,068 out of 7,232) are deployed in these districts. Among them, the majority of the staff members (58%) are forest guards, armed and non-armed, while only 17% of the staff are forestry graduates (Figure 4-9).

Figure 4-9: District Forest Office employees in the Tarai and Inner Tarai districts (25 districts)



Source: Belbase (2010)

The current organisational structure of the MFSC was designed in 1994 (Belbase 2010), when participatory forestry in the Tarai had just begun. Since then, the country in general and the Tarai region in particular has undergone a significant socio-political change. Similarly, there have been significant changes in forest management modalities in this region. For example, a large area of previously government-guarded forests has been handed over to local communities and co-managed under collaborative forest management. Hence, the current organisational set-up for forest governance may need to be restructured.

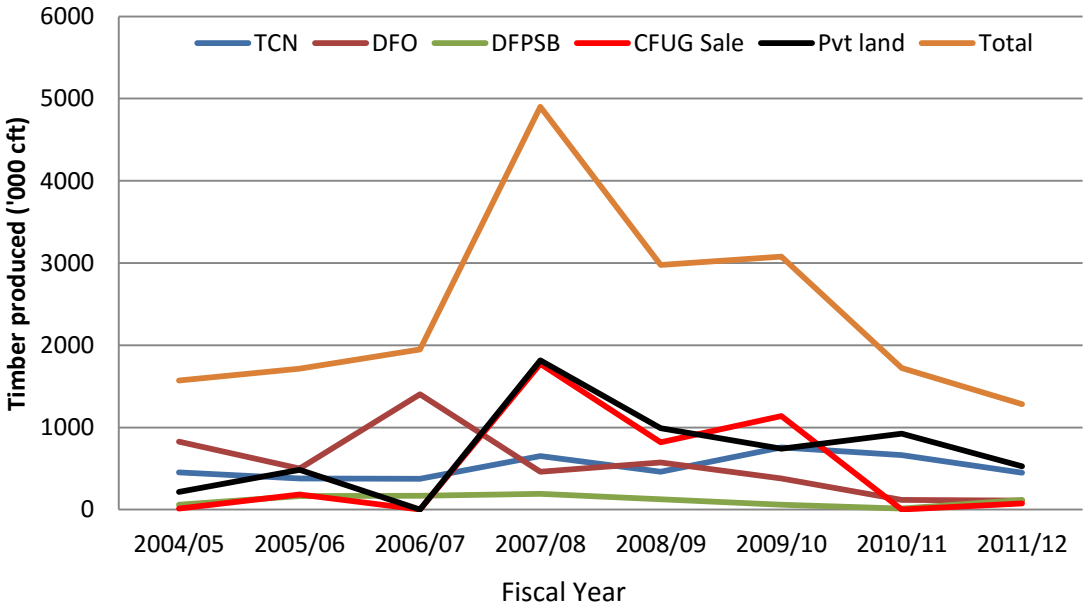
4.6.3 Timber production and trade from the Tarai forests

Timber trade from the Tarai forests dates back to 1924 when Nepal exported Sal timber to India to use for railway sleepers (Ghimire 1998); this continued until the 1970s when the government banned timber exports amid the growing world focus on Himalayan degradation (Eckholm 1976) and increasing domestic demand. With increasing population and urbanisation, the production and internal trade of timber continued at an increasing rate

thereafter. Once a timber exporting country, Nepal now imports timber from many countries, including Malaysia and Myanmar.

During the Panchayat regime, the Timber Corporation of Nepal (TCN), a government-owned business entity, held a monopoly over timber production and sales from the national forests in the Tarai. With different partnership arrangements for forest management, various institutions have been involved in the production and sales of timber since 1990. District Forest Offices (DFOs) harvest logs from government-managed forests (GFs) and sell them for commercial purposes. The TCN, with approval from the DFO, also produces timber from GFs and sell both round wood (for commercial purposes) and sawn timber (non-commercial purposes). Community Forest User Groups (CFUGs) produce logs from community forests (CFs) and sell them to their members (local users) at heavily subsidised prices for non-commercial use, and sell through auctions in the case of over-supply. The District Forest Products Supply Board (DFPSB) acquires timber from GFs and/or CFs, and sells at the royalty rate or at subsidised prices to residents within the district for non-commercial use. Farmers or traders produce timber from private lands. Figure 4-10 shows the quantity of timber produced from 25 Tarai and inner Tarai districts by different institutions between the fiscal year 2004/05 and 2011/12.

Figure 4-10: Timber production from the Tarai and Inner Tarai districts (2004/05 – 2011/12)



Abbreviations: CFUG = Community Forest Users' Group; DFO = District Forest Office; DFPSB = District Forest Products Supply Board; TCN = Timber Corporation of Nepal

Note: The CFUG sale volume denotes the quantity of timber sold outside the CFUG, thus excludes the quantity of timber sold/distributed within the CFUG.

Source: DoF 2013 (official database)

As Figure 4-10 suggests, timber production from all forest governance and management regimes between 2004/05 and 2011/12 was irregular and unpredictable with less than 1.6 million cubic foot in 2004/05, peaking at nearly 5 million in 2007/08 and dropping again to below 1.3 million in 2011/12. The highest level of timber production, particularly from community forests and private lands, occurred in 2007/08 when there was political chaos in the country. It is important to note that the volume reported is the accounted quantity. Interviews with officials and traders during the field survey revealed that a large amount of timber was illegally harvested during that period, representing up to three times the legal quantity in many cases. It was also revealed that a large quantity of illegal timber from the national forests was traded as if it had been produced from private lands. The sudden decline of the quantity of timber produced from the national forests in 2010/11 is attributed to the government's ban on timber production and trade that was intended to investigate alleged uncontrolled deforestation throughout the Tarai region (HLIC 2011).

4.6.4 Corruption associated with the Tarai forests: historical context

The Tarai forests, due to their fertile lands and valuable timber, have long been at the centre of forest politics in Nepal. Both political and bureaucratic corruption in the forms of policy, grand and petty has long been associated with the Tarai forests. Generally, political corruption is more relevant to forest lands while bureaucratic corruption is associated with timber production and trade. However, local politicians are increasingly involved in timber-related corruption, particularly in community forests.

Historically, politicians have distributed forest lands as favours to their relatives, aides and voters, both formally and informally. The Rana rulers granted forest lands to their family members and the elites supporting them (Regmi 1978). All those forests were nationalised in 1957 but subsequent monarchs repeated this behaviour (Bhattarai et al. 2002). Similarly, to influence people in favour of the Panchayat system in the 1980 referendum, the government allowed them "to cut trees indiscriminately" (Shaha 1990, p. 23). Later, a policy was introduced to systematically resettle illegal settlers in the Tarai region (NPC 1980). The democratic governments after 1990 formed commissions to look into the problem of landless squatters (*sukumbasis*) time and again. The commissions, usually comprising leaders of the ruling parties, have been reported as favouring the party members and supporters while granting lands in the names of landless people.

Politically-sponsored Illegal forest activities including encroachment and illicit logging are found to have intensified at times of political turmoil. Similar to that occurring around the time

of the 1980 referendum, illegal logging was widespread after the 2006 political changes and eventually led to ban on timber production and trade and the formation of a high level investigation commission on deforestation and forest encroachment in 2010 (HLIC 2011). The large scale of corruption and illegality in the forest sector during the republican transition is exemplified by the largest ever corruption case in Nepal filed against forest officials, CF office holders and timber contractors in 2012 in relation to illegal logging in some community forests in two districts (CIAA 2012).

The bureaucratic corruption associated with the timber production and trade from the Tarai forests is also an age-old phenomenon. The Timber Corporation of Nepal (TCN), which had a monopoly on timber production and trade throughout the Panchayat system during which a large area of Tarai forest was cleared, is well known for corruption (Bhattarai et al. 2002). Similarly, forest officials, who had sole authority over the Tarai forests until 1990 and considerable power even thereafter, are reported to be involved in both grand and petty corruption. Being transferred to a Tarai district with a larger area of forest has been considered as a high achievement for the forest officials. Interviews with a range of stakeholders revealed that corruption in timber production and trade, in terms of frequency and scale of informal transactions, increased after 1990 and further since 2006. However, the scale of corruption in the forest sector relative to other various sectors is claimed to be diminishing. This is mainly because both the officials' discretionary power and financial transactions in the forest sector have contracted compared to other sectors such as infrastructure development and tax/revenue. For example, forest sector revenue, which constituted about one-third of the total estimated government revenue in the late 1950s (HMG 1956), is negligible at present, while expenditure on infrastructure development has substantially increased.

The pattern of corruption associated with the Tarai forests has changed to adapt to the political context and to the forest management modality. For example, only insiders (such as officials) were engaged in corruption during the Panchayat period, when the government managed the forest by itself. When community involvement came to the fore in dealing with the valuable timber resource, the community elites, usually in the form of politicians, user group office holders or timber traders, became one of the most influential actors. Further, many informal actors such as political parties and criminal gangs (*chundre-mundre)* are also engaged in corrupt practices.

While illegality has always been responsive to different factors, such as anti-corruption activities and the behaviour of the leadership in the bureaucratic hierarchy, regular informal payments, claimed by officials as 'service charges,' have been consistently made. Interviews

with forest officials and traders revealed that the rate of such payments is increasing at least in relation to timber price and probably responding to inflation. However, many forest officials claim that only about 10 per cent of officials are corrupt, and that this small group has debased the whole sector. However, they do not take into account those who regularly receive a 'service charge' from contractors. Interviews with officials and contractors revealed that there is hardly any official who refuses the 'service charge' type of informal payments.

4.7 Conclusion

This chapter presented the context in which corruption is taking place in timber production and trade from the Tarai of Nepal. The scale of corruption in almost all sectors of the country is increasingly perceived to be high. Nepal's political, economic and social-cultural context is supportive of corruption, and both political and bureaucratic corruption has historically existed in Tarai forest governance. The following conclusions can be drawn from the analysis of the context of corruption associated with the timber production and trade from the Tarai of Nepal.

- Corruption in the timber industry of Nepal's Tarai is not an isolated phenomenon, but is a sectoral and local manifestation of the general state of corruption in the country, which has been exacerbated by changing political regimes. The post-1990 political environment, which is mainly characterised by unstable governments, inter- and intra-party intrigues, and patronage networks leading to widespread impunity, has encouraged corruption to flourish. Major institutions involved in forest/timber governance in Nepal – civil servants, the private sector, political parties, and the judiciary – are perceived to be highly corrupt.
- The post-1990 economic context, which features globalisation and liberalisation, and increasing urbanisation and consumerism, has persuaded poorly-paid public officials to reap extra income from illegal means. Similarly, some social-cultural features historically rooted in the Nepali society, such as hierarchy and strong familial ties, are corruption-friendly.
- Historically, the Tarai forests have been well-known for political as well as bureaucratic corruption. Political corruption is more associated with the distribution of forest lands, while bureaucratic corruption is linked with illegal extraction of valuable Sal timber. Illegal logging and encroachment of the Tarai forests are intensified during political chaos in the country.
- Forest management in Nepal's Tarai has been gradually changing from centralised government control to decentralised community-based management. However, the state of corruption has not improved. Instead, it is perceived to have consistently worsened.

The next three chapters offer empirical evidence of corruption in the timber production and trade from two districts in the Tarai of Nepal. They describe the corruption and associated illegal forest activities along the trade chains of timber originating from the government-managed forests (Chapter 5), community forests (Chapter 6), and private forests (Chapter 7).

Chapter 5: Corruption along the Timber Trade Chains from the Government-managed Forests

5.1 Introduction

The Government-managed forests (GFs) are the residual national forests which are not managed under any other management modalities such as community based management or protected areas. The GFs comprise about half of the country's national forests (MFSC 2015), and they cover a large majority of the timber producing forests in the Tarai region. In this chapter I present corruption and associated illegal forest activities (IFAs) along the trade chain of timber originating from the GFs based on case studies from two districts of Nepal's Tarai. The chapter begins with a description of the regulatory framework governing timber resources from the GFs, followed by an overview of formal and informal timber trade chains. Then, I describe in detail the corruption and illegal forest activities taking place at each stage of the timber trade chains. I also give account of the scale of and actors involved in corruption associated with the timber production and trade from the GFs. Lastly, I summarise the findings from the chapter.

5.2 Regulatory framework for timber production and trade from the GFs

The government has introduced a hierarchy of regulatory tools – Acts, Regulations, and Directives – to manage forests and regulate production and trade of forest resources in the country. The *Forest Act 1993*, passed by the parliament, gives broad directions on the management and regulation of all forests in Nepal. The *Forest Regulation 1995*, approved by the Council of Ministers under the authority given by the Act (Section 72), frames rules to enforce the provisions of the Act. Similarly, under the authority given by the Regulations (Section 67), the Ministry of Forests and Soil Conservation (MFSC) introduced several Directives to facilitate enforcing rules and implementing plans and programmes. Table 5-1 presents an overview of the major regulatory tools relevant to regulation of production, sale and distribution of timber from the government-managed forests.

Table 5-1: Major regulatory tools relevant to timber production and trade from government-managed forests

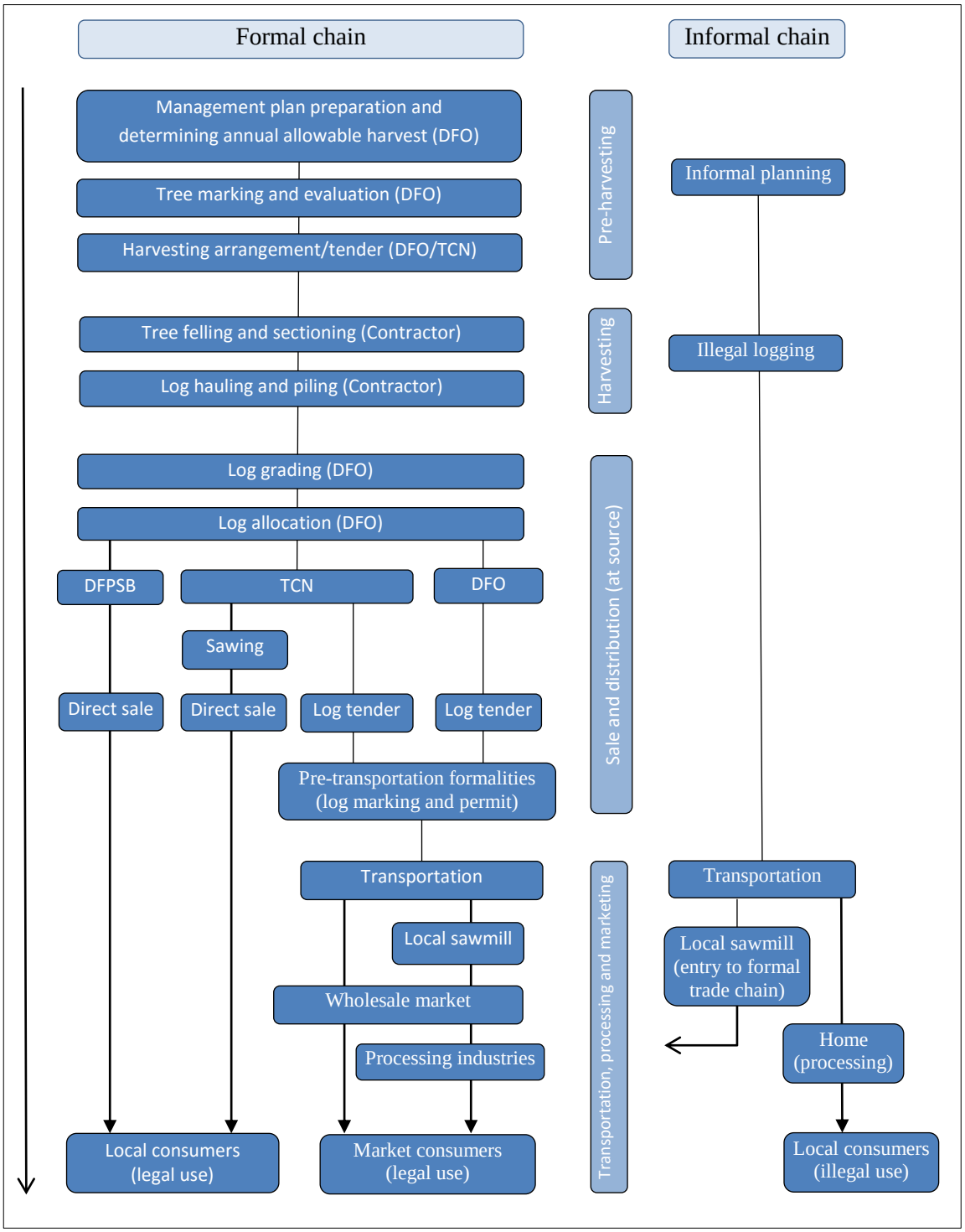
Regulatory tool	Brief description
Forest Act 1993	▪ Chapter 3 (Sections 20-22) prescribes legal provisions for management of the GFs and administration of forest products from them. ▪ Chapter 10 (Sections 46-48) designates unclaimed and stray (*dariyaburdi*) timber from any sources as government property, and prescribes procedures for their handling. ▪ Chapter 11 (Sections 49-54) lists forest offences and prescribes punishment for each offence. ▪ Chapter 12 (Sections 55-66) presents provisions relating to investigation of forest offences.
Forest Regulation 1995	▪ Chapter 2 (Rules 3-23) frames rules relating to management of the GFs and regulation of the forest products from them. ▪ Rule 66 prescribes tender approval authorities for forest products and thresholds of amounts involved. ▪ Annex 2 prescribes royalty of timber, and grading and measurement norms.
Forest Products (Timber/Fuelwood) Collection, Sale and Distribution Directives 2000 (FPCSDD)	It prescribes procedures to be followed during harvesting, sale and distribution, and transportation of timber and fuelwood.
Forest Products Auction Procedural Directives 2003	It prescribes procedures to be followed in selling forest products through auction or sealed tender (for commercial purposes).
District Forest Product Supply Board Directives 2006	It prescribes procedures for sale and distribution of timber to local people for non-commercial purposes.
Bylaw on Operation of Timber/Firewood Collection, Harvesting, Transportation and Piling Management Fund 2007	Formulated under the Financial Administration Regulation, this bylaw sets up a perpetual fund in each District Forest Office (DFO) in the Tarai and inner Tarai districts, and prescribes its operation to manage harvesting of fallen and dead trees, collection of unclaimed and stray timbers, their transportation and piling.

In addition to these forest laws, other laws, such as the *Financial Procedure Act 1999* and *Regulation 2007*, and the *Public Procurement Act 2007* and *Regulation 2007*, are relevant at particular stages of the timber trade chains. Similarly, ministerial and departmental decisions have been made time and again to regulate timber production and trade. At the local level, the District Forest Management Plan (DFMP) guides timber production and sale particularly through prescribing the annual allowable harvest (AAH). All these regulatory tools aim at defining legal and illegal forest activities, controlling illegal activities, and checking arbitrary decision-making by the power holders. However, during my research I found that corruption is occurring in the making, the enforcement and implementation of these tools, often resulting in socially undesirable and/or illegal outcomes.

5.3 Formal and informal timber trade chains from the GFs

The *Forest Act 1993* prohibits harvesting, transportation, sale and utilisation of timber from the government-managed forests (GFs) without a permit issued from the designated authority. The regulation and directives prescribe a lengthy official procedure to obtain permits. The timber trade chains from the GFs in the two study districts can be broadly classified into two groups, formal and informal (Figure 5-1), based on whether or not harvesting enters into the official process. The formal trade chains follow the prescribed formalities from the beginning. The timber from the formal channel reaches consumers passing through lengthy official processes of legality verification at various stages, although illegality is often embedded within the formal process itself. Thus, the formal channels supply 'legal' and 'legalised' timber to the formal market. The informal trade chains involve entirely illegal harvesting, although the timber may be legalised at some stages of the trade chain. The informal chains end with supplying illegally sourced timber either to the formal trade chains, where it is legalised and formally marketed, or directly to the consumers outside of the legalisation.

Figure 5-1: Formal and informal trade chains of timber from the government-managed forests



Abbreviations: DFO = District Forest Office; DFPSB = District Forest Product Supply Board; TCN = Timber Corporation of Nepal

The formal timber trade chains from the GFs comprise four major stages: pre-harvesting; harvesting; sale and distribution (at source); and transportation, processing and marketing. The government agencies, mainly the District Forest Office (DFO) and the Timber Corporation of Nepal (TCN), undertake various formalities during pre-harvesting preparations. The private

sector, under contractual arrangements with the government, is involved in harvesting operations. Once the harvesting operation is completed and logs are piled at the designated site, the DFO arranges their distribution and sale through different mechanisms, including sealed tender. Finally, the auctioned timber, which is bought by the contractors/traders, is transported, processed, and marketed, especially in the big cities.

In the case of informal trade chains, the illegal loggers informally prepare plans for harvesting either by themselves or in collusion with local forest officials. They illegally harvest and transport timber from the forests to sawmills or their homes. The timber reaching sawmills enters into the formal trade chain, as it is legalised in the process of sawing; while that reaching homes is illegally processed, and used or marketed locally. In many instances, locally formed community groups, such as Forest Protection Committees or the 'proposed' Community Forest User Groups (CFUGs)[35], informally sell timber to local people at cheaper prices, usually much lower than the royalty rates.

Interviews with a range of stakeholders from both study districts revealed that the informal harvesting and trade of timber from the GFs is more persistent in the remote areas. Similarly, the degree of illegality in the formal trade chains is significantly higher for timber from remote forests compared to that from more accessible forests. Both formal and informal trade chains involve corruption, mainly in the form of informal payments; however, this is more prevalent in the formal chains compared to the informal ones.

5.4 Corruption and illegal forest activities along the formal timber trade chains from the GFs

Each of the four stages of timber trade chains from the GFs involves a number of prescribed procedures to be followed by different actors. The procedures include a series of legality verification measures. However, deviation from the prescribed procedures, with or without corrupt intention, is common in almost all stages. Conversely, corruption, with or without involving illegal activities and deviation from the prescribed procedures, is also common. Below, I describe the prescribed trade chain processes at each stage, deviations from these prescriptions, the IFAs involved, and corrupt practices taking place within each process.

[35] A 'proposed' CFUG is a CFUG whose statute has been approved and registered by the DFO, but approval of the work plan and handover of the forest as a community forest are yet to take place. Unless the work plan has been approved and the proposed area of community forest is handed over to the CFUG, the forest remains a government-managed forest.

5.4.1 Pre-harvesting stage

5.4.1.1 Management plan preparation and determining annual allowable harvest

The *Forest Act 1993* and the *Regulation 1995* mandate the Department of Forests (DoF) to prepare management plans for the GFs throughout the country; these plans need to be approved by the Ministry of Forests and Soil Conservation (MFSC). They designate District Forest Officers (dfos) to implement the plans in the respective districts, and the Regional Forest Directors (rfds) to monitor the plans' implementation in the districts under their jurisdiction[36]. The management plans prescribe, among other features, the annual allowable harvests (AAHs) of timber from the GFs.

Pertaining to the decision made by the DoF, the DFOs themselves have prepared District Forest Management Plans (DFMPs), and implemented them after approval from the DoF. The plans include the prescribed AAHs of timber for five years from the entire GFs in the respective districts. In study district A, it is written in the DFMP that the AAH has been estimated based on 'production statistics of the last years', but the figures show that the proposed AAH is more than double that of the average production of timber in the last five years, and no justification is given for this increment. Similarly, the AAH estimated by the current DFMP of district B is based on the data and assumptions used in the forest management plan of the district in the early 1990s; the AAH is nearly 50% more than the average annual production of timber in the last five-year plan period. This indicates a general tendency of forest officials to increase AAH of timber during the preparation of the plan. Although there is a plan review and approval process that is supposed to check for errors and misdoings, this process is in practice no more than an administrative formality. According to a DoF official (F-O-27), there is a lack of defined guidelines for review; whether the AAH is 'too high' compared to the quantities of timber harvested in the last few years is generally checked, but the threshold for concern is not defined.

5.4.1.2 Tree marking and evaluation

In every fiscal year, the DFO determines forest plots to be harvested, based on reports on the estimated volume of timber from *dhalapada* (fallen) trees[37] from the Range Posts and the AFO.

[36] There are 75 districts and five administrative regions (or development regions) in Nepal. Between 9 and 19 District Forest Offices are under the jurisdiction of a Regional Forest Directorate.

[37] The Council of Ministers decided 'not to harvest live trees for five years' in 2000. In 2001, the MFSC restricted 'harvesting, transportation and export' of seven tree species including *Sal* and *Khair* for 'commercial purpose' (*Nepal Gazette*, Chapter 51, Number 36, Section 3, dated 31/12/2001). Although the notice itself and the DoF (letter to DFOs dated 8/1/2002) clarify that the restriction does not hamper harvesting of any trees according to an approved work plan, the DFOs have been formally harvesting only *dhalapada* (fallen) trees from the GFs.

Thus, a harvesting plot is a large area of forest, from which a considerable number of fallen trees can be harvested. Once the plots are delineated, the trees to be harvested are marked. The details of marked trees – marking serial number, species, tree condition class, and diameter at breast height (DBH) – are recorded, and gross volume is estimated. The FPCSDD authorises a Ranger or a higher level official (that is, the officer-in-charge of the Range Post) to carry out this job, and prescribes three layers of monitoring for this activity. An officer in a higher position than the marking official (that is, the afo) is responsible for closely monitoring the activity, while the dfo and rfd need to check a sample of at least 10% and 5% of the marked trees, respectively, to see whether marking and evaluation are correct.

In practice, tree marking and evaluation are commonly done by forest guards from the Range Posts or the field-based officials of the Timber Corporation of Nepal (TCN). The officer-in-charge of the Range Post estimates volume based on their evaluation, and signs the report as if s/he has done the marking and evaluation themselves. The afo from the Area Forest Office generally assigns their sub-ordinates (at least Ranger level) to monitor the work, and these mostly satisfy the formalities rather than carry out the prescribed duties. Higher-level monitoring officers – the dfo and rfd – rarely enter the forests to check that marking and evaluation are accurate, but they mark the records of 10 % and 5% of the trees, respectively, as if they had monitored those, in the marking and evaluation sheet forwarded by the Range Post. During a small group discussion in district A, field-level officials suggested that the RFD officials sometimes go into the field for monitoring, especially in cases where there is a chance of *paisa jharne* (literally 'where money drops'). Similarly, during an interview, a dfo (F-A-6) introduced the term 'money-touring' to indicate how higher authorities including the RFD conduct 'monitoring' of activities in the field. As revealed by a forest officer (F-O-4), the expected contractor, in many instances, goes into the forest together with the officials, and makes informal payments to them. However, as suggested by most officials interviewed, trees other than *dhalapada* are not marked, but volume is sometimes underestimated with an intention to formalise additional harvesting.

5.4.1.3 Harvesting arrangements (tender)

Once tree marking and evaluation are completed, the harvesting agency and the mechanism are defined. It is at the dfo's discretion to decide whether to contract out harvesting operations by the DFO itself or to handover the job, as a whole or in part, to other agencies, such as the TCN. The dfos in both study districts have handed over the harvesting job to the TCN for the last few years. As revealed by the TCN and DoF officials during interviews, whether and how much area is handed over to the TCN largely depends on the 'relationship' between the chiefs of the TCN branch and the DFO, or the extent to which the TCN chief can carry out

chakari (sycophancy) to the dfo and 'make her/him happy'. Although the FPCSDD has the provision to contract out the harvesting job 'as much as possible', there have been some instances in the past when the DFOs have done it by themselves (through *amanant*) with the intention of deriving personal benefit.

By law, the TCN can carry out harvesting operations by itself or by contracting out to the private sector. In both districts, the job has been contracted out to the private sector. A sealed tender process has been adopted to select the contractor bidding the lowest rate of harvesting per cubic foot of timber in each plot. However, the tender process has become merely a formality. Contractors form a cartel; the Forest Products Entrepreneurs' Association (FPEA) informally allocates harvesting plots to the interested contractors, and the rate of harvesting operation (per cubic foot of timber) tends to be the maximum, as determined by the District Wages and Rate Devising Committee. For example, the FPEA chairperson of district A (T-A-1) revealed that, in 2012/13, the FPEA proportionately allocated harvesting plots to the interested contractors, generally considering accessibility (*payak parne*) for all, and they bid for the tender in such as a way that the approved harvesting cost per cubic foot of timber was about NRs. 74.50, while NRs. 75 was the maximum.

In most cases, contractors have to incur harvesting costs in advance (*udharo*), and this cost is reimbursed only when the harvested timber is tendered. Officials revealed that this is due to lack of budgeted funds for harvesting operations. During interviews, contractors revealed that they have to make informal payments to the TCN either before the tender is approved, at a standard rate per cubic foot of the timber to be harvested, or this is due to be paid later. The FPEA negotiates with officials and fixes the standard rate for such payment. Most of the contractors interviewed advised that the harvesting contract is not very profitable; however, they choose to bid because the involvement in harvesting increases their chances of obtaining timber later when it is tendered.

5.4.2 Harvesting

5.4.2.1 Felling, sectioning and measurements

Once the tender is approved by the TCN, the dfo grants a harvesting permit for a specified plot to a tender-winning contractor. The time-span allowed for a harvesting operation is specified in the contract/permit, which may be between mid-October and end-May of the year, designed to avoid the rainy season. Similarly, a piling (*ghatgaddi*) site for the timber harvested from each plot is designated while issuing a harvesting permit. According to the FPCSDD, the log piling site should be a 'safe place as far out of the forest as possible'. However, the contractors and corrupt officials intend to keep piling sites inside or near the forests. During

my field survey in district B, I observed that logs from most plots were piled in the premises of the Area Forest Offices (AFOs), which were along the highway. The dfo (F-B-6) revealed that it was the first time all logs were piled in such open public places, and he had had 'a big fight' with contractors to break the tradition of piling logs inside or near the forests. Contractors prefer piling sites to be inside or near the forests to allow them to commit the fraud anticipated in the later stages (as discussed in 5.4.2.2).

There is a multi-layered monitoring mechanism of, and variety of tools to check illegality during, harvesting operations, that is, felling and sectioning. The DFO is mandated to deploy a 'sufficient' number of staff during harvesting operations at all times. Forest officials need to maintain harvesting registers with details of logs; these details must be linked to the marking and evaluation report. At the same time, each log is marked with a tree number (identical to tree marking), log number (serial number given to logs produced from a tree) and log dimensions (girth and length) to facilitate monitoring and verification in the subsequent stages of the trade chain. Similarly, a harvesting report is prepared with details of logs produced from a plot at the end of harvesting. The afo (from the AFO) and the dfo (or an official assigned by her/him) are mandated to inspect samples of at least 25% and 10%, respectively, of the trees harvested, to check whether they match with the marked trees and everything is legal. The dfo her/himself is mandated to check harvesting operations from time to time paying 'special attention' to sectioning.

Interviews with officials and contractors revealed that the harvesting operations are rarely regulated as prescribed. The operation in the forest continues well beyond the given timeframe but the paperwork is prepared as if it was done within the timeframe, and sometimes the dfo adds time without 'reasonable justification' although this is required. The delays are mostly due to negligence; however, they are corruptly intended in some cases as extra harvesting and concealing of logs would be easy in the rainy season and around the end of the fiscal year (mid-July), when the monitoring officials are too busy to go into the field.

Similarly, forest officials are not present in the harvesting plot at all times but visit from time to time. During one interview, a TCN field official in district B (F-B-12) advised that the TCN staff accomplish almost all activities in the field, including measurements, record keeping (log account), and writing on logs. This information was consistent with that from contractors and many other officials from the TCN as well as the DFO. When I asked him 'then, what do forest officials do?' he replied with a smile, 'signing the papers'. Moreover, another TCN official said:

> "…it is usually the contractor's labourers who take measurements in the field. We [the TCN] have deployed daily wage staff, who are less experienced than the labourers. They cannot stop contractors from misdoings, such as under-measurement and fraud in sectioning" (F-K-14).

During their interviews, many forest officials, including officers-in-charge of the Range Posts and higher level monitoring officials, accepted that they do not follow the prescribed procedures, and justify this on the basis of lack of time and resources. Comparing information on the two districts, this seems partly true as forest officials' presence in harvesting plots and their involvement in the prescribed procedures were more intensive in district A, where annual timber harvesting is far less than that in district B but the number of staff is similar. However, a range of stakeholders interviewed advised that this is mainly due to negligence. They also suggested that, in case they have had secret dealings with contractors, they avoid monitoring so as not to put themselves in a position that could be 'embarrassing'.

A range of illegal activities takes place during harvesting and sectioning. Unmarked trees of good quality, generally in addition to and sometimes instead of marked trees of poor quality, are harvested. According to officials and contractors, this practice was most common when green trees were felled. Sectioning good logs into short pieces to include them with fuelwood (up to 2 feet long pieces are defined as fuelwood, which is significantly cheaper than timber) is also a long-standing practice in both districts. Interviews with contractors and officials in district A revealed that this practice, which was common until a few years ago, stopped when fuelwood was not tendered but supplied directly through the District Forest Products Supply Board (DFPSB) for non-commercial purposes. The norms for log length measurement, for which less than 4 inches (less than 6 inches until 2011) is rounded down to zero, is abused when sectioning. During my field survey, I observed large piles of about 2.5 feet long pieces of sawn-wood in a sawmill in district B. When I inquired, it was revealed that the sawmill owner, who also owned a brick factory, had extracted this sawn-wood from the 'fuelwood' he had bought for the brick factory. Contractors advise that wood of this size can be used for a variety of purposes, and they are as valuable as long-sized timber. Interviews with contractors and officials also indicated that abuse of this norm was common during sectioning of *Khair (Acacia species)* timber, because specific length is not as important for this (it is used to extract katha and cutch) as for other species producing construction timber.

Under-measurement of logs is also a common phenomenon. However, interviews with officials and contractors revealed that this practice has been reduced, similar to other illegal activities, since 2010 due to the fear of being caught by investigations. Yet, systematic under-measurement of the logs' girth (by 1-2 inches) was found in one of the three piling sites in district B, from where small samples of logs were measured during fieldwork. When I asked the officer-in-charge of the local Range Post (F-B-18) about this, he advised that it was done to account for the amount of shrinkage due to sapwood decay, although no procedural rules include such a provision. Similarly, during observation of a piling site in the same district, I

found the girth over-written on all logs. The corrected version of the girth was 2-3 inches (3 inches for most) higher for all of them. During my inquiry, the person in-charge of the TCN camp (F-B-14) informed me that those logs had been systematically under-measured in the plot, but he had re-checked and corrected them once they reached the piling site. Revealing under-measurement as one of the most common and long-existing illegal forest activities, he remarked:

> "…you can clearly see what happens, and it is not re-checked always and elsewhere, and of course it is not that easy too. While 2-3 inches [in girth] are reduced now, when they are piled near a highway in everyone's eyesight, the [High Level] Investigation Commission recently recommended punishments for many officials, and also there is widespread fear from *Akhtiyar*[38] [the Commission on Investigation of Abuse of Authority – CIAA], you can imagine what would happen before [2010]" (F-B-14).

The official (F-B-14) further claimed that in the past he frequently witnessed timber lots in which logs were systematically under-measured by 9-10 inches in girth. In line with this, many officials and contractors advised that officials had signed the log-account reports prepared by the contractors without even visiting the harvesting plots and piling sites (which were inside or near forests) during the civil war. An official (F-O-4) also revealed that some officials even practise fraud in volume calculation (multiplication and summation) while preparing reports. He further advised that such fraud is less risky because it is rarely detected in a hand-written report on a large number of logs, and even where it is detected they can excuse it as human error.

Interviews with officials and contractors revealed that a number of informal transactions, in cash and kind, take place during harvesting operations no matter whether any illegal activities take place or not. The contractors have to pay tour and daily allowances (TADA) at a standard rate to each of the officials visiting the harvesting plots, including junior officials (generally two to each plot) deployed regularly. In many cases, they also make such payments to the office holders of the 'proposed' community forest user groups, who monitor the plot during harvesting operations. Similarly, officials repeatedly charge small payments in the name of stationery expenses and fuel. In addition to these 'basic' payments, extra payments are made for each of the illegal activities, based on expected net benefits from those activities. For example, *margin khane* (taking informal payments for under-measurement considering the difference between the actual and reported volume of timber) is a long-existing practice. Further, contractors offering *darupani* or *khanpin* (food with alcoholic drinks) to forest officials has been a long tradition, and frequently takes place during the harvesting period.

[38] Commission on Investigation of Abuse of Authority (CIAA), the apex anti-corruption agency, is commonly called *Akhtiyar*, which is the first word in its Nepali name – *Akhtiyar Durupayog Anusandhan Ayog.*

5.4.2.2 The hauling and piling

Considering the possibility of theft while transporting logs from harvesting plot to the piling site, the FPCSDD has prescribed various checks and verification measures. Forest officials place a hammer-mark *('ja' tancha)* on each log before hauling. A departure notice (*ramana purji*), with details of logs being hauled by each carrier (truck/tractor), is given to the driver at source. Every time a carrier reaches the piling site, whether the logs match with the details on the departure notice is verified and recorded in the piling register. Finally, a piling report is prepared with details of logs in the piling site, which need to match the harvesting report, and with the sum of all departure notices. Forest officials and the representatives of contractors are responsible for all these activities; all of them need to sign every account including departure notice, piling register, and piling report. An officer from the AFO, the dfo and the rfd are mandated to check at least 25%, 10% and 5% of logs in the piling site, respectively, to verify their legality and accuracy.

Interviews with officials and contractors revealed that the prescribed procedures are usually not followed at all, but all the formalities are fulfilled on paper. The officer-in-charge of the Range Post usually marks logs once they reach the piling site. All the accounts – departure notices, piling register, and piling report – are prepared at the office or home based on the harvesting report. During a group discussion in district A, some forest officials revealed that they first prepare the piling register, copying the log details from the harvesting report, and then prepare departure notices assuming the number of logs a tractor could carry in a trip. The monitoring officials rarely check logs at the piling sites as prescribed.

Logs are stolen in a number of ways at this stage. Unaccounted logs are concealed near the piling site so that they can be marked during *bimarka* (marking as sold) of legal logs before transportation. Interviews with officials and contractors in district B suggest that this practice was widespread during the civil war and continued until 2010 when the government paused timber trading to investigate uncontrolled felling throughout the country. This practice usually involves large scale timber theft. Stealing small quantities of logs by individuals also takes place during hauling. During my field survey in district A, when I inquired about few logs covered with hay in the backyard of a house near the piling site, it was revealed that the logs were offered by the labourer *naike* (head) for food, including alcohol and chickens. Interviews with officials and contractors also suggest that the officials and contractors occasionally give a small quantity of timber to their relatives or aides.

Apart from standard payments as TADA to monitors, other basic informal payments at this stage include a small payment to junior officials as *tancha puja* (worshipping the marking

hammer), occasional small payments to Range Post and AFO officials for stationery and fuel, and a standard rate of payment per tree harvested to the TCN. The officials suggested that the rate of informal payments for legalising illegal timber is determined through negotiation between officials and contractors.

5.4.3 Log sale and distribution (at source)

5.4.3.1 Log grading, lot making, and allocation to different institutions

Three institutions – the DFO, the District Forest Products Supply Board (DFPSB), and the TCN – are able to sell/distribute timber from the GFs. The law gives discretionary power to the dfo to allocate timber to these institutions. By rule, the DFPSB and the TCN are allocated forest plots to harvest specified quantities of timber, and sell them as prescribed. However, in practice, no separate plots are allocated to them, but the TCN harvests from all plots throughout the districts and the logs produced are shared among the three.

After harvesting operation is completed, logs at a piling site are graded to classify them into different quality classes (two to three grades depending on species), based primarily on the estimated proportion of sawn-timber production. Then, those below 4 feet girth are first separated from the piles, and officially allocated to the DFPSB. The rest are piled randomly in separate lots, each making around 1,000 cubic foot, in general. In both study districts, these lots are officially allocated to the DFO and the TCN in such a way that the quantity of timber is more or less equal for both. However, as suggested by many officials from the DoF and the TCN, the timber sharing between the DFO and the TCN has long been based on informal relationships due to the lack of laws guiding this. The chief of a TCN Branch remarked:

> "…the equal sharing of timber between the DFO and the TCN is based on an ad-hoc decision made by the government long ago. In fact, how much timber the TCN gets relies on the dfo's *tajbij* (discretion). The DFO staff have a mindset that the forests are theirs, therefore the more the TCN chief can make the dfo happy (*rijhauna*), the more the TCN gets timber" (F-A-10).

During the field survey, I observed no malpractices in log grading. However, some officials and contractors suggested that manipulations, both under-grading and above-grading, take place during this process. Since the royalty on differently graded logs varies significantly, for example NRs. 800, 500, and 300 per cubic foot of *Sal* logs graded as A, B and C, respectively[39], under-grading will reduce the price. In contrast, contractors sometimes intend to have the logs above-graded (that is, grading logs of potentially lower grade as higher) to help legalise the illegally sourced timber through manipulation of stock at sawmills. During an interview, a TCN official (F-B-14) recalled a recent phenomenon in which a contractor, who was bidding for a log

[39] The *Forest Regulation 1995*, Annex 2, as amended in 2011 (*Nepal Gazette*, Part 61, Number 8, dated 06/06/2011)

tender, had blamed officials for marking potentially higher graded logs as being of lower grades.

Interviews with officials and contractors also revealed that collusion took place in lot making before grading norms were introduced in 2011. Instead of mixing logs of all qualities (grades) proportionately in each lot as prescribed, officials made up some lots with best quality (higher grades) logs to favour particular contractors.

5.4.3.2 Sale/distribution by different institutions

Subsidized sale by the DFPSB

The DFPSBs, which are chaired by the dfos themselves, sell timber either at royalty rates or at further-subsidised prices within the districts for non-commercial purposes, for example for household use and use in participatory development activities. A service fee, based on per unit of timber, is charged separately. The *District Forest Products Supply Board (procedure) directive 2007* outlines the maximum quantity of timber to be sold or distributed for a particular purpose. For example, round wood not exceeding 140 and 70 cubic foot for a *pakki* (concrete) and a *kacchi* (non-concrete) house, respectively, 30 cubic foot for house maintenance, and 280 cubic foot for a development project (as per technical specification) are sold at the royalty rate, excluding harvesting costs. Similarly, in the case of a natural catastrophe, up to 30 cubic foot of round wood is given to a household at prices reduced by 90% of the royalty rate. The applicant needs to submit evidence of the proposed activities, such as an approved building plan and recommendation letter from the local authorities in the case of house building, and an approved work estimate for development projects, along with a letter requesting timber from the DFPSB. Timber acquired from the DFPSB is prohibited from being used for purposes other than that for which it was acquired, or to be transported out of the district concerned.

Since the prices of timber from the DFPSB are significantly cheaper than market prices, there are long queues of requests from the public for timber supplied by the DFPSB in both districts. However, these queues are frequently jumped. Interviews with officials and sawmill owners in district A revealed it is common practice for politicians and forest officials to buy subsidised timber from the DFPSB and then to sell it to a sawmill for profit. Politicians prepare many applications with the necessary documents in the names of villagers; influence decision making of the DFPSB, frequently in collusion with forest officials; and acquire large volumes of timber for themselves. Similarly, there are some junior officials (local residents) who apply for and acquire timber for house construction almost every year or at least once in a dfo's tenure, which is around two years. Various stakeholders in district A advised that corruption is more prevalent in the DFPSB timber chain than in any other institution. However, interviews with

different stakeholders and observation of the office records in district B suggest that abuse of subsidised timber from the DFPSB is minimal in this district, mainly because the DFO has introduced locally some additional measures to detect fraud (to be discussed in detail in Chapter 8).

Interviews with officials in district A revealed that the fraudulent recipients of DFPSB timber, mainly local politicians, share their profits with the officials and their cadres. The rate of sharing for the officials is negotiated before the decision to offer timber to them is made. During an interview, a CFUG chairperson and an ex-FECOFUN leader claimed:

> "…it is the Supply Board [DFPSB] that nurtures not only politicians but also *chulthe-mundre* in the [district] headquarters" (C-A-3).

Sawn-timber sale (fixed-price) by the TCN

From the logs allocated to the TCN, some are sawn (in its own sawmills or hired ones) and sold for non-commercial uses. The prices are fixed annually by the TCN Executive Committee (central level) considering operational and overhead costs in addition to the royalty rates, and these prices are usually lower than the market prices. Documentation similar to the DFPSB, such as a recommendation letter from the local authorities and building plans, is required to buy timber from the TCN.

Malpractices while acquiring timber from the TCN also take place as for the case of timber from the DFPSB. Interviews with officials and traders revealed that contractors acquire sawn timber from the TCN, submitting fraudulent documents in the names of many people. During my field survey, I observed a few contractors in a TCN branch office with many applications (with necessary documents) in their hands. When I asked the chief of the office (F-A-10) about it, he advised that they had collected applications and come to the office on behalf of other people. He also advised that he was aware they were contractors, and that they might be committing fraud, but he had been allowing people to submit 4-6 applications for 'practical reasons'. Interviews with forest officials and contractors revealed that this is being practised in collusion between the contractors and the TCN officials. Concealing timber through under-accounting, such as using a faulty log-sawn ratio, is also practised. Commission is taken by the TCN officials when the timber is sold to contractors. The rate of commission is based on the profit margin, which is large because the price of sawn timber sold by the TCN is almost half of that in the market.

Log tender/auction by the DFO and the TCN

The logs owned by the TCN (those remaining after allocation for sawing) and the DFO are sold through sealed tender processes of their own. Tender notices are published in the national newspapers with details of the timber lots and their minimum prices. The royalty rates are the

minimum prices for the logs tendered by the DFO, while they are higher for timber tendered by the TCN due to the addition of its overhead costs as decided by the executive committee. Any firms that are registered to carry on a timber business, and having a Permanent Account Number (PAN) or Income Tax registration certificate and Value Added Tax (VAT) registration certificate, can bid for the tender. The tender is valid for one lot, providing there are at least two tenders bidding for it. In case of the DFO's tender, the dfo is authorised to approve tenders up to NRs. 500,000, while s/he has to forward tender documents, with a recommendation, to the DoF if it is above this threshold. Tenders up to NRs. 2,500,000 are approved by the Director General (DG) of the DoF, and the Secretary of the MFSC approves it when they are above this threshold. In the case of the TCN tender, all tenders should be forwarded to the central office for approval. The AFOs sell small lots of timber – below 200 cubic foot – including stray timber, through direct auction (*dank badhabadh*).

Various IFAs take place during timber auction processes, and they are intended to minimise timber prices. Interviews with officials and contractors suggest that the auctions usually end up being formalities, and the price of timber remains the minimum. The contractors' syndicate – the Forest Products Entrepreneurs Association (FPEA) – arranges negotiations among contractors and officials. Generally, three tender forms are registered for each lot as a formality. Once the tender is approved, the FPEA allocates logs to contractors, generally through negotiation. In general, the contractors who were involved in harvesting are allocated the same lots. In some instances, an informal auction process among the interested contractors takes place after the tenders are approved in the name of some of the FPEA members. For example, in a DFO's tender in district A in 2013/14, a total of 93 contractors from five neighbouring districts came to bid for the tender. The FPEAs of all districts negotiated among those contractors, and finally reached to a consensus that they would not compete in tenders in any of these districts. The FPEA of district A negotiated with the dfo about the rate of informal payments, and it submitted tender forms in the name of some of its members, keeping prices a few rupees above the TCN-minimum[40]. Once the tenders were approved, the FPEA organised an 'internal tender' among those 93 contractors. The contractors bid up to prices nearly double that of the official tender. Of the net profit from the 'internal tender', after deducting the official tender prices to be paid to the DFO and the informal payments already made by the FPEA during the tender approval, one-fifth was kept back by the FPEA, and the rest was shared among those contractors who did not win the

[40] The DFO's minimum prices for timber specified on the tender notice are based on the royalty rates. However, since May 2012, when the government decided to equalise the prices of timber sold from different agencies, the DFOs are making contractors aware that tenders less than the TCN's minimum prices would not be approved. The TCN's prices are higher than the royalty rates, for example, NRs. 1397 per cubic foot of grade-A *Sal* logs while the royalty rates for those are NRs. 800.

tender and the *dons/chulthe-mundre*[41]. A contractor (T-A-2) revealed that many of those 93 contractors were pseudo-contractors, who had pretended to buy timber, but in fact they were seeking opportunities (*chyankhe thapne*) for *chhyakan*[42]. During interviews, some contractors who took part in this process suggested that the same process would be adopted in both the DFO and the TCN tenders in all five neighbouring districts.

The *dons*, who extort a large amount of money from contractors, play a vital role in forming a cartel in the district, and also in excluding contractors from outside the district. According to contractors interviewed, the *dons*' interest is in reducing the stumpage price of timber and favouring the local contractors, so that they can maximise the amount of informal payments they receive. It is almost impossible for outsiders to bid for tenders due to fear of the *dons*. During interviews, officials and contractors revealed that although one can buy and submit tender forms for any district in the DoF, the *chulthe-mundres* are found on the door of the DoF to threaten contractors from outside the district in order to deter them from taking part in the tender. During interviews and group discussions, I was also told that tender notices are concealed by contractors in collusion with officials and journalists using various techniques. For example, until a few years ago, notices were published in the local newspaper, but they were concealed by publishing limited copies or buying all except a few copies to distribute to forest offices for formalities, or publishing a notice in the middle page and 'missing' it during distribution.

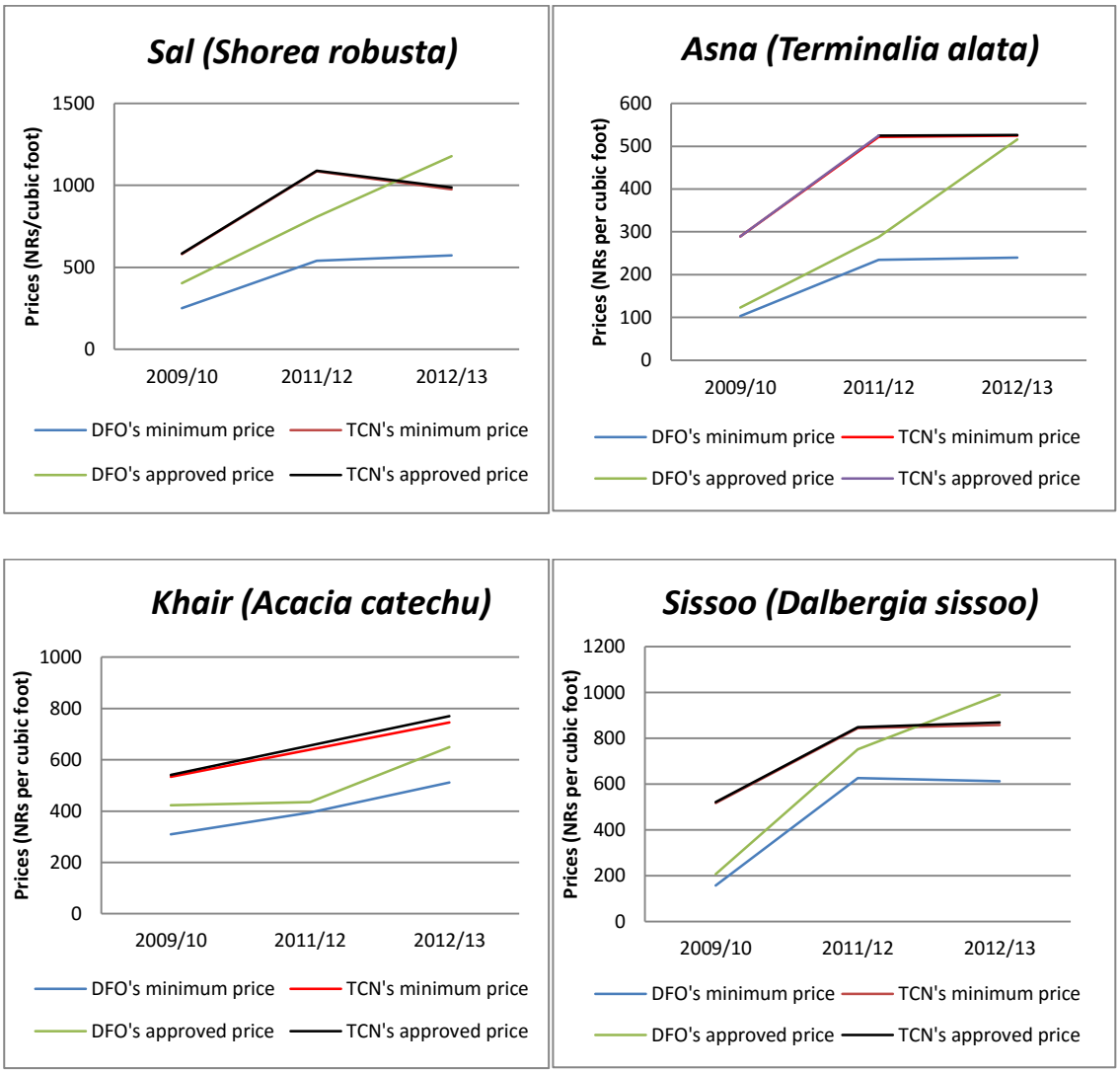
Various sources suggest that bidding from outsiders sometimes takes place in district A, while it rarely happens in district B. During an interview, the FPEA chairperson of district A remarked:

> "…we cannot bid for tender in many regions [including district B and the adjoining district which he named]. The *dons* do not allow us to pick-up timber even in case we bid and have won a tender. In some districts, if a contractor outside the region wins the tender, s/he has to pay an extra amount of NRs. 200 per cubic foot to the contractor who harvested it. …in our district, there is often competition over tender because it is close to the main timber markets, and we have not asked for extra payments" (T-A-1).

Figure 5-2 presents an analysis of price for the four main species of timber tendered by the DFO and the TCN in district B in the last three years for which comparable data are available.

[41] The slang term *chulthe-mundre* refers to a member of a criminal gang, and *don* refers to the leader of the *chulthe-mundres*.
[42] *Chhyakan* refers to the cash that is given by a tender-winning contractor to a rival contractor for withdrawing his/her bid from the tender process.

Figure 5-2: Average tender prices of logs of major four species in district B

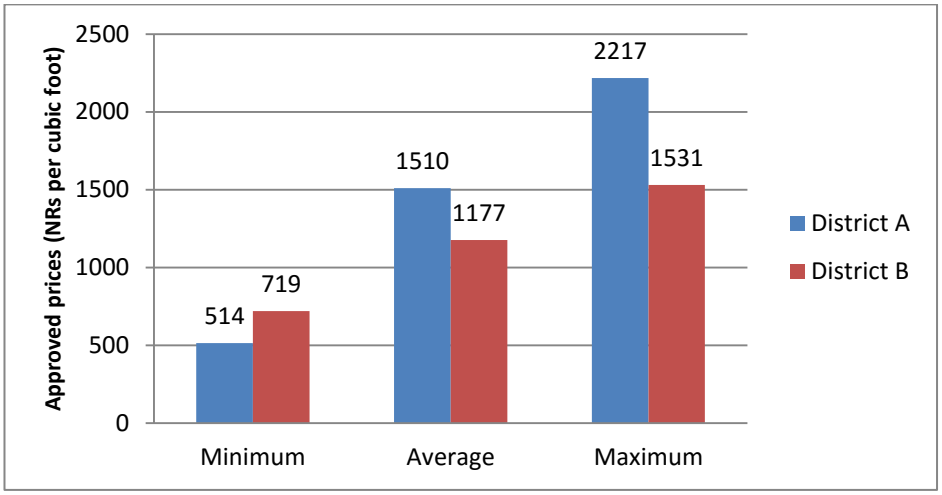


Notes: 1. Fiscal Year 2010/11 was excluded since there were very few transactions due to government restriction, 2. Transactions in which more than one product or species were combined for pricing were excluded from the analysis, and 3. Among hundreds of transactions in these three years, only one transaction (of *Sissoo*) was found to have had competition in tender, and was excluded as an outlier.

The average approved tender prices of the TCN-tendered logs, which were higher than the minimum prices only by very small amounts, clearly suggest that there was *milemato* (collusion) among the contractors, as suggested in the interviews. In the case of the DFO-tendered logs, the difference between the minimum and approved prices seems larger compared to that of the TCN, but the approved prices are significantly lower than those of the TCN in 2009/10 and 2011/12. As officials and contractors revealed during interviews, negotiations among officials and the members of the contractors' syndicate – the FPEA – take place in this process, and they keep the prices as low as possible. The government decided in May 2012 to equalise minimum prices of timber sold from different agencies. This decision resulted in a substantial increase in the approved prices of the DFO's timber in 2012/13.

Interviews and group discussions with officials and contractors suggested that collusion in tender is a systemic phenomenon, so that competition rarely takes place in district B, while collusion and competition take place in different instances in district A. Record keeping of timber sales was found to be poor in district A, and therefore it was not possible to analyse tender prices as done for district B. However, the available data on the DFO's tenders in both districts illustrate that collusion is a regular practice in district B, while competition took place in district A many times (Figure 5-3).

Figure 5-3: Approved prices of the DFO-tendered *Sal* timber in the study districts (FY 2012/13)



Source: Office records from the DFOs

As shown in Figure 5-3, in district A, the average approved price (NRs. 1,510) itself is above the potential highest minimum price, which is the TCN's minimum price for Grade-A *Sal* logs. Similarly, the maximum price approved (NRs. 2,217) is much higher than the average. Both cases suggest that many transactions had competition in tender. From the timber transaction data and interviews with contractors and officials, it can be assumed that about half of the total timber was sold through competitive tender. In contrast, the average (far less than the potentially highest price) and maximum (slightly above the potentially highest price) approved prices of *Sal* timber in district B suggest that competition rarely took place among contractors in tenders for *Sal* logs.

In the case of small timber lots (below 200 cubic foot), specifically stray timber, for which no sealed tender but direct auction (*dank badhabadh*) is required, competition often does not take place. In general, such timber is sold at prices a few rupees above the royalty rates through secret negotiations between officials and contractors, and documents are prepared so as to fulfil auction formalities.

During the tender processes, contractors have to make informal payments, generally cubic foot based, to the tender approving authorities – the DoF or the TCN Centre – before tender approval. As revealed by contractors in both study districts, the FPEAs negotiate and pay the amount to the officials and that is reimbursed later by the contractors. In cases where there is *milemato* (collusion) in tendering, the FPEA and the DFO or the TCN Branch will have negotiated the rates of informal payments at the district level before the latter forwards the tender files with the 'advice note' to the DoF or the TCN Centre. The amount of payment depends mainly on the tender price, which is directly related to whether competition took place during the tender. Similarly, the tender-winning contractors have to make payments to *dons* and pseudo-contractors, as explained earlier in this section.

5.4.3.3 Log marking (bimarka) and pre-transportation formalities

Once the tender-winning contractor deposits the amount of money, the DFO has to mark every log (*bimarka* - hammer marking) as it is sold. Then, a transportation permit (*chhodpurji*), with details of logs and legality verifying documents, is issued for transporting logs from the piling site to the place the contractor requests. The logs are loaded in carriers (trucks) in the presence of an official, and the loaded trucks are sealed by a DFO official (at least Ranger level) before they are given a departure note *(chalani)* with details of the logs in the truck. The trucks can depart once the local forest official certifies the legality of the logs (doing *darpith*) on the back of the original copy of the transportation permit.

At this stage, the unrecorded logs piled near the piling site in the forest are marked to legalise them. In some instances, illegally sourced timber from adjoining community forests are also marked and mixed with the GF's timber. Interviews with officials and traders revealed that abuse of hammer-marking was higher and more frequent during the civil war and continued until 2010. During an interview, a TCN official (F-B-14) revealed that he had witnessed timber transactions in which more than three times the legal quantity was marked (*bimarka*) before the timber trade was paused in 2010. In some instances, a small quantity of unmarked logs is loaded inside the marked logs or firewood in collusion with junior officials during loading.

Various sources revealed that a large magnitude of log theft took place from GFs through the civil war until the formation of the High Level Investigation Commission on Deforestation, Forest Encroachment and Community Forests (HLIC) and the restrictions on timber transactions in 2010. The scale of illegal logging and legalisation of timber at that time can be illustrated by an example from district B. During my field survey in Kathmandu, I heard tea-shop gossip among forest officials that a dfo (dfo-X) had paid NRs. 3 million to a minister for his transfer to district B. Referring to his re-transfer from that district within a few months, the

gossips were suspecting that 'poor dfo-X might not have earned even the paid amount'. During interviews in district B, when I referred to this gossip with a contractor (T-B-6), he revealed that he himself (with some other contractors as well) had deposited more than NRs. 3 million into bank accounts nominated by dfo-X (but not his own or those of his family members). Similarly, referring to the same gossip, I asked an official who was the focal person for handling informal money and the right-hand person of the dfo (F-B-1), whether the dfo-X had made a loss, as he was re-transferred so quickly. The respondent did not directly say that dfo-X had earned that amount but hinted at it, saying, "see, if a dfo wants, it does not take even a few months but a few days to earn [NRs.] 3 million". During interviews, some field officials also supported the claims suggesting that, at that time, a large quantity of illegal logs was marked (*bimarka*) and transported using duplicate copies of transportation permits.

A series of informal payments are made during *bimarka* and the issuance of transportation permits. As revealed by contractors during interviews, they need to pay a lump sum amount to the DFO before it issues a log-marking order. Before starting log-marking in the field, contractors need to make a small payment for *tancha puja* (worshipping marking hammer), as I observed during my field survey. The officials and contractors suggested that such payments have long been practised. Similarly, a cubic foot-based rate payment is made to the marking officer, the afo. The contractors also arrange *darupani* (food with alcoholic drinks), or an amount is paid out for this, to the local officials on the day when log-marking is done. For the illegal logs marked, the officials generally charge informal payments equal to the royalty rates or even more through negotiation.

During the process of obtaining transportation permits to move logs from the piling site, contractors have to make an informal payment at a standard rate per cubic foot of logs to the Range Post, the AFO and the DFO or the TCN. This payment is popularly known among the contractors as '*tuppi kar*' (in district A) or '*SAT*' (in district B) and among the officials as 'service charge' or 'PC'. The officials and contractors revealed that the rate varies significantly (up to three times), based on whether the tender was competitive or, in practice, collusive. This payment also varies across districts and species.

Before transportation, particularly during loading, informal payments are also made to a range of informal actors such as youth clubs/local *chulthe-mundre*, 'proposed' CFUGs or local people, and mothers' groups (*Ama Samuha*). Sometimes these payments are given as a lump sum and, at other times, on a cubic foot basis. Interviews with contractors revealed that, in district B, standard payments were made regularly to three political parties – the United Communist Party of Nepal (Maoist) [UCPN (M)], the Communist Party of Nepal – Maoist (CPN-M), and a

locally based political party[43]. The parties had fixed the rates of payment to extort from the contractors, while the FPEA responded to them by fixing its own rates below their demands. These payments are made either at source or at the district border during transportation to markets. In district A, contractors revealed that they had regularly made payments to the Maoist party until 2012, but they had stopped paying since then. Finally, officials charge small payments for certifying truckloads of timber (doing *darpith*) before the truck is allowed to leave. They also charge additionally for truck sealing, in cases when the timber is being transported out of the district.

5.4.4 Transportation, processing and marketing

5.4.4.1 Transportation and sawmilling (within district)

The contractors transport logs from piling sites either directly to the markets or to the local sawmills. In general, a contractor who owns a sawmill produces sawn timber and sends it to the markets. For sawing, they need to receive a sawing order (*chiran adesh*) from the DFO. For the purpose of regulating the volumes in the conversion process, a log-sawn timber ratio (based on species and grade) is given by the DFO with the sawing permit, and the timber stock of each sawmill in the district is monitored. For monitoring, the records of incoming and outgoing quantities of logs at each sawmill within the district are maintained in the DFO.

Illegal logs are legalised in the local sawmills through the manipulation of stock using faulty log-sawn timber ratios, unrecorded sales, and fake receipts for timber. Interviews with contractors and officials revealed that unmarked Illegal logs from various sources are transported to sawmills, generally at night, and they are immediately sawn. Similarly, the illegally marked logs, which can be identified as illegal only through careful investigation of the documents, are also easily transported to sawmills since the local officials have *milemato,* while other stakeholders such as the police and journalists can see the log-marks, and interpret them as proof of legality. Officials also revealed that duplicate copies of transportation permits are used in case of transporting large quantities of illegally marked logs.

While issuing a sawing order, the DFO charges a standard rate of informal payment per cubic foot of timber. In cases of illegal activities, such as providing a faulty log-sawn ratio or manipulation of stock, an extra payment is made as negotiated.

[43] The name of the locally based political party has been disguised for ethical reasons as it could help to identify the study district.

5.4.4.2 Transportation (out of district)

The transportation permit issued by the DFO allows transportation of timber – round or sawn[44] – to the defined place and within the defined time. Once the truck is sealed and certified (*darpith*) by the local officials at the point of origin, the truck is inspected and certified only at the final check-post before its destination. The truck drivers are expected to make informal payments at different points en route. At least one traffic police check-post along the route has to be paid a small amount. Although they give receipts, their justification for charging this fee is often unreasonable. During my field survey in district B, it was observed that the traffic police gave receipts for NRs. 200 to each of the truck drivers as an 'overload penalty' without checking the load. Moreover, a truck driver revealed that the policemen normally charge extra fees without receipt. *Chulthe-mundre* (criminal gangs) and political parties, in cases where they have not already been paid for that timber, also have to be paid en route. It was also observed that three groups of youths had collected standard rates per truckload of timber at the district border for three different political parties – the UCPN (M), the CPN-M and a locally based party. They had their collection booths together with that of the District Development Committee (DDC) close to a police check-post. They issued a receipt for payments on behalf of the parties. In an interview with a district leader of the UCPN (M) (P-B-3) he revealed that his party had already decided not to collect such donations any more, and that the local party activists could have been engaged in their own business in the name of the party. However, a central leader of the CPN-M (P-B-2), who was a local resident, confirmed that their cadres were collecting donations according to a party decision.

Drivers have to make payments at tax collection booths (operated by contractors) in most of the DDCs en route. They issue receipts for payments; however, this is claimed to be illegal by contractors. *The Local Self-Governance Rules 1999* authorises the DDC to impose a tax on *Sal* and *Sissoo* timbers produced within the district, up to a maximum of NRs. 300 per truck (Schedule 23); the DDCs were found to be collecting NRs. 300 to 1000 per truck for any timber passing through the district, regardless of the district of origin of the timber. I asked contractors why they pay such taxes when they know they are illegal; they responded that the DDC's tax collection booths are operated by *dons*, and that they are better off paying than fighting with them. Finally, they have to make an informal payment, a standard rate per truck, to forest officials at the check-posts at market entrances. Until 2008, when the system of truck-sealing at a loading site was introduced, the trucks had to be inspected at every forest

[44] As suggested by officials and contractors, although the *tuppi kar* (service charge) is already charged while issuing a permit for in-district transportation of round logs (piling site to local sawmills), a small amount per cubic foot is charged again while a permit being issued for transportation of sawn timber out of the district.

check-post en route, and a small amount had to be paid informally to each of them. Interviews with traders and truck drivers revealed that the provision of truck-sealing has reduced hurdles on the road, but that the amount paid informally is almost similar as they now pay about the same amount at one check point as the sum of payments at many check points made earlier. Illegal activities during transportation, such as mixing illegal timber, are reduced due to the sealing system. However, illegal timber, i.e. non-marked logs or logs mixed with fuelwood (loaded before sealing), is sometimes found in the truck. An amount higher than the standard rate is charged by the check-post officials when illegal activities are detected. At a check-post in which I carried out inquiries, the Federation of Forest Based Industry and Trade, Nepal (FenFIT), a central association of the FPEAs, was also collecting money from truck drivers at a standard rate. According to a forest official, who once served as the officer-in-charge of the forest check-post (F-O-10), the FenFIT was also helping the check-post officials by collecting informal money on their behalf so that the latter could avoid surveillance by the CIAA, which was perceived to have increased in the recent years.

Interviews with officials serving in a forest check-post at the entrance to the main timber market in Nepal revealed that there is competition among officials for being posted to this check-post. A big *source-force*[45] is used, and generally officials affiliated with the political party of the forest minister win the competition. This check-post is viewed as an earning point rather than a duty station. For example, during an interview, an afo who once served as the check-post in-charge remarked:

> "…the dfo favoured the new officer deploying very few forest guards with him, while he had deployed four-times higher that number of forest guards and an additional officer when I was there. I had to share the [informal] income among many staffs, while he [new officer] had to share it in a small group" (F-O-9).

The officer (F-O-9) also informed me that he would receive 15% of the net informal income (deducting all occasional costs such as food for the check post staff and occasional payments to a number of parties), and he had earned extra income of NRs. 450,000 during his tenure of less than six months. This is more than four times his official salary for the same period.

As revealed by the forest products entry data (mid-April to mid-Oct 2013) for this check post, an average of 381 truckloads of timber enter this market every month (4,572 annually). Thus, considering the basic rate of NRs. 2,000 per truck, at least NRs. 9,144,000 is annually collected informally from the timber, excluding other forest products, at this check-post.

[45] The term refers to using one's power for favour, usually based on a personal or political relationship.

5.4.4.3 Timber processing and marketing

Legal and legalised timber is sold to the customers, either directly for construction purposes or through processing industries (e.g. furniture), in the main timber markets. Sawmill owners and furniture industries usually do not issue actual invoices when they sell timber or timber products. Fraudulent invoicing helps them manipulate timber stocks, and avoid or reduce income tax payments. Traders are legally required to issue value added tax (VAT) bills on timber sales, but they generally do not. When customers ask them to provide VAT bills, they show amounts in the bills much lower than the actual price they charge customers. During my field survey in Kathmandu, when I inquired about buying timber for construction of a house, the sawmill owner told me that he could sell the sawn timber (*Sal*) at a price of NRs. 5500 per cubic foot. When I asked whether he would give me VAT bills, he said that he could give VAT bills for NRs. 2200 per cubic foot, but he would increase the quantity so that the total price I would pay would be shown in the bills. When I asked about the implication of this with a tax officer (G-O-4), he explained that this has double benefit to the trader – direct tax evasion and stock manipulation. Taxation officials occasionally take bribes from sawmills and furniture industries, especially from those with large transactions. The tax officer (G-O-4) suggested that when tax evasion is detected, tax officials charge bribes equal to about 20 per cent of the amount evaded.

5.5 The size of informal payments along the formal timber trade chains from the GFs

A series of informal payments to officials and/or other stakeholders takes place along the timber trade chains. These payments can be in three forms. First, a basic (routine) payment is made to some stakeholders in every timber transaction for legal activities. This payment is generally made at an agreed rate per unit of work or timber, although negotiation often takes place between the officials and contractors to increase or decrease the rate. Second, an extra payment is made for any illegal activities involved. These payments are generally based on the estimated profit from the illegality committed. Third, occasional payments are made by contractors to different stakeholders regardless of whether the work is legal or illegal. These payments are not regular, but made from time to time, and generally cannot be accounted for against a particular timber transaction. Table 5-2, based on interviews with contractors and officials, gives an account of average routine informal payments made along the trade chain of *Sal* timber from the GFs in the two study districts.

Table 5-2: Average routine informal payments made along the formal timber trade chains from government-managed forests (*Sal* timber – District Forest Offices)

Value chain Stage	Activity	Payee*	Routine informal payments (NRs. per cubic foot of timber)		Paid as
			District A	District B	
Pre-harvesting preparations	Tree marking/ harvesting tender approval	TCN/Range Post officials	10	20	TADA, petrol, stationery, food
Harvesting operations	Plot monitoring, measurements, recording	TCN/Range Post officials	5	5	TADA, petrol, stationery, food
Total informal payments during pre-harvesting and harvesting (A)			**15**	**25**	
Log tender and pre-transportation formalities	Tender approval	DoF	10-40	40	Service charge or *tuppi kar/SAT**
	Recommendation for transportation permit	Range Post	10-45	15	
		AFO	15-55	25	
		DFO's account Section	--	2	
	Issuance of transportation permit	DFO	70-200	100	
	Bimarka (log marking)	AFO officials	4	3	*Tancha puja*
		AFO officer-in-charge	5	5	*Bimarka* cost
	Log loading	FPEA	--	10	Help
		Local community (Proposed CFUG)	50	35	Protection cost
		Local groups (*chulthe-mundre*/youth club, mother group)	4	4	Help, road maintenance
	Truck sealing, *chalani* (departure note) and *darpith* (certification)	DFO/AFO/Range Post officials	5	5	
		Don/chulthe-mundre	10-30	20	
		Political parties**	--	29	Help/donation
Total informal payments during log sale and pre-transportation formalities (B)			**183-438**	**293**	
Transportation	Traffic entry	Traffic police posts (origin and destination)	1	1	Overload penalty
		DDCs	1	6	DDC tax
	Truck checking and *darpith*	Forest check-post before destination	3	3	
		FenFIT	2	2	
Total informal payments during transportation (C)			**7**	**12**	
Total informal payments along the trade chain (A+B+C)			**205-460**	**330**	

Notes: 1. *In district A, lower figures of the range are the averages of payments in the case of competitive tenders, while the higher figures are the averages of payments in the case of collusive tenders. In district B, the figures are averages of payments in the case of collusive tenders (no competition in tenders took place in this district).

2. **Informal payments to political parties are made at one time, at source or during transportation.

Abbreviations: AFO = Area Forest Office; CFUG = Community Forest Users' Group; DDC = District Development Committee; DFO = District Forest Office; DoF = Department of Forests; FenFIT = Federation of Forest-based Industry and Trade, Nepal; FPEA = Forest Product Entrepreneurs Association; TADA = Tour and Daily Allowance

Source: Field Survey 2013

As shown in Table 5-2, contractors have to make informal payments, usually at standard rates, almost every time they encounter any officials who ask for legally required documentation. In addition to these payments, contractors arrange accommodation (where necessary), *darupani/khanpin* and fuel for officials visiting the field. Interviews with contractors in district A revealed that, out of an average harvesting cost of about NRs. 75 per cubic foot of timber – the contract amount that is to be reimbursed by the TCN to the contractors – NRs. 15 is informally paid back to officials, some in cash as a kick-back, and some as field expenses, including fuel, *darupani* and stationery. The figure is higher in district B.

The *service charge* or *tuppi kar*, which is paid during tender approval and pre-transportation formalities, is the biggest payment made to officials. The average rates of this payment varied greatly, that is from NRs. 105 to 340 in the DFO's tenders in district A, based on whether tenders were competitive. As revealed by a contractor (T-A-2), the highest rates of the *tuppi kar* were paid during the latest timber transactions during my field visit, which was a total of NRs. 525 to four hierarchical office units from the Range Post to the DoF. In this transaction, the FPEA had negotiated with the DFO officials on the rates of payment, the tenders were approved at nearly the minimum prices, and no individual negotiations had taken place.

In contrast, competition has rarely taken place in tendering in district B in the last few years. However, the average rates of the *tuppi kar* in this district are far less than those in district A. A DFO official (F-B-8) advised that it may be because this district is far from the market, and the contractors would incur substantial cost for transportation. However, some contractors from district A suggested that the higher rates of the *tuppi kar* in district A may be because the quantity of timber production in this district is far below than that in district B, and therefore the officials extort as much as possible. Officials and contractors in both districts advised that the contractors who do not generally commit illegal activities generally pay less in *tuppi kar* than those who commit illegal activities. Similarly, the contractors who are also politicians pay less than those who are not. As suggested by officials and contractors, this is because officials feel uncomfortable to do bargaining with contractors in these categories.

The tender-winning contractors, in most instances, also have to pay *chhyakan* to rival contractors or pseudo-contractors, as discussed in Section 5.4.3.2. The amount of *chhyakan* cannot be easily predicted; it may range from a small to a large amount. For example, in one timber transaction in district A, in which the FPEA had conducted an informal tender once the tender from the dfo was already approved in the name of some contractors at minimum prices, the average *chhyakan* amount collected reached about NRs. 500 per cubic foot for *Sal* timber. Similarly, they have to pay *dons/chulthe-mundre*, who had roles in forging 'consensus'

among contractors, not to compete or to restrict outsiders from bidding. During loading for transportation, contractors have to make informal payments as protection costs to the 'proposed' CFUGs or the local communities and as donations to a number of actors, including mothers' groups, youth clubs and the local *chulthe-mundre*. The proposed CFUGs or the local communities take payments at a standard rate per cubic foot of timber, while others generally take lump sums. In district B, contractors have to pay at least three political parties – two Maoist factions and a locally based party – at a standard rate (5-12 per cubic foot of *Sal* timber to each). In district A, as advised by contractors, they were making regular payments to the Maoist party until 2012, but they stopped it, responding to the gradually decreasing threat from the Maoists, who entered into a peace process in 2006 after a decade-long war against the State.

Similarly, they need to pay various actors at various points during transportation. Considering the timbers from both districts coming to the same market, the average informal costs on the way range from NRs. 7 per cubic foot in the case of district A to NRs. 12 in the case of district B. Payments to political parties are accounted for at source although they are sometimes paid during transportation. The higher informal cost for timber from district B compared to district A is mainly because of its long distance to the market.

Comparing the average informal payment at origin during and after tender (NRs. 293 - the *tuppi kar* and others) against the average approved prices (NRs. 1177), the informal payment is more than 25 % of the stumpage price in the case of *Sal* timber (DFO's tender) in district B, and even higher in district A. The proportion decreases with the increase in the stumpage price, that is, where there is competition over tender. As revealed by interviews with various actors, the rates of the *tuppi kar* or service charge are much smaller in the case of the TCN's log tender.

As shown in Table 5-2, about 70% to more than 80 % of the regular informal payment is made to forest officials. In addition to regular payments, contractors also have to occasionally 'help' different actors such as political parties and their mass organisations, journalists, police, and community organisations. Interviews with various stakeholders revealed that timber contractors are one of the main sources of funding for almost all political parties and their mass organisations, specifically in district B. While a few political parties were receiving informal money from every timber transaction, as explained earlier in this section, many others, including the Nepali Congress (NC) and the Communist Party of Nepal – United Marxist-Leninist (CPN-UML), were receiving such money only occasionally, specifically during their party functions and election campaigns. During my field survey, I observed members of

the student organisation affiliated with the CPN-UML extorting donations for their national convention from a forest officer in district B. During interviews, the chairperson of the FPEA of district A (T-A-1) told me that NRs. 300-400 per cubic foot, on average, has to be paid informally at source (excluding payments prior to tender and during transportation) for *Sal* timber where the tender ends up being *milemato* (collusive), and that about 75-80% of this amount is paid to officials. Similarly, a contractor in district B (T-B-9) suggested that average total informal expenses per cubic foot of Sal timber in this district (excluding prior to tender and during transportation) is about NRs. 300, while the total formal cost is between NRs. 1300 and 1500.

The informal payments presented in Table 5-2 are for *Sal* timber, one of the most valuable, sought after and abundant species in Nepal. The rates of informal payments, particularly the service charge or *tuppi kar*, vary according to the market prices of species. In general, rates of informal payments for *Khair* timber are higher, and for other species are less, than that for *Sal*. In contrast to basic payments, the level of illegality and associated extra payments is difficult to estimate. Interviews with a range of stakeholders suggested that the level of illegality and associated extra payments are not predictable, and largely depends on the character of the officials, mainly the dfo in a district. They also advised that large-scale illegality in timber transactions was widespread until 2010, but it has been reduced since then, for two reasons. First, there is a widespread fear of *akhtiyar* (CIAA), commonly called as '*akhtiyar atanka* (CIAA terror)'; and, second, the subsequent dfo was 'honest', who was satisfied with the 'service charge'. However, it was suggested that small-scale illegality and associated informal payments were still taking place.

5.6 Corruption along the informal timber trade chains from the GFs

The informal trade chain of timber from GFs starts with entirely illegal harvesting and ends with illegal marketing and use, unless the timber is legalised at some point. The informal methods involve small scale but regular extraction. As revealed by stakeholders during interviews, informal logging is more persistent in the remote areas where official monitoring and public scrutiny are low.

According to forest officials and timber consumers, informal trade chains from GFs operate in three ways. First, local users occasionally steal timber from nearby forests, process them locally, and use them for domestic purposes. Second, locally formed community groups, such as the 'proposed' Community Forest User Groups and Road Construction Committees, informally sell timber from GFs to local users; this timber is used locally or later sold in illegal markets. During my field survey, I observed piles of *Sal* timber concealed inside some houses in

a village in district A; it included both stolen timber and that bought from the 'proposed' CFUG at prices less than NRs. 100 per cubic foot. I also happened to observe a village meeting in the same village, in which both the 'proposed' CFUG and the Road Construction Committee (road construction was underway through a GF without permission) were claiming their ownership over timber along the track. The local users revealed that there is hardly any house in that village which does not have illegal timber concealed in it.

Third, small-scale logging is carried out by a small group of locals to sell to individuals for domestic use or to sawmills. The illegal loggers normally operate at night. Using motorcycles, usually unregistered or stolen, or bullock-carts, they transport logs or hand-sawn timber either directly to sawmills or to individual customers, specifically in the local towns, after further processing. Interviews with timber consumers in district B disclosed that those with motorcycles deliver ready-to-use timber of different sizes (*kadi*) to customers' homes at a much cheaper price than is charged at local markets. Timber thus sold is even cheaper than that sold by the DFPSB, which sells timber at royalty rates. This practice is so systemic in this district that the sale of timber from local sawmills is almost non-existent. In interviews, sawmill owners told me that even construction contractors working on government buildings use illegal timber, and they prepare the required bills as if they were from sawmills. A forest official in the district A (F-A-7) alleged that the police officers were also found to be involved in illegal logging in collusion with the local sawmills.

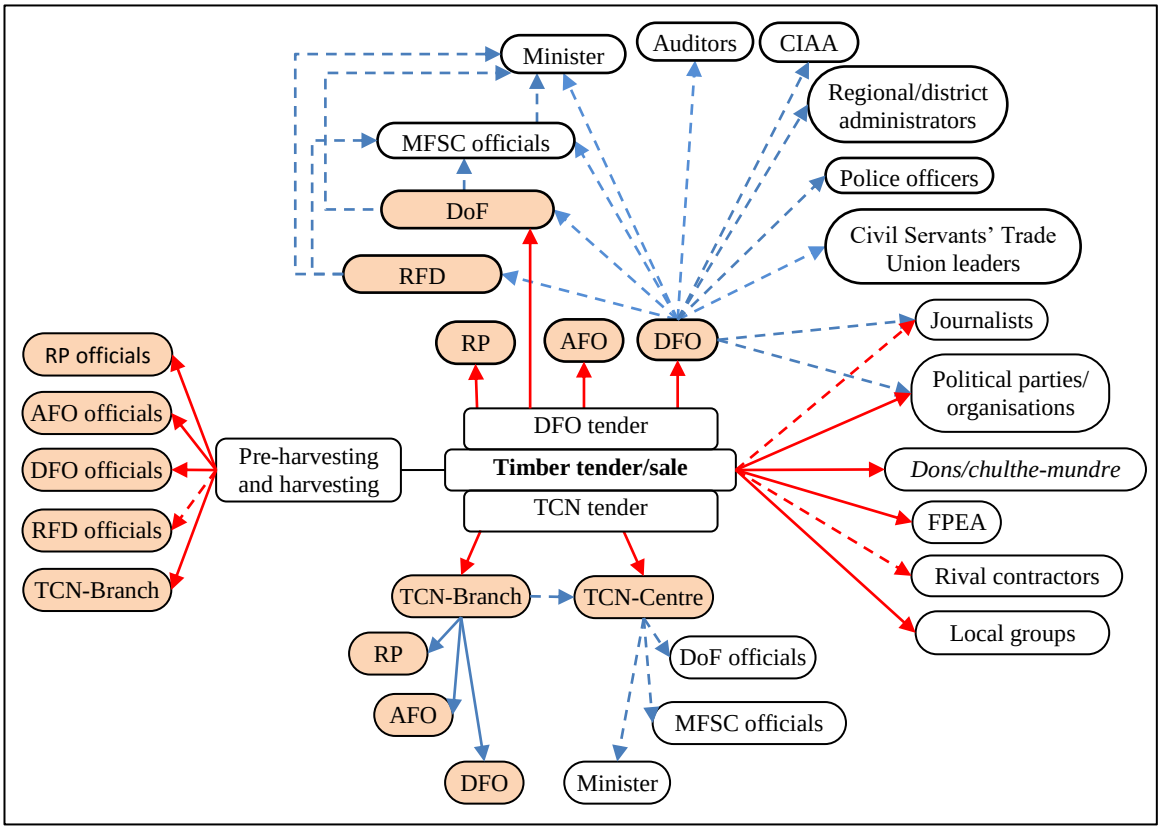
Interviews with officials suggested that, although field-level officials are sometimes involved, corruption in the informal timber trade chain is not institutionalised. They further suggested that this is because entirely illegal activities derive only small benefits while incurring higher risks. Instead, they can gain greater benefits from engaging in corruption in the formal timber chain, where they can manipulate information to reduce the chances of being caught.

5.7 Distribution of corrupt benefits from the GF's timber trade

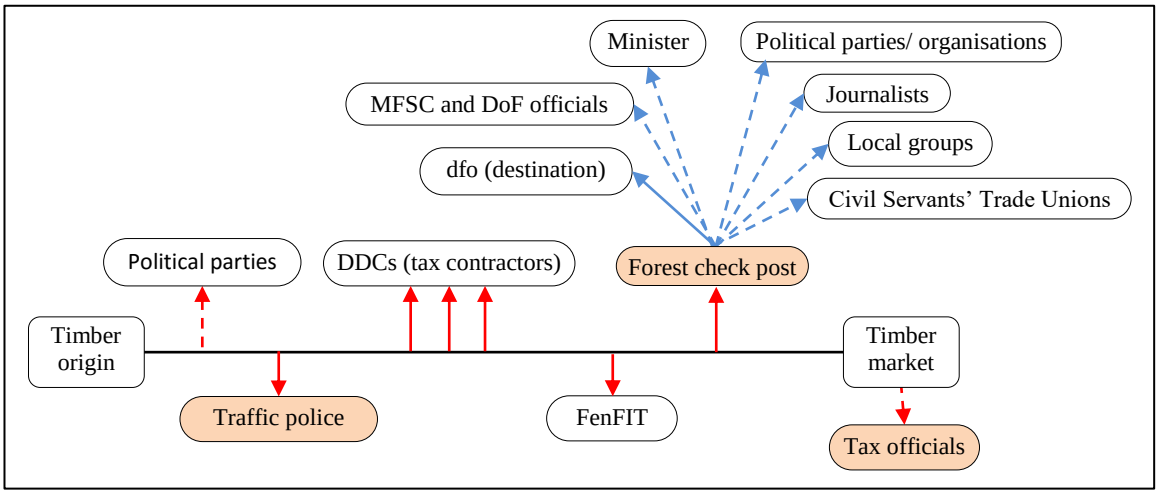
The informal money generated from corruption in timber production and trade from the GFs is shared among many formal and informal actors. Some of the informal payments made along the trade chains are personal (such as TADA, *darupani* and fuel), while others are institutional (such as service charge or *tuppi kar*). Figure 5-4 illustrates how informal payments are made and shared among various actors at different stages of the timber trade chain from GFs.

Figure 5-4: Informal payments and their sharing during production and trade of timber from government-managed forests (District B)

5.4a: In district of timber origin



5-4b: During transportation and marketing



Note: Shaded boxes denote actors with direct formal roles; red arrows denote payment made by contractors; solid and dotted arrows denote regular (standard) and occasional payments, respectively.

Abbreviations: AFO = Area Forest Office; CIAA = Commission for the Investigation of Abuse of Authority; DFO = District Forest Office; dfo = District Forest Officer; DDC = District Development Committee; DoF = Department of Forests; FenFIT = Federation of Forest Based Industry and Trade, Nepal; FPEA = Forest Product Entrepreneurs' Association; MFSC = Ministry of Forests and Soil Conservation; RFD = Regional Forest Directorate; RP = Range Post; TCN = Timber Corporation of Nepal.

Interviews with various actors showed that the informal payments are made to some actors regularly in each timber transaction, while other actors are paid only occasionally. As a general pattern, officials directly involved in formal processes along the trade chain are paid systematically and directly by the contractors. Some such payments are individual, while others are institutional and have to be shared among many officials within the same organisation, and/or with others. In the district of timber origin, the *service charge* or *tuppi kar* (informal tax) is an institutional payment, which is shared among officials in the respective organisations and beyond, while other payments, such as during pre-harvesting and harvesting, are generally personal.

The *tuppi kar* (*service charge*) paid to the formal actors is more centralised in the TCN compared to the DFO. Contractors make payments to the TCN Centre during tender approval and to the TCN Branch when receiving a transportation permit; they themselves then arrange its sharing. As revealed by the TCN and the DFO officials, the TCN Branch shares its informal income with the DFO, the AFO and the Range Post that were involved in the timber harvesting process. Similarly, as advised by many forest officials, the TCN Centre offers informal money to the influential officials of the DoF and the MFSC and to ministers from time to time. An official in the MFSC (F-O-18) revealed that such payments are generally made as a lump-sum; however, some officials and even ministers were found to have taken such money at a standard rate per cubic foot of timber sold.

In the case of the DFO's timber, contractors need to pay directly to all of the office units that are directly involved in the recommendation and approval process of tendering and transportation permits. According to an official (F-B-1), the DoF is paid at standard rates per cubic foot of timber before tender approval; this is shared among at least five persons, including high level officials, involved in the tender approval process. The Range Post, the AFO and the DFO are paid at standard rates during recommendation and issuance of transportation permits. The money paid to the Range Post and the AFO is shared among all officials working in the respective offices. As revealed by the relevant officials, the officer-in-charge collects the informal money for the Range Post, keeps 50-70 per cent for her/himself, and shares the rest to her/his sub-ordinates. In the AFO, the officer-in-charge generally takes a half of such monies, and other half is shared among the rest of the officials according to their official hierarchy. The DFO is the hub from which the *tuppi kar* is shared to a range of stakeholders, including higher authorities.

A well-designed informal institution operates in the DFO to deal with the informal incomes and expenditures. The dfo informally designates a trustworthy officer, the *DFO's don* as they were

called by many officials during interviews, to manage informal money collected from various sources. The officer in-charge of the Development Section in district A, and that of the Forest Utilisation Section in district B, played this role. As revealed by officials and contractors, the 'service charge' from the GFs' timber is collected by the Forest Utilisation Section, which looks after the GF businesses, and is transferred to the 'central fund' or 'central collection' looked after by the designated officer. The officer arranges, in discussion with the dfo, required expenditures such as payments to the RFD and many local stakeholders, including administrators, political organisations and journalists, and air-tickets, *darupani* and accommodation during visits of *mathika manchhe* (officials from upper level office units such as RFD, DoF and MFSC). An officer managing the informal 'central fund' in district B (F-B-1) admitted that they also give an amount occasionally, often annually, to the local administrators – the Regional Administrator and the Chief District Officer (CDO) –, police, and even the CIAA officials. Similarly, a certain amount is allocated as an *'aa. le. pa.- ma. le. pa. kharcha'* (internal and external audit expenses) to bribe auditors from the District Treasury Comptroller Office (DTCO) and the Office of the Auditor General (OAG) every year.

In some time intervals, the net collection (total income minus expenditures) is shared among the officials according to standard norms. For example, an officer (F-B-8) suggested that the dfo is paid 40-50 per cent of the net collection, from which he has to arrange occasional payments to the officials in the DoF and MFSC, and even to the minister when required, while the rest is shared among the DFO staff according to their position in the hierarchy and roles in the process. As revealed by interviews with contractors and officials in district A, the dfo separately charged an additional amount for himself in the case of *Khair* timber.

The regular informal payments are highly institutionalised within the bureaucratic hierarchy, and cannot be avoided. Such payments are shared according to the informal norms in place, and they generally cover all officials who are directly involved in the official processes of timber production and trade. In contrast, the occasional payments are subject to the discretion of officials, both payers and payees. Officials admitted during interviews that occasional payments are either made voluntarily by lower-ranked personnel to higher-ranked officials to 'maintain relationships', that is, to influence performance evaluation (*ka.sa.mu*), or they are extorted by the high-ranking officials. The dfo of district B (F-B-6) advised that a dfo has to make dozens of actors, formal and informal and local and external, happy if the system is to work smoothly. During interviews, many officials suggested that about one half of the total informal income of the DFO is spent on payments to others, while the other half is shared among its staff.

Apart from formal actors, the contractors have to make regular informal payments to a range of informal actors, including political parties, *dons/chulthe-mundres* and local groups. As discussed in Section 5.5, some political parties were paid regularly, and others were paid occasionally. Contractors also suggested that the influence of *dons* (leaders of *chulthe-mundres*), who are well connected with major political parties, has generally increased since the end of the civil war in 2006. The *dons* are paid regularly, and the rate of payment increases if they have played a role in making *milemato* among local contractors, and excluding external ones. The *dons* use such income to nurture their followers, *chulthe-mundres*. The money paid to the 'proposed' CFUG is used for community welfare in some places, but in others it is used by local elites for their personal benefit. A TCN official (F-B-14) revealed that some of the 'proposed' CFUGs have existed for more than a decade, and that the elites benefiting from this have never wanted the forests to be handed over as community forests, but to keep them as 'proposed'. The rival contractors take money as *chhyakan*, and the FPEA does so as a fee. Local groups including youth clubs, mothers' groups, schools, temples and other organisations forcefully ask for 'help' from the contractors. Contractors occasionally give money to journalists.

During transportation of the timber to the market, contractors make small payments, generally per truck, at many points. The payment made at the Forest Check Post of the main timber market is shared among many actors, including forest officials, politicians and others (Figure 5-4b). An afo (previously ranger) leads the check-post with a small team of lower-ranking staff, including forest guards, and s/he needs to 'satisfy' actors ranging from leaders of Civil Servants' Trade Unions to the ministers. The check-post regularly pays the dfo and occasionally many other actors. During interview, an officer having served as the officer in-charge at this check-post remarked:

> "…we had to make many happy …had to give money to schools, political organisations, youth clubs and [civil servants'] trade unions …fill vehicles with fuel for many people in office, from the *pions* [office assistants] to the minister. Even the dfo's *pion* took [cooking] gas from there [check-post]. …I worked in the check-post during tenures of two [forest] ministers; we did not pay one but had to pay the other regularly. …Probably you will not believe that Mr. R [named a renowned journalist] came there in a *Pajero* [an expensive car], asked for [NRs] 15,000, and finally took even [NRs.] 1,000" (F-O-10).

The official further claimed that half of the net informal income (which is about half of the total) is given to the local dfo, while the rest is distributed among the check-post officials according to the official hierarchy. Another official (F-O-9), who once served as the check-post officer-in-charge, revealed that they paid one forest minister regularly at the rate of NRs. 25,000 each month.

Various actors involved in corruption along the trade chain of timber from Nepal's Tarai can be classified into three broad categories, based on their roles and capacities in bringing about corrupt outcomes. The 'executive' actors are involved directly at various stages of the timber trade chain, play major roles in bringing about corrupt outcomes, and hold the largest share of corrupt benefits. Officials requiring formal involvement at various stages of the trade chain and the designated contractors fall within this category; they often collude for illegal outcomes. The 'influencing' actors are those who do not have direct formal roles in the trade chain governance but play significant roles in bringing about corrupt outcomes through exerting influence on formal actors. Formal actors, such as the officials of monitoring and oversight agencies, and informal actors, such as *dons/chulthe-mundres,* fall into this category. The 'passive' actors, such as local groups, do not play significant roles in shaping corrupt outcomes but receive corrupt benefits.

5.8 Perceptions and rationalisation of corruption in the timber production and trade from GFs

Not all activities which are commonly understood or defined by law as corruption are perceived as that by the various actors. Similarly, deviation from duties, illegal activities, and informal exchanges along the timber trade chain from GFs are rationalised by various actors in a variety of ways. In general, those involved in corrupt practices, such as the bribe givers and takers, have differing perceptions and rationalisations for various corrupt practices.

5.8.1 Officials

During interviews and group discussions, most officials rationalised their frequent acts of not accomplishing the field-based jobs or transferring them to junior officials as 'lack of time due to disproportionate workloads', and their 'trust in the sub-ordinates'. Almost all officials perceived the petty exchanges that did not actually involve illegal forest activities as not being corrupt, and rationalised them as their fees for providing services to contractors, generally referring to the context of poor salaries. Lack of official vehicles and of budget for fuel is also a common rationalisation for charging service fees. During my field survey, it was observed in both districts that no officials in the Range Posts and no officials other than those in charge in the AFOs had official vehicles, while some of the officials were using their own motorcycles. The following excerpts from group discussions and interviews show how officials perceive and rationalise petty exchanges:

> "…while other professionals, such as doctors, engineers and surveyors, can take service fees from their clients, why can't we take it for a similar service?" (a participant in a group discussion with forest officials)

> "…I don't think a service charge payment, if it does not involve illegal activities and cuts revenues, is corruption. Speed money is a universally accepted phenomenon" (F-O-2, a dfo in an interview).

Similarly, responding to my question about what kinds of officials are regarded as honest and who are corrupt, a forest officer answered:

> "…taking the *system payment* [service charge] is not corruption. After all, it is a small proportion of a contractor's profit. One who is satisfied with this is honest; while one who attempts to *any how kamau* (earn by whatever means), such as through manipulation, is corrupt. One who does not take any, even the *system payment,* is regarded as *pagal* (mad). I have known only one such *pagal* [he named a retired joint secretary) in more than two decades of my professional life" (F-B-8).

While talking about corruption in the forest sector, many officials tried to justify it comparing it with political corruption in the country as well as the larger scale and more prevalent corruption taking place in other sectors. They generally condemned grand corruption involving large-scale illegal activities, and blamed others who have been involved in such activities. However, they seemed to be sympathetic towards small-scale illegalities, characterising them as simple natural phenomena. The lower level officials justified their small-scale corrupt acts as hand-to-mouth strategies, and pointed to large-scale corruption in the upper levels as being problematic. Many officials justified corruption as a compulsion rather than an intention. For example, referring to a case of a transmission line, the design of which was intended to serve the interest of few timber contractors, a dfo remarked:

> "…taking 2-4 rupees by field officials from contractors is not a big deal. The worrying thing is that big decisions are made by corrupt networks somewhere else, we [dfos] are there to stamp [formalise] those decisions. One who is not ready to stamp, s/he gets out, and someone comes in. …in this situation, one chooses to collaborate with them than to fight" (F-O-14).

The dfo (F-O-14) further advised that the corrupt networks often involve powerful people - politicians, high level officials and contractors - and fighting with them leads to suffering. In a similar tone, another dfo stated:

> "…a dfo cannot work smoothly if s/he cannot *rijhauna* (make happy) many people, from bureaucrats to politicians, and at local as well as central levels. How can we do it if we do not take service charge from contractors?" (F-B-6)

However, a few officials said that any kind of informal exchange is corruption, and no justification could be accepted. For example, a CIAA official stated:

> "…corruption cannot be justified by poor salary because every official is well aware about the salary before s/he enters government service, and also everyone is free to quit the job if not satisfied with the salary" (G-O-2).

5.8.2 Contractors

During interviews and group discussions, it was shown that contractors are generally happy to pay 'reasonable' service fees, considering officials' *dukha* (workload/labour) and budgetary

constraints in the field offices. They do not consider such payment as corruption if they are 'voluntary'; however, most of them reported that they are generally extorted to pay higher amounts. Similarly, they do not consider offering food/drinks to officials as corruption, as remarked by a participant during a group discussion with contractors in district A,

> "…it is very common to offer *raksi-kukhura* (alcohol and chicken) when we meet officials. We think it's natural since they have worked for us, and we simply have it ourselves at other times too".

Like officials, contractors also condemn large-scale illegal logging, but consider small-scale illegalities as natural since they are required to make payments informally. During interviews and group discussions, in answer to my question of why they bribe officials if they do not commit any illegal activities, contractors commonly responded:

> "…refusing to pay a bribe means putting the business at risk for ever. We may avoid paying VAT but it is never possible to avoid paying *SAT* [informal tax]" (T-B-9).

> "…how to deny giving the usual rate being paid by everyone?"

Similarly, the following excerpts from interviews and group discussions give an idea of how contractors rationalise the 'small-scale' illegal activities they commit:

> "…we have to do a little *dayan-bayan* (right-left) or *tala-mathi* (below-above) [small-scale misdoings) to cover the costs of informal payments".

> "…we have to pay to many actors even if we do not do anything wrong, then why not to do?"

5.8.3 Other actors

Other actors, including politicians and *chulthe-mundres*, have their own justifications for taking money from contractors. They generally believe that contractors are making a high profit and committing illegal activities; therefore, it is not a 'sin' to take some from them. For example, a leader of a political party, to which contractors are making standard payments regularly, remarked:

> "…contractors do not stop illegal activities even if we do not take any from them. …How can we run our party if we do not take donations from those who have earned money?" (P-B-2).

During one interview, a young man, who was introduced to me as a *chulthe-mundre* by a CFUG Chairperson, claimed that contractors paying them is a kind of reciprocity, and said:

> "…we help them [contractors] whenever they need; therefore, it is natural for them to share some of their profits to us. After all, we do not ask money from their pockets but from their profits" (N-A-2).

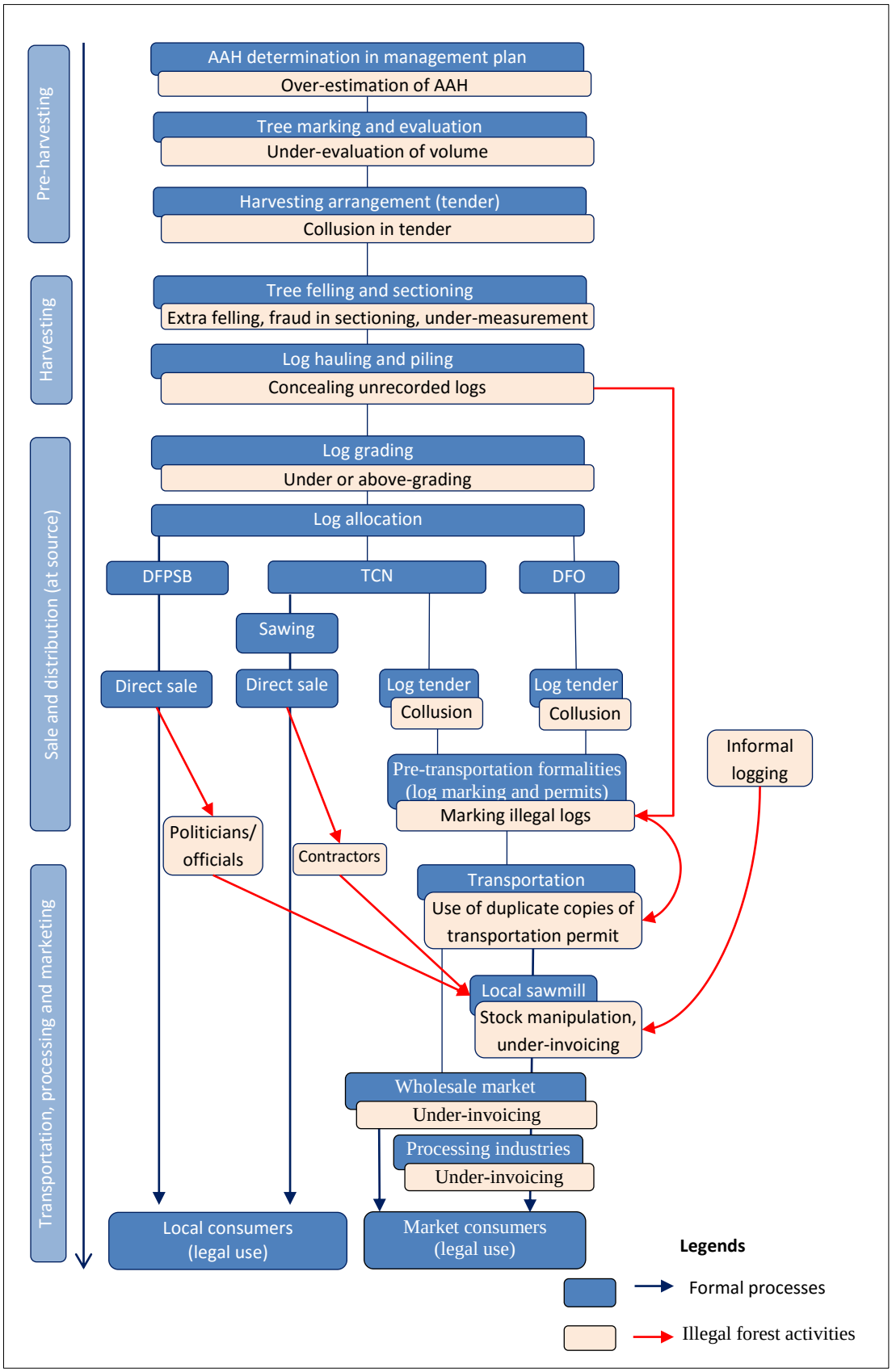
During a discussion with a group of contractors in district A, participants said that they are thought to be timber smugglers by officials and many others, and so it was easy for these actors to ask for money from them.

5.9 Summary: corruption along the timber trade chain from GFs

Based on empirical materials from two study districts, this chapter has described corrupt practices and illegal activities that take place along the timber trade chains from the GFs in Nepal's Tarai. The following conclusions can be drawn from analysis of the results presented in this chapter:

- Formal (supplying both legal and legalised timber) and informal (entirely illegal) trade chains of timber operate from the GFs in both case study districts. The scale of timber production and associated corruption is significantly greater in formal chains than in the informal ones. Officials prefer the formal chains for their private benefit, seeing them as a comparatively low-risk, high-profit business, as they can manipulate information to reduce the chances of being caught. Figure 5-5 summarises major illegal forest activities (IFAs) taking place along the trade chain, involving the theft of timber and/or revenue.

Figure 5-5: Illegal forest activities along the formal trade chain of timber from government-managed forests



Abbreviations: DFO = District Forest Office; DFPSB = District Forest Product Supply Board; TCN = Timber Corporation of Nepal

- Procedural laws have been developed and updated to regulate timber production and trade from the GFs; however, officials' deviation from the legal procedures is a common and well-accepted phenomenon throughout the timber trade chain. Legal procedures are fulfilled only on paper for formalities. The deviation is often rationalised as the lack of time and resources, referring to lengthy and cumbersome processes and heavy workloads.

- Informal payment (bribery) is the major type of corruption in the timber production and trade from the GFs, and it is highly institutionalised. It takes place at almost all stages of the timber trade chain. Most of the payments are made at standard rates per unit of work done or per cubic foot of timber. A payment without illegal forest activities (IFAs) is the regular and more accepted form of corruption, which is rationalised as a 'service charge' by the officials. The payments involving IFAs are also systemic phenomena, but less regular and acceptable. The scale of IFAs and associated corruption has largely relied on the character of the officials at leadership levels and the extent of anti-corruption actions.

- Harvesting, log tender, and log marking (*bimarka*) are the main nodes of corruption-induced IFAs. Additional timber over and above that permitted is harvested and concealed during harvesting operation; this timber is legalised for transportation later during the marking of legal logs. Collusion also takes place during log tender. All the major actors, including officials, contractors and *dons/chulthe-mundre*, tend to keep the price of timber (at source) at a minimum so that their shares of the corrupt benefits are higher. This practice is not illegal as such but it results in reduced government revenue.

- During harvesting, one-fifth to one-third of the contract amount is paid back to officials informally. Data from district A disclosed that, during log sales, the amount of informal payments in the case of collusion during tender is about two and half times higher than that when competition takes place. One quarter of the stumpage price is paid as informal payments at this stage if there is collusion in tendering; this proportion decreases with greater competition in tendering. The rates of informal payment to officials, specifically the *tuppi kar*, were higher in the case study district in which the quantity of timber production is smaller. Similarly, the *tuppi kar* for the TCN-tendered timber is less than that for the DFO-tendered timber in both districts. The amount of informal payments during transportation is relatively small, less than six per cent of total informal payments.

As discussed in Section 5.7, a large number of formal and informal actors are involved in corruption in the timber production and trade from the GFs. They can be classified into three types – executive, influencing, and passive actors – in terms of their roles in bringing about corrupt outcomes. The executive actors comprise the legitimate decision makers – executive officials and designated contractors – who collude at different stages of the timber trade chains. The influencing actors include legitimate oversight and monitoring officials as well as illegitimate actors such as *chulthe-mundre* and politicians, who influence the corrupt outcomes. The passive actors comprise of many institutions and persons such as local groups and journalists, who do not directly influence the corrupt outcomes but share the corrupt benefits.

The next chapter presents corruption and illegal forest activities taking place along the trade chain of timber originating from community forests (CFs) in the Tarai of Nepal, based on field surveys in the two districts.

Chapter 6: Corruption along the Timber Trade Chains from Community Forests

6.1 Introduction

Community forestry is considered one of the most successful development interventions in Nepal. Pioneered in the late 1970s in the middle hills, it was mainly extended to the Tarai from the late 1990s. As of mid-July 2013, in the 25 Tarai and inner-Tarai districts, a total of 3,722 Community Forest User Groups (20.5 % of Nepal's total) comprising 725,037 households (32.4 % of Nepal's community forest user households) were managing 628,275 hectares of national forests in the form of community forests (37 % of Nepal's community forest area) (DoF 2013). While community forestry in the hills is often acclaimed for its positive outcomes, including reforestation and reduced deforestation, local institution building for natural resource management, and supporting local livelihoods, its role in the Tarai has been controversial particularly due to frequent corruption scandals associated with the trade of valuable *Sal* timber. In this chapter, based on case studies from two districts, I will present corruption and associated illegal forest activities (IFAs) taking place along the trade chain of timber from community forests (CFs) in the Tarai of Nepal.

6.2 Regulatory framework for timber production and trade from the CFs

The *Forest Policy 1976* introduced the concept of community forestry in Nepal. The *Master Plan for the Forestry Sector 1989* further materialised the concept through placing the community forestry programme as one of the highest prioritised forestry programmes and giving clear direction for its development. The *Forest Act 1993*, as the main regulatory tool for implementing the MPFS, identified local communities as legitimate managers and users of the national forests. Since then, various regulatory tools have been introduced to govern community forests. However, when the field survey for this research was conducted, there was no exclusive procedural law to regulate timber production and trade from the CFs[46]. Instead, it was regulated using, in part, the procedural law that was mainly formulated for the government-managed forests (GFs), and discrete decisions from the Department of Forests (DoF) and the Ministry of Forests and Soil Conservation (MFSC). Table 6-1 presents an overview of the major regulatory tools that are relevant to the regulation of production, sale and distribution of timber from the CFs.

[46] The MFSC has recently introduced the *Directives for Collection and Sale/Distribution of Timber/Fuelwood from Community Forests 2014*, which it is assumed will reduce ambiguity in the formal procedures of timber production and trade from the CFs. This research does not refer to this procedural law as it did not exist during the field survey.

Table 6-1: Major regulatory tools relevant to timber production and trade from community forests

Regulatory tool	Brief description
Forest Act 1993	▪ Chapter 5 (Sections 25-30A) prescribes legal provisions on management of the CFs. ▪ Chapter 9 (Sections 41-45) offers provisions relating to the constitution of forest user groups. ▪ Chapter 11 (Sections 49-54) lists forest offences and prescribes punishments for each offence. ▪ Chapter 12 (Sections 55-66) prescribes provisions relating to investigation of forest offences. ▪ Section 69 declares that the DFO 'may' provide technical assistance for development of the CF.
Forest Regulations 1995	▪ Chapter 4 (Rules 26-38) frames rules relating to management of the CFs, including operation of the CFUGs and regulation of the forest products collection, sale and distribution from the CFs.
Forest Products (Timber/Fuelwood) Collection, Sale and Distribution Directives 2000 (FPCSDD)	This prescribes procedures to be followed during harvesting, sale and distribution, and transportation of timber and fuelwood. It appears to have been intended for the GFs although this is not specifically mentioned; the relevant provisions have been enforced in the case of the CFs as well.
Forest Products Auction Procedural Directives 2003	It prescribes procedures to be followed while selling forest products through auction or sealed tender (for commercial purposes). Similar to the FPCSDD, its relevant provisions have been enforced in the CF.
Community Forestry Directives 1995	It clarifies the rules regarding CF management as mentioned in the *Forest Regulation 1995*, including CFUG formation and work plan preparation.
Guidelines for Community Forestry Development Program 2009	This procedural law gives details of CF processes, including CFUG formation, preparation of CFUG statute, work plan preparation, CF handover, and implementation of the work plan.
Guidelines for Inventory of Community Forests 2004	This serves as a technical manual for inventory of community forests to estimate growing stock, which is the basis for estimating annual allowable harvest (AAH) of different products including timber.

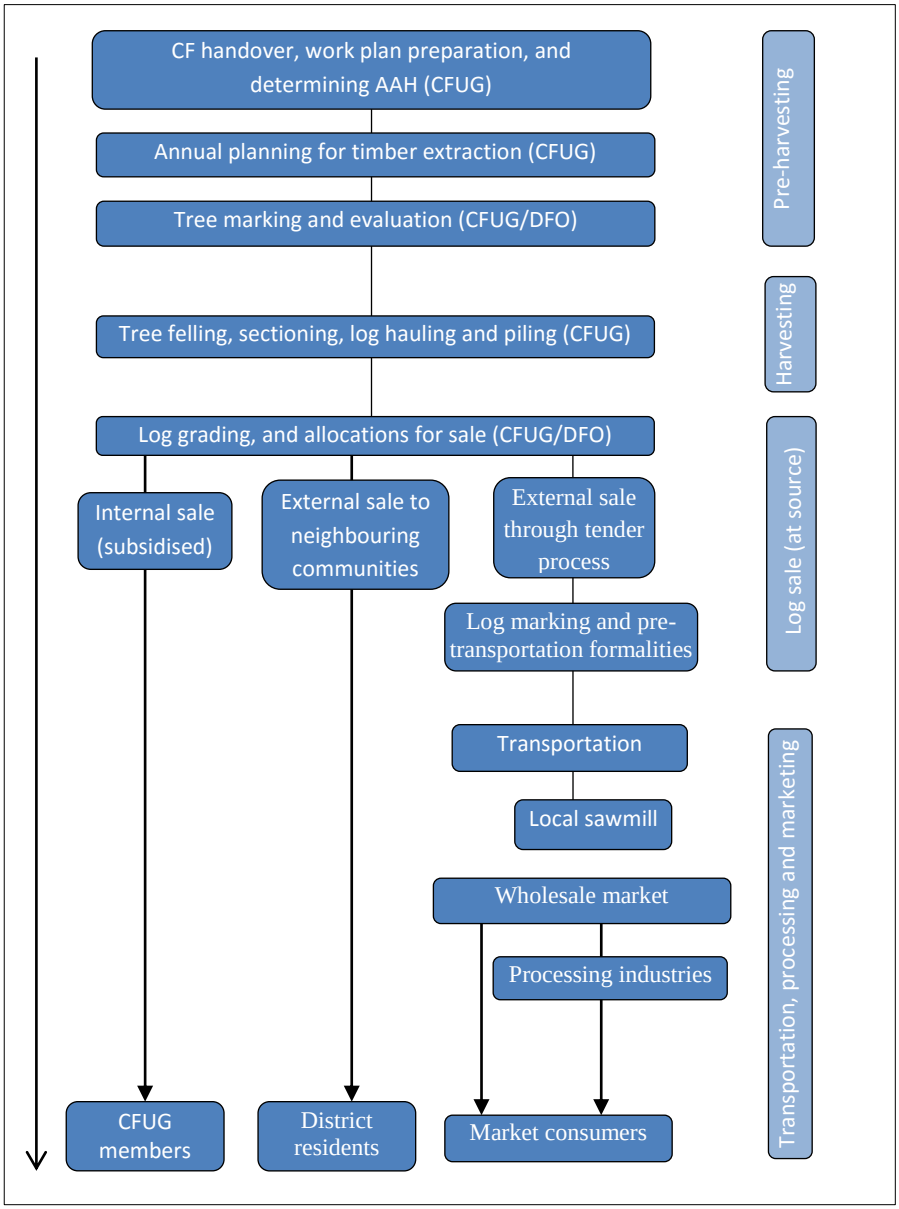
Locally, the CF work plan, the Community Forest Users' Group (CFUG) Statute, and the users' assembly decisions guide timber production and sale from a CF. The CF work plan, which is prepared based on a forest inventory, prescribes the annual allowable harvest (AAH) from a CF. These regulatory tools are aimed at creating shared responsibilities and accountabilities of the community and the government in governing the CF resources, and thus controlling illegal forest activities (IFAs). However, corruption and associated IFAs have been regular phenomena in the production and trade of timber from the CFs in the Tarai of Nepal.

6.3 An overview of timber trade chains from the CFs

The concept of community forestry was originated as a means to rehabilitate degraded forests, particularly in the hills, and to supply basic forest products to the users for domestic purposes. However, when the approach was extended to the Tarai region, where there are well-stocked

forests used for commercial extraction and there exists market potential due to its accessible terrain, the CFUGs started to sell timber outside their boundaries. Figure 6-1 gives a generalised picture of the trade chains of timber originating from the CFs in the Tarai.

Figure 6-1: Trade chains of timber from community forests in Nepal's Tarai



Abbreviations: CFUG = Community Forest User Group; DFO = District Forest Office

The entire trade chain of timber from the CFs can be divided into four major stages: pre-harvesting; harvesting; sale and distribution (at source); and transportation, processing and marketing. Although the CFUG is legally considered as an autonomous institution, the District Forest Office (DFO) is involved, directly or indirectly, at every stage of timber trade chains. The laws do not identify any roles for the private sector during the pre-harvesting and harvesting stages; however, the timber traders, popularly known as *thekedars* (contractors), are found to

be informally involved in the timber extraction processes from the very beginning, including in many instances from the CF handover process. Formally, the CFUG works as an executive agency while the government organisations – mainly the DFO and its local extensions such as the AFO and the Range Post – play the role of advisory and monitoring agencies; these are involved in a series of recommendation and approval processes along the trade chain. The timber produced from the CF is first sold to the local users at subsidised prices. Of the remaining quantity, one-fourth is attempted to be sold to neighbouring communities or districts at royalty rates, either independently (e.g. in district B) or through the District Forest Product Supply Board (DFPSB) (e.g. in district A). Finally, the rest is sold through a sealed tender process.

Interviews with a range of stakeholders from both study districts suggests that an entirely informal timber harvest – that means, stealing timber without entering into the official process – is rare in the CFs. Informants further suggest almost unanimously, however, that corruption and associated illegal logging in the formal process of harvesting and trade of timber from the CFs is much higher than that from the government forests (GFs).

6.4 Corruption and illegal forest activities along the timber trade chains from the CFs

Legal procedures are prescribed to be followed while harvesting and selling timber from the CFs. They define the roles and responsibilities of different actors – institutions and individuals from the CFUG and the government – and involve a series of legality verification measures along the trade chains. However, negligence, illegal activities and corruption are systemic phenomena throughout all stages of the trade chain. Based on the case study of a CF (Section 6.5) and other data sources, I present the prescribed processes, deviations from them, IFAs committed, and associated corrupt practices occurring at each stage of the timber trade chains from the CFs.

6.4.1 Pre-harvesting stage

6.4.1.1 CF handover, work plan preparation, and determining AAH

According to the Forest Act, the District Forest Officer (dfo) 'may handover any part of a national forest to a users' group' as a CF, and the users' group has to prepare its statute and work plan for carrying out any activities in the CF, including timber extraction. The work plan, which is approved by the dfo upon recommendations from the Range Post and the AFO, is for 5-10 years. The work plan prescribes annual allowable harvest (AAH) of timber from each of the designed blocks and sub-blocks based on forest inventory data. The government forest offices – the DFO, the AFO and the Range Post – and/or the non-government organisations are expected to assist the CFUGs with preparing their work plans. The *Guidelines for Community*

Forestry Development Program 2009 gives detailed procedures to be followed for work plan preparation and the CF handover.

The work plans are prepared on behalf of the CFUG either by private rangers (consultants) or by forest officials; however, the official guidelines are rarely followed. Interviews with leaders of CFUGs and the Federation of Community Forestry Users, Nepal (FECOFUN) officials in study district B revealed that the cost of preparing the CF work plans varies greatly across CFUGs, ranging from a few thousand Nepalese Rupees (NRs) to NRs. 150,000, while the maximum government rate set for preparing a CF work plan is NRs. 4000. Similarly, an NGO working in the forestry sector has fixed a maximum of NRs. 15,000 for preparation of a CF work plan, and a private ranger, a FECOFUN based consultant, charges NRs. 5,000 to 30,000 depending on the size of the forest. Many CF office holders interviewed claimed that forest officials required them to pay a large sum at the start and a small amount every time the file moves through a different stage of the approval process. However, CF office holders prefer officials to private rangers as they find that the approval process is easier when forest officials have prepared the plan. Where the work plan is prepared by a consultant, the CFUG has to make informal payments to officials during recommendation and approval stages at each office unit – the Range Post, the AFO and the DFO. Officials refuse to sign receipts for these extorted payments, which are later shown under different titles in the CFUG accounts using fake invoices.

Interviews and group discussions with officials and contractors revealed that over-estimation of AAHs through inventory data manipulation is common practice carried out by the officials in collusion with the contractors and CF office holders (mainly the chairperson and secretary), and was most pervasive during early days of the CF handover in the Tarai. According to a dfo (F-O-2), the AAH manipulation is not possible without the involvement of officials at all three levels – the Range Post, the AFO and the DFO – because each is aware of the tentative AAH from a forest. During interviews, a dfo, the then-afo in a Tarai district, told the story of how officials at different levels collude with the contractors in manipulating the AAH in the CF work plan:

> "…I was on leave from the office for few days. A *thekedar* (contractor) brought a [CF] work plan to our AFO along with a recommendation from the Range Post. I happened to be in office when our Ranger, who was the acting afo in my absence, was about to forward the plan to the DFO for approval. The *thekedar*, who was a *mantriko manchhe* (man close to a minister), offered me [NRs.] 50,000 to forward it but I refused to take it. The dfo and rfd also called me and asked me to forward it. However, I started an inquiry because the AAH seemed quite unnatural. The AAH was estimated to be 14,000 cubic foot from an area of about 240 ha. When I asked the private Ranger, who prepared the work plan, he said that he had systematically increased girth, height and number of trees in the inventory plots. Then, I carried out a re-inventory, which gave an AAH of only 4,200 cubic foot. Later, I knew that the *thekedar* had given [NRs.] 15,000 to the acting afo and [NRs.] 200,000 to the dfo. I did not know but you can guess how much he would have given to the rfd" (F-O-1).

Over-estimation of AAHs has become less significant ince 2012, when the CIAA advised the government not to approve the work plans with AAHs above the national average. In many instances, contractors make all the investment in the formal and informal expenses in the process of preparing CF work plans, in particular when the forest is expected to produce a large quantity of timber. The initial investor is subsequently involved in timber extraction and purchase, without competition. One contractor remarked during interview:

> "…when you ask someone whose community forest it is, they will not name the CFUG chairperson or any other users but a *thekedar*. While making investment during the work plan preparation and CF handover, a *thekedar* makes a kind of [informal] contract with the CF office holders not to involve other *thekedars* in the CF. Thus, a *thekedar* initially invests a little amount, and seizes the forest for years" (T-B-7).

My field inquiries supported the allegation above. The same contractors were found to have been engaged continuously in harvesting and buying of timber from the same CFUGs for many years, in both case study districts. During individual interviews and group discussions, contractors also suggested that the 'professional' contractors do not approach a CFUG once they find out that there is someone who has already invested in the work plan preparation.

It is at the dfo's discretion whether to hand over a CF or not. The size of the forest to be handed over was also at the dfo's discretion until July 2010, when the DoF directed the DFOs to limit the area of forest to be handed over as a CF (such as a maximum of 0.5 ha per household in the Tarai and inner Tarai). Many interviewees, including officials and CF office holders, suggested that CF proponents who could 'make officials happy' achieved a larger area of CF, and a quicker handover. They further revealed that when a contractor is involved in work plan preparation, the forest is handed over quickly because the process is facilitated by large informal payments. Such trends are also indicated in the reports of various government investigations (HLIC 2011; NRC 2010).

The CFUG has to make informal payments to each layer of government units, such as the Range Post, the AFO and the DFO, during the process of recommendation and approval of the work plan, whether a new project or a renewal, regardless of illegality and ill-intention. As revealed by various sources, the size of such payments is based on a number of factors, such as size, species composition and production potential of the forests, as well as the character and relative bargaining capacity of the officials. In cases in which there is a corrupt intent for timber extraction and the AAH is manipulated, the size of payments is larger, and it is generally paid by contractors and reimbursed from the CFUG when income is received from timber harvesting.

6.4.1.2 Annual planning for timber extraction

In every fiscal year, a CFUG has to prepare an annual plan through its General Assembly. The Assembly makes the decisions on the quantity of timber to be harvested and the blocks from which it is to be extracted, and the quantity of internal and external sales. The quantity of extraction is based on the AAH, and the internal and external sales are determined by the users' demand. Interviews with a range of stakeholders suggested that both the CF office holders and officials prefer external sales, from which they obtain private benefits. The users' assembly is dominated by the *tatha-batha* (elites) of the community, who are generally some or all of the CFUG office holders, contractors and local politicians. They convince community members that the CFUG should be extracting and selling the maximum volume of timber outside the CFUG so that they can collect money for community development, including electrification and roads.

Although the CFUGs cannot formally contract out harvesting operations, this is done informally in most of the CFs producing timber for external sale. Before annual planning, the CF office holders secretly discuss and identify a contractor for timber extraction and sale. Where a contractor is from outside, s/he usually involves a CFUG leader or an active member as a local business partner, as observed by a contractor:

> "…it is difficult to enter a [Community Forest User] Group unless we have a local partner. We generally pick up a *tatho-batho* (active/elite) man from the Group, often other than the leader, who manages (*milaune*) everything in the Group" (T-A-3).

Thus, the plan is made and implemented according to the interests of the contractor and a few elite members of the community rather than the users' group, and the officials silently support them. Interviews and group discussions with contractors disclosed that the CF office holders generally fix the rate of informal payment per cubic foot of timber, and even take advances in many instances. A contractor's remark during a group discussion suggested that informal deals during the planning stage are a systemic phenomenon:

> "…in the early years, the CFUG chairpersons did not know whether they get money [while selling timber]. We [contractors] used to approach them offering money [informally], but now, they know everything, and they have become habitual in it. Now, we do not need to approach them, instead they come to us and negotiate for the maximum rate [of informal payment]" (T-A-4).

During this discussion, the contractors stated that they have never met a CFUG chairperson who has negotiated to maximise the tender price; rather, most of them have negotiated to maximise informal payments to themselves. Where a contractor has invested money during a CF work plan preparation and/or handover process, s/he typically is awarded harvesting jobs from that CF for many years. In cases where a new contractor is sought, it is generally money that counts. However, being a local resident and having political affiliation also matter in many

instances. Interviews with officials and contractors suggested that a CFUG chairperson generally chooses a contractor who is affiliated with same political party as the chairperson, as the chance of collusion for illegality is higher in such instances.

6.4.1.3 Tree marking and evaluation

Following the decision of its General Assembly, the CFUG formally requests a tree marking permit from the DFO. The DFO issues the permit upon recommendation from the Range Post and the AFO, to mark trees within the limit of the AAH in the work plan. Then, similar to GFs, tree marking and evaluation in CFs have to be carried out by the Range Post officer-in-charge, under close monitoring from the AFO. Compulsory random checks from the dfo and the rfd, as per the FPCSDD, must also be carried out. In district A, the DFO has also given the responsibility for monitoring tree marking in the CFs to FECOFUN and the Forest Products Entrepreneurs Association (FPEA).

There have been cases in which the following year's allowable harvests were also included in the tree marking permits that were granted (HLIC 2011). Similar to GFs, deviation from obligations through negligence is common practice in the tree marking and evaluation process in CFs. Usually, it is only junior forest officials – forest guards and foresters – who go to the forests during tree marking and evaluation. However, all other responsible officials, including the Ranger, afo, dfo, and rfd prepare or sign the required reports as if they have carried out the assigned tasks. The chairpersons of FECOFUN and FPEA also did the same in case study district A. However, during interviews and group discussions, it was suggested that illegality during tree marking has rarely been committed, since 2010, when the government restricted the felling of living trees.

Interviews with contractors revealed that they need to make informal payments to the Range Post, the AFO and the DFO to secure a tree marking permit. The contractors, who make informal timber harvesting and purchasing contracts with the CFUGs, make informal payments to the junior forest officials involved in tree marking as the tour and daily allowance (TADA) at a standard rate per day. Whenever any monitoring officials go into the field, the contractors incur logistic expenses, including fuel, food and accommodation in addition to payment of the TADA. Similarly, regardless of whether they go to the field or not, all officials signing monitoring reports, including forest officials and chairpersons of the FECOFUN and the FPEA, have to be made standard payments, 'signature *kharcha* (expenses)' as described by a contractor (T-A-8). The contractors also bear the travel costs, including food, accommodation and transportation, of the CF office holders, during official formalities.

6.4.2 Harvesting stage: felling, sectioning, log hauling and piling

The CFUG submits a tree marking report, along with recommendations from the Range Post and the AFO, to secure a harvesting permit. Once the DFO grants the harvesting permit, which is based on the tree marking report and the AAH, the marked trees are felled, sectioned, and hauled to the piling site. In the rugged terrain from which it is difficult to haul round logs, the CFUG receives a sawing permit from the DFO to saw logs inside the forest. All the regulatory procedures applied during harvesting operations in GFs apply equally in CFs. Similarly to GFs, harvesting operations in CFs are monitored by layers of government forest offices, including the Range Post, the AFO and the DFO, in the forest as well as in the piling site. The rfd is also involved in the final check of legality when the harvesting operation is over and all timbers have been hauled to the piling site.

As in the GFs, prescribed procedures are rarely followed during harvesting operations in CFs. Various sources revealed that the harvesting operation is usually contracted out informally, and the contractor manipulates paperwork to show that it was carried out by the CFUG itself. A range of IFAs is committed during the harvesting operation. The contractors usually over-harvest, or harvest the permitted volume from accessible areas, leaving marked trees in remote areas unharvested, to reduce operational costs. As revealed by contractors and officials, this practice has declined since the government's decision to harvest 'only fallen trees (*dhalapada*)' in October 2011. During sawing in the forest, low-quality timber is avoided, and additional trees are harvested to make up the permitted volume. Interviews with various stakeholders revealed that indiscriminate felling took place in many CFs before 2010, when commercial extraction of timber was banned. The g*irohas* (networks) involving contractors and the CF office holders, who were also local politicians, and forest officials were more active in that period. A forest official remarked:

> "…who is benefitted from living trees? Everyone gets benefit once they are felled – the CF office holders, forest officials, contractors, politicians and many others. Therefore, everyone's interest meets in harvesting and selling as much as possible" (F-B-9).

Under-measurement of logs is also a common phenomenon. During observation of Khair logs piled in a CFUG in district B, the logs were found to have been systematically under-measured, in both length and girth, resulting in the loss of over 12 per cent of volume. As revealed by interviews with officials and contractors, this proportion was typically much larger before 2010. Officials and the CF office holders advised that IFAs, including under-measurement, are prevalent in CFUGs which involve contractors in harvesting operations. During an interview, a CFUG Secretary remarked:

> "…we involved a contractor in harvesting for many years. We realised that we had to compromise in many things, including measurements and grading. Therefore, we decided to carry out harvesting by our own investment from this year" (C-B-3).

Many of the CF office holders interviewed have had similar experiences, but explain their inability to invest in harvesting as being due to a lack of adequate CFUG funds.

A series of informal transactions, in cash and kind, takes place during harvesting operations, regardless of whether IFAs are committed or not. The contractors generally pay bribes to each official involved in the formal processes, including the recommendation and issuance of harvesting permits, and sawing permits if needed. Similarly, they arrange the TADA, fuel, food, and accommodation, as required, for the junior officials and the CFUG representatives deployed in the field, and for the monitoring officials if they visit. According to officials interviewed, informal payments occur in every timber transaction; however, the size and frequency of such payments are reduced when harvesting is carried out by the CFUG itself. In cases in which IFAs are committed, additional payments are made through negotiation.

6.4.3 Log sale (at source)

6.4.3.1 Log grading, and allocations for sale

As in the GFs, once logs are hauled to the designated piling site, and a piling register with details of logs is prepared, logs are graded by forest officials. Then, a notice is published asking the CFUG users if they need timber for domestic use - the internal sale. Once the internal sale is over, the rest of the logs are allocated for external sale. Interviews with a range of stakeholders revealed that officials and community elites, including the CF office holders and local contractors, favour external sale of timber for their personal benefit, and they drive the CFUG decisions accordingly. Similarly, fraud in grading may take place if the timber is mainly for external sale.

6.4.3.2 Internal sale

The price of timber for internal sale is heavily subsidised; in most CFUGs, it is below NRs. 300 per cubic foot for *Sal*. Therefore, every user is better off buying timber and selling or storing it for future use. As suggested by various sources, it was common practice for CFUG members to buy subsidised timber and sell it to sawmills until a few years ago. Now, a CFUG mechanism, usually a 'Monitoring Committee', is in place to check whether the user's demand for timber is for domestic purposes. However, CF office holders and monitoring committee members themselves are often accused of familial as well as political favour while distributing subsidised timber to the users. Similarly, during interviews, some sawmill owners revealed that secret timber transactions between the CF office holders and sawmills is a common practice.

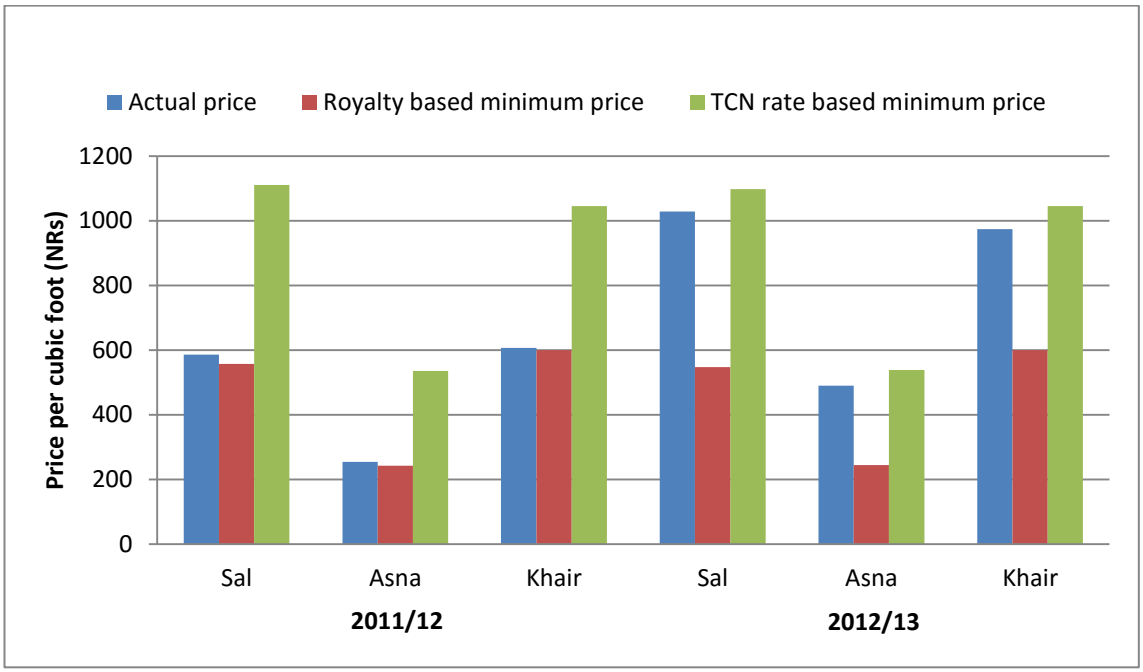
6.4.3.3 External sale to neighbouring communities

Logs remaining after internal sale are sold outside the CFUG. As per the MFSC's decision dated 6/3/2012, CFUGs need to allocate 25 % of external sales to neighbouring communities or districts at royalty rates. These rates are much higher than the prices of timber fixed for local communities, but are equivalent to the District Forest Product Supply Board (DFPSB) prices. In district A, this quantity is allocated to the DFPSB, in which similar formal and informal processes of sale take place as for the DFPSB's timber coming from GFs, as described in section 5.4.3.2. In district B, the CFUGs are required to display public notices (locally) calling for applications for timber if any users from neighbouring communities need it for domestic use. Generally, applications are rarely submitted, partly because timber demands are supplied through the respective CFUGs in the neighbourhood or through illegal means at cheaper rates, and partly because members of the community are not aware of the notice.

6.4.3.4 External sale through sealed tender process

The remaining quantity of timber after sales to the CF users and neighbouring communities is sold through a sealed tender process, which is similar to that for timber from GFs. Tenders are approved by the CFUGs upon permission from the dfo. However, the process of tendering for CF external sales is often no more than a facade. Interviews with contractors disclosed that there is an informal agreement among contractors that one does not bid in a tender for logs in a CFUG if another contractor has made an investment in the harvesting of those logs. Therefore, although the tender notice for log sales is published in a national daily newspaper as formally required, no contractor other than the one who has invested in harvesting bids for tender. The sole contractor manipulates the requisite official processes and buys the logs at minimum prices. Figure 6-2 presents approved tender prices of timber of major three species sold by the CFUGs in district B, compared with the average expected minimum prices if the timber had been sold at royalty or the TCN prices.

Figure 6-2: Average actual prices of timbers tendered by Community Forest User Groups compared with royalty and the Timber Corporation of Nepal prices (District B)



Abbreviation: TCN = Timber Corporation of Nepal

Source: Office records

As indicated by Figure 6-2, the prices of timber, which can be independently fixed legally by the CFUG, are slightly above the royalty price, but far below the TCN rates in 2011/12. In 2012/13, when the government decided to sell timber from all agencies at the same prices, which were the TCN rates, the timber prices had gone up but were still below the TCN rates. Interviews with officials suggested that the price would diminish significantly, as a result of collusion between contractors and local elites, if the DFO did not play a role in the tender approval process. In district A, it was not possible to compare actual timber prices with the royalty and the TCN rates due to a lack of disintegrated data regarding prices of timber according to grades of timber. However, average actual prices (NRs. 775, 286 and 605 for *Sal, Asna* and *Khair* respectively in 2011/12, and NRs. 1046 for *Sal* in 2012/13) do not vary significantly from those in district B.

The contractor makes informal payments to officials, at different points, while obtaining permission for a tender or its approval, on behalf of the CFUG. They also incur costs of '*nasta-pani*' (snacks), either in kind or in cash, during tender opening.

6.4.3.5 Log marking (bimarka) and pre-transportation formalities

All the processes of log marking and other pre-transportation formalities, including securing a transportation permit, truck sealing, departure note, and certification (*darpith*) are similar to

those for the GF's timber, although the CFUG is involved jointly with the DFO in this case. The IFAs that take place at this stage are also similar, such as marking illegal logs.

Similarly, contractors make informal payments, including the *tuppi kar* or service charge to a range of actors at this stage. Interviews with officials and contractors revealed that the standard rates of payment to officials are similar to that for the GF timber; however, some additional actors, such as CF office holders, need to be paid. On the other hand, unlike in the GF timber, the *dons* except for the local *chulthe-mundre* in some instances, are rarely paid during timber transactions from CFs. Contractors stated during group discussions that this may be due to the small quantity of timber in a transaction, and also because the tender generally takes place in remote villages, which are less accessible for them. Contractors also revealed that they sometimes give goods, such as sport equipment and generators, to local youths instead of cash.

6.4.4 Transportation, processing and marketing

All the activities in this stage are similar to those for timber production and trade from government-managed forests (see section 5.4.4).

6.5 A case study of timber production and trade from CFs

This section presents a case study of timber production and trade from a CF in district A, in which a range of informal activities occurred and a series of informal transactions took place along the trade chain. This case study is based on individual and group interviews with the relevant forest officials, contractors and the CF office holders, and on my own observations in repeated visits to the site during my fieldwork.

What is now the CF was originally a dense *Sal* forest in the foothills of Churia region, which gradually became degraded with increasing pressure from the people migrating from the hills. During the Panchayat regime, the local people cut trees indiscriminately out of sight of forest officials, but when they were caught they were taken into custody. Stealing of timber continued in the post-1990 democracy, but the perpetrators were barely punished as they were politically protected. Even when forest officials caught them, they were set free in exchange for *kukhura* and *raksi* (chicken and local spirit) and a small amount of cash. Thus, the forest was severely degraded when the local people initiated protection through a locally-formed 'Forest Protection Committee' in 2000. After continuous efforts of the local people to have the forest designated as a CF, the CFUG statute was registered by the DFO in 2009, and the work plan was prepared. However, the CF handover process ceased when the local people refused to pay a bribe of NRs. 15,000 to the Ranger, for his recommendation to the DFO of work plan approval and the CF handover. The following year, when the Ranger was transferred and the new Ranger arrived at the local Range Post, the forest was handed over as a CF. The

local community bribed officials of the Range Post, the AFO and the DFO during the recommendation and approval process; the total expenditure reached over NRs. 200,000 in the course of the CF handover. Perhaps because the degraded forest had no potential for immediate timber production, no contractors 'helped' the community in that process. They covered the cost from charging membership fees to the users and selling fallen trees informally. The CF covers an area of nearly 200 ha, and the CFUG constitutes over 300 households. Timber theft is perceived to have been largely reduced since the CF handover.

Since its formation, the executive committee of the CFUG had been reformed every year through the users' assembly, but while the chairperson and the treasurer never changed, three persons have served as secretary. Nevertheless, a young and *chalta-purja* (active) user member, here called Mr. A, had always informally played the role of secretary. The Range Post, the closest monitoring and advisory agency, was located less than an hour's in walk away from the CFUG. The Assistant Forest Officer, the officer-in-charge of the Range Post, usually lived in the district headquarters but visited the Range Post occasionally. However, two veteran forest guards were regularly available in the Range Post; one of them settled locally many years ago.

The year in which I carried out my fieldwork was the first year in which the CFUG was producing timber for commercial sale. The AAH mentioned in the work plan was well below the national average, and appeared plausible, that is, not manipulated. Before commercial harvesting, in November-December, the CFUG asked for users to request timber for household purposes if they needed it, and offered them trees to harvest (by themselves) to be payable at the rate of NRs. 40 per cubic foot of *Sal* timber. They thus distributed about half of the AAH to the local users. Later, in March, the rest of the quantity was harvested for commercial sale. A contractor from the neighbouring village – who was also the Village Development Committee (VDC) chairperson of Nepali Congress, one of the major political parties (here called Mr. B) – was involved in the process of commercial harvesting. Mr. A, the informal CFUG secretary, was working as a local business partner of Mr. B. It was the first time Mr. A had participated in the timber business. The responsibilities of the two were divided in such a way that Mr. A would look after the field and coordinate with the CF office holders (*field herne*) and Mr. B would coordinate with other stakeholders beyond the community, such as government officials (*mathi herne*). However, in practice, Mr. A had to handle most of the latter tasks, due to Mr. B's busy schedule.

When I asked during individual interviews and group discussion about different issues related to timber production and trade taking place in the CFUG, the CFUG chairperson frequently referred to Mr. A and Mr. B. He was largely unaware of what was going on, and seemed to

place great 'trust' in the contractors. When I asked the chairperson and the treasurer about the official papers of the CFUG, including the meeting minute book, timber records, work plan and the CFUG statute, they looked confused, looked at each other, and said that those might be with the secretary. I had already witnessed one of the forest guards taking all those documents from the house of Mr. B in the neighbouring village. In fact, what was taking place in the CF was known to three persons, Mr. A, Mr. B and a forest guard, but not to the CF office holders or the officer-in-charge of the Range Post, or to users. The minutes and timber records were written by Mr. A.

Before the annual planning meeting of the CFUG, Mr. B talked to Mr. A about timber harvesting from the CFUG and offered him the opportunity to form a partnership. Mr. A agreed to the proposal, and started to make '*setting*' (informal arrangements) for a timber harvesting and purchasing contract. He discussed his and Mr. B's interests with the CFUG chairperson and treasurer. The chairperson and treasurer were happy to involve them, especially because Mr. A was local and 'trustful' to them. Since a CFUG could not contract out a harvesting operation legally, Mr. A prepared all the documents in such a way that harvesting was carried out by the CFUG and no contractors' investment was involved. Mr. A and/or Mr. B went to the forest offices repeatedly, including to the Range Post, the AFO and the DFO, together with the CFUG chairperson, to acquire the series of recommendations and permissions required.

The process started with the CFUG's request for a tree marking permit (*chhapan sahamati*) to the DFO, following the Users' Assembly decision on timber harvesting in that fiscal year. Mr. A prepared the documentations required from the CFUG. Mr. A and Mr. B acquired the necessary recommendations from the Range Post and the AFO, and went to the DFO for the tree marking permit. They paid bribes of NRs. 3,000 and 4,000 to the AFO and the DFO officials, respectively, as petrol, stationery and '*nasta'* (snacks) expenses. Once a marking permit was granted by the DFO, tree marking and evaluation were carried out by the forest guard, who was accompanied by Mr. A. Fallen trees of *Sal* were marked from around the whole forest area but those of Asna were marked only from areas close to the village. The tree marking and evaluation report was signed by the Range Post officer-in-charge, and taken to the DFO along with a CFUG letter requesting the harvesting permit (*katan sahamati*). The forest guard was informally paid NRs. 2,000 (at the rate of NRs. 1,000 per day) as the TADA for the tree marking job, while the Range Post officer-in-charge was paid NRs. 1,000 for signing the report, a *signature kharcha* (expenses) identified by Mr. A during interview. As required by the dfo for granting a harvesting permit, they acquired monitoring reports/recommendations from the officer-in-charge of the AFO, the FPEA chairperson and the FECOFUN chairperson.

However, these people did not go into the forest; instead Mr. A and Mr. B obtained the reports signed by them at their homes or offices. The AFO officer-in-charge inquired by phone of the Range Post officer-in-charge before he randomly ticked 10% of the trees in the tree marking and evaluation report signed by the Range Post officer-in-charge, as if he had checked them. The FPEA and FECOFUN chairpersons also signed the monitoring report, at home, as if they had checked the site. Similarly, on behalf of the dfo, an afo (the officer-in-charge of the DFO's Development Section, which is meant to look after the CF affairs in the district) inquired of the AFO officer-in-charge and ticked 5% of the trees on the same report as if he had monitored them, and forwarded the report to the dfo for granting the harvesting permit. *Anugaman kharcha* (monitoring expenses) were paid to each of these people; for example, NRs. 2,000 to each of the FPEA and the FECOFUN chairpersons, NRs. 3,000 to the officer-in-charge of the AFO, and NRs. 4,000 to the chief of the DFO's Development Section.

Harvesting operations began once the harvesting permit was granted. During harvesting, which took about 20 days, Mr. A was present at all times with the labourers. He himself took measurements of logs. No unmarked trees were cut, but some marked trees in the steep terrain were left unharvested. The CF office holders and the Range Post officials, at least one of whom respectively was supposed to be present in the harvesting site at all times, went to the site once tree felling and sectioning were over. The forest guards from the Range Post prepared the log accounting report (*ginda muchulka*), which was later signed by the Range Post officer-in-charge. NRs. 2,000 (at the rate of 1,000 per person) was paid to two forest guards as the TADA, while NRs. 1,000 was paid to the officer-in-charge of the Range Post as a *signature kharcha* for signing the log accounting report. The *Asna* logs, which were from more accessible areas, were hauled to the piling site (*ghatgaddi*) in the village. However, a sawing permit (*chiran sahamati*) from the DFO was requested to saw all *Sal* logs in the forest. The recommendation and approval process, similar to those for tree marking and harvesting permits, was followed for the sawing permit. Informal payments of NRs. 10,000 to the Range Post and NRs. 14,000 to each of the AFO and the DFO were made in this process.

The logs were sawn in the forest; thus only good quality timbers were extracted, and transported to the piling site. A forest guard from the Range Post measured the timbers in the piling site, and prepared the piling register. The Range Post, the AFO and the DFO are formally required to inspect the piling site and certify the piling register; however, the officials did not visit the site but signed the piling register in their offices as if they had inspected onsite, and recommended permission for tender (*lilam sahamati*). A *signature kharcha* of NRs. 2,000 was offered to each of them. The DFO allocated 25% to the DFPSB for sale to district residents

outside the CFUG, and granted permission for the tender of the rest of the timber, which was about 750 cubic foot of round timber equivalent, comprising about 80 % *Sal* and the rest *Asna*.

As formally required, a tender notice was published in a national newspaper, to be effective for 21 days, for which Mr. A and Mr. B paid NRs. 18,000 on behalf of the CFUG. Similarly, as per formal requirements, a detailed tender notice was given to six offices, including the DFO, the District Development Committee, the District Treasurer Comptroller Office, and Transport Syndicate, supposedly to display it on their notice boards, and official receipts for the notice were taken from them. However, bribes of NRs. 5000 were paid to each of them for concealing the notice.

Mr. B had already struck a deal for trade of the timber with the FPEA chairperson (identified here as Mr. C), who is a higher level contractor working as a middleman specifically for a few timber merchants and investors in a city. They had agreed that Mr. A and Mr. B would bear all the formal and informal costs before the timber came to the highway, and that Mr. C would pay NRs. 3,100 and 1,000 per cubic foot of round logs of *Sal* and *Asna*, respectively. Mr. C prepared three tender forms and registered one in the name of his own firm and two in the names of colleagues. The highest rate was set for Mr. C's firm, which was NRs. 1,410 for Sal per cubic foot of round log equivalent (the sawn timber was converted to the round log for tender purpose) and NRs. 500 per cubic foot of round log for *Asna*. The rates were designed to make the tender slightly higher than the TCN's minimum price, to comply with the dfo's direction. On the 22nd day after the tender notice was published, the sealed tender was opened in the CFUG in the presence of the representatives from the AFO and the Range Post, and the sale of the timber to Mr. C was formalised with the required documentation. Mr. A and Mr. B paid NRs. 2,000 as *nasta kharcha* to the officials.

The tender approval from the CFUG was formally accepted (*lilam samarthan*) by the DFO. Mr. C paid Mr. A and Mr. B the agreed price – NRs. 3,100 and 1,000 per cubic foot of *Sal* and *Asna* respectively. They paid the total tender cost, based on the accepted tender prices of NRs. 1,410 and NRs. 500 per cubic foot for Sal and Asna respectively, and the Value Added Tax (VAT), which is 13 % of the revenue, to the CFUG and the government[47]. They also paid NRs. 1,000 to each of the Range Post and the AFO, and NRs. 5,000 to the DFO, for the recommendation for and issuance of the log-marking order (*bimarka adesh*). They also paid NRs. 500 to the DFO's computer operator (perhaps 'administrative assistant') to have a sample of the 'log-marking order' (letter) kept in his USB drive. During log marking, in addition to

[47] The revenue for *Sal* timber is shared among the CFUG and the government, such that 85 % of it is deposited in the CFUG account and 15 % in the government treasury, while all of the revenue for *Asna* goes into the CFUG account. The VAT for all products goes to the government treasury.

paying a lump-sum amount of NRs. 10,000 as *tancha puja* and *nasta kharcha* (snacks expenses) to all officials coming into the field from the AFO and the Range Post, they paid NRs. 5 per cubic foot to the AFO officer-in-charge. Similarly, when obtaining the transportation permit (*chhodpurji*) from the DFO, Mr. A and Mr. B paid an informal tax, which they called the *tuppi kar*, at the rate of NRs. 70 and 50 per cubic foot of *Sal* and *Asna* respectively to the Range Post, and of NRs. 70 and 220 per cubic foot of both species to the AFO and the DFO, respectively.

Mr. A and Mr. B also made informal payments of NRs. 20,000 to the CFUG chairperson and NRs. 5,000 to the treasurer. Similarly, they 'helped' the local youth club and mothers' group with payments of NRs. 5,000 and 3,000 respectively, before the timber was loaded for transportation. Finally, they paid NRs. 3,000 to the AFO and the Range Post officials during truck sealing, issuing of the departure note (*chalani*) and certification of the truck load (*darpith*). Apart from the series of cash payments as mentioned above, the contractors incurred an informal cost of about NRs. 10,000 for food, drinks and transport for officials and the CF office holders during the whole process.

Throughout the process of securing the necessary approvals, for timber harvesting, and preparation for transportation, Mr. A and Mr. B were acting as if they were executive officials of the CFUG. They were the ones who prepared the required documents, carried files to government authorities and other stakeholders, and dealt with them on behalf of the CFUG. The CF office holders, specifically the chairperson, were always with them during official visits to formalise the documentation. All the officials, from the Range Post to the DFO, were aware of what was actually happening, and they were concerned only as to whether the documentation complied with the formal requirements. Although everything was under the contractors' control, timber theft as such, including by over-harvesting and under-measurement, was not evident during interviews and observations. When I asked Mr. A, referring to the widespread illegal forest activities in other CFs, whether they had committed any illegal activities, he remarked:

> "…I have heard that contractors commit illegal activities in collusion with [Community Forest User] Group's people [CF office holders] and forest officials but we did not do that. I am new and I can't take much risk. Now, forest officials also told us not to carry out any illegal activities, as they fear *akhtiyar* [CIAA]. The chairperson of our Group is also a *sojho manchhe* (innocent man). He even did not ask for anything from us but we gave him ourselves according to the prevailing rule" (T-A-8).

The 'prevailing rule' he referred to is the informal rule of the *tuppi kar* (informal tax) payment.

In the trade chain before transportation, formal transactions took place only twice – payments of revenue at the approved tender price and of the VAT – while informal transactions took place almost every time a 'signature' of an official was required. The harvesting expenditure

(*katan-muchhan kharcha*), which is formally payable to the CFUG by the tender-winning contractor in addition to the revenue as mentioned in the tender notice, was already incurred by the informal contractors. This cost was accounted as being NRs. 400 and 75 per cubic foot of *Sal* and *Asna* respectively, and Mr. A prepared the bills as if harvesting was carried out by the CFUG itself.

In total, NRs. 583 and 563 per cubic foot of Sal and Asna timber, respectively, have been paid informally along the trade chain before transportation[48]. In addition, while evaluating the price actually paid by Mr. C against the formal and informal costs for *Sal* timber, the CFUG and the government incurred a further loss of NRs. 500 per cubic foot, corresponding to the informal contractors' profit.

6.6 The size of informal payments along the timber trade chain from the CFs

A series of informal payments is made to a number of actors along the trade chain of timber from CFs. Interviews and group discussions with various actors revealed that the type of payments are similar to those for timber from GFs, such as basic and extra (in cases of illegality) payments made to the more direct actors at each timber transaction, and occasional payments made to various indirect actors. However, the number and type of actors and the frequency of payments differ between CFs and GFs. Table 6-2 presents scale of basic informal payments made along the trade chain of *Sal* timber from the CF chosen for case study in district A (section 6.5).

[48] Since I have derived per unit informal payments for two species dividing lump-sum payments by total volume, the figure for *Asna* may be exaggerated. During interviews, Mr. A and Mr. B advised that officials charged the payments mainly looking at *Sal*, and they actually incurred loss in the case of *Asna*.

Table 6-2: Basic informal payments along the Sal timber trade chain from a community forest in case study district A

Trade chain stage	Activity	Payee	For	Payment per cubic foot (NRs)	Paid as
Pre-harvesting	Tree marking permission	AFO	Recommendation	4	*Signature kharcha,* TADA, Monitoring cost
		DFO	Issuance	5	
	Tree marking	Range Post	Field work and report signing	4	
	Tree marking monitoring before harvesting permit	FPEA	Signing monitoring report and recommendation for harvesting permit	3	
		FECOFUN		3	
		AFO		4	
		DFO		5	
	Informal cost in kind (food, drinks, transport etc.)			4	
Total informal payments during pre-harvesting stage (A)				**32**	
Harvesting	Log report preparation	Range Post	Fieldwork	4	TADA
	Sawing permit	Range Post	Recommendation	13	*Signature kharcha*
		AFO	Recommendation	19	
		DFO	Issuance	19	
	Tender permission (with certifying piling register)	Range Post	Recommendation	3	*Signature kharcha*
		AFO	Recommendation	3	
		DFO	Issuance	3	
	Informal cost in kind			4	
Total informal payments during harvesting stage (B)				**67**	
Sale (at source) and pre-transportation formalities	Tender notice display	DFO	Giving notice receipts (also concealing notice)	7	
		DDC		7	
		Treasurer Office		7	
		Bus Syndicate		7	
		Other (2)		13	
	Tender opening	Range Post/AFO		3	*Nasta kharcha*
	Log-marking order	Range Post	Recommendation	1	*Signature kharcha*
		AFO	Recommendation	1	
		DFO	Issuance	8	
	Log-marking (*bimarka*)	AFO	Log-marking	18	*Tancha puja, bimarka kharcha*
	Transportation permit	Range Post	Recommendation	70	*Tuppi kar*
		AFO	Recommendation	70	
		DFO	Issuance	220	
		CFUG chairperson	All formalities	27	
		CFUG treasurer	All formalities	7	
		Youth club	…	7	Help
		Mother group	…	4	
	Sealing/*darpith/chalani*	AFO/Range Post		4	
	Informal cost in kind			4	
Total informal payments during log sale and pre-transportation formalities (C)				**484**	
Total informal payments along the trade chain (excluding transportation) (A+B+C)				**583**	

Abbreviations: AFO = Assistant Forest Officer; CFUG = Community Forest Users' Group; DDC = District Development Committee; DFO = District Forest Office; FECOFUN = Federation of Community Forest Users, Nepal; FPEA = Forest Product Entrepreneurs' Association

Source: Field survey 2013, with subsequent follow-ups

In the case study, total informal payment made to different actors along the trade chain before transportation (NRs. 583 per cubic foot) was equal to 41 % of the stumpage price. Most of this payment (83 %) took place during tender and pre-transportation formalities. In this case, a significant amount was also paid during the harvesting stage (NRs. 67 per cubic foot); however, most of this (NRs. 51) was paid while acquiring a sawing permit, which does not apply in most cases. Considering all formal and informal costs, the contractors earned a profit of NRs. 500 per cubic foot, which corresponds to the revenue lost due to the informal harvesting arrangement. Moreover, interviews with officials suggest that frequency and rates of informal payments would be much lower if harvesting was carried out by the CFUG itself, and collusion did not take place in tendering.

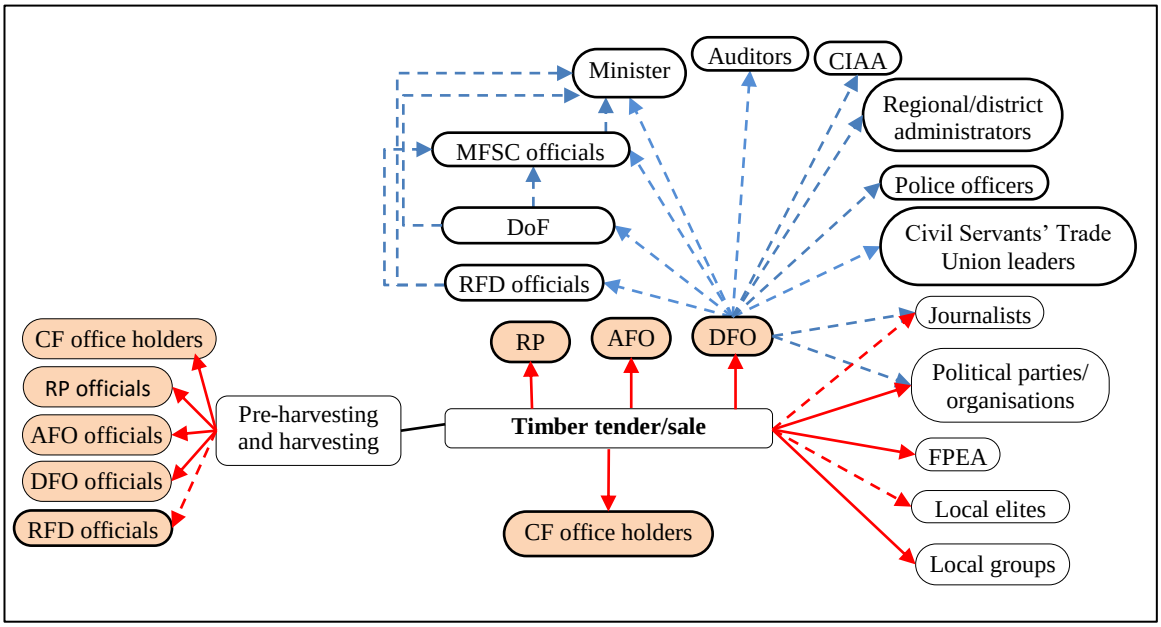
Although NRs. 583 per cubic foot was paid in this case, interviews with contractors suggest that average informal payment along the trade chain in district A before transportation is between NRs. 400 and 500 per cubic foot. Since competition rarely takes place in tenders for the CF timber, the scale of basic informal payments does not vary significantly across transactions. However, it may vary according to the condition of logs and the bargaining capacities of payees and payers (contractors). For example, interviews suggest that the payments were higher than average in the given case because the contractor who was in frequent contact with officials (Mr. A) was new in business and also because it involved sawn timber, for which the expected profit could be more accurately estimated. They further suggest, however, the payment made to the CF office holders in this case is lower than the average, which is about NRs. 100 per cubic foot for *Sal* timber.

Interviews with relevant stakeholders suggest that a similar pattern of informal payments is also in place in district B. However, similar to GF timber, and for similar reasons (see section 5.5), the rates of the *tuppi kar* in CF timber in this district are lower, with an average total payment along the trade chain before transportation of between NRs. 300 and 400.

6.7 Distribution of corrupt benefits from CFs

The corrupt benefits generated from the CF timber are shared among many formal and informal actors, at different governance layers (Figure 6-3). As in the case of GFs, the actors involved in any formal activities are directly paid by contractors with each transaction, generally at standard rates, while many others are paid occasionally, directly or indirectly.

Figure 6-3: Informal payments and their sharing during production and trade of timber from community forests, excluding transportation (District B)



Note: Shaded boxes denote actors with direct formal roles, red arrows denote payment made by contractors, and solid and dotted arrows denote regular (standard) and occasional payments, respectively.

Abbreviations: AFO = Area Forest Office; CFUG = Community Forest User Group; CIAA = Commission for the Investigation of Abuse of Authority; DFO = District Forest Office, DoF = Department of Forests; FPEA = Forest Product Entrepreneurs' Association; MFSC = Ministry of Forests and Soil Conservation; RFD = Regional Forest Directorate; RP = Range Post

The pattern and distribution of informal payments associated with timber production and trade from CFs is similar to those from GFs, except that the CF office holders are also paid in the case of CFs. For example, during pre-harvesting and harvesting, informal contractors directly pay officials from five layers of CF governing bodies – systemically to the CFUG executive committee, the Range Post, the AFO, and the DFO, and occasionally to the RFD where they are involved in the process. In addition, in district A, two actors with monitoring roles, the chairs of FPEA and FECOFUN, are also paid. Similarly, all authorities having roles during the tender process, including the CF office holders, are paid directly and regularly by contractors before the timber is transported. The sharing of informal money in different office units is similar to that for GF timber. For example, the Development Section of the DFO collects the *tuppi kar*, and transfers it to the manager of the informal fund, which is shared among various actors. The pattern of payments and distribution during transportation is the same as that for GF timber.

In the given case in district A, 86% of the total informal payments were made to forest officials. The CF office holders (chairperson and treasurer) received about 6%, while the balance was made to other actors, such as chairpersons of FPEA and FECOFUN and local groups.

6.8 Perception and rationalisation of corruption in the timber production and trade from CFs

Since the same stakeholders, including officials and contractors, are relevant to the timber production and trade from GFs and CFs, the perceptions and rationalisations of corrupt practices that were evident in the case of GFs (see section 5.8) generally apply also to the case in CFs. Therefore, I describe here some perceptions and rationalisations of officials and contractors that are exclusively relevant to CFs, and those of the CF office holders.

6.8.1 Officials

The 'service charge' payment that does not involve IFAs is perceived by almost all officials, from the top to the bottom, as not being a corrupt practice, or at least 'not being a big deal', as noted by a high-level official:

> "…subsistence corruption for *dal-bhat* (lentil and rice) does not have a large impact but manipulative corruption through the nexus of officials, contractors and community elites has been a major challenge for forest conservation and management" (F-O-17, a Joint Secretary).

Many officials in the districts rationalised the 'service charge' as a share of the contractors' profit, rather than of the people's or the CFUG's funds. For example, a forest official said:

> "…if CFUGs themselves harvested, we would not take it [service charge]. They involve contractors, who make a large profit from the people's resources. Also, despite our big efforts, they surely do some *dayan-bayan* (right-left, meaning illegality). …we work day and night for them, and take a small share of their profit; how can it be corruption?" (F-O-3).

Similarly, some officials raised an issue of equity to rationalise 'service charge' payments, as follows:

> "…the CFUG members get timber at the rate of NRs. 200 - 300 per cubic foot [*Sal* timber] for their contribution to forest protection. We [officials] have also contributed years to protect the same forests but we have to pay [NRs.] 5,000 - 5,500 when we need to build our houses. Therefore, the service charge can be regarded as a reward for our contribution" (an excerpt from a group discussion with officials in district A).

6.8.2 Contractors

Contractors justify their informal investment during the CF work plan preparation and handover process as 'help' to local communities, and their continuing capture of the CF timber as 'natural', referring to that as 'help in the community's need'.

6.8.3 The CF office holders

The common justification of the CF office holders for involving contractors in the CF work plan preparation and timber harvesting is the 'lack of money' within the CFUG. Most of the CFUG

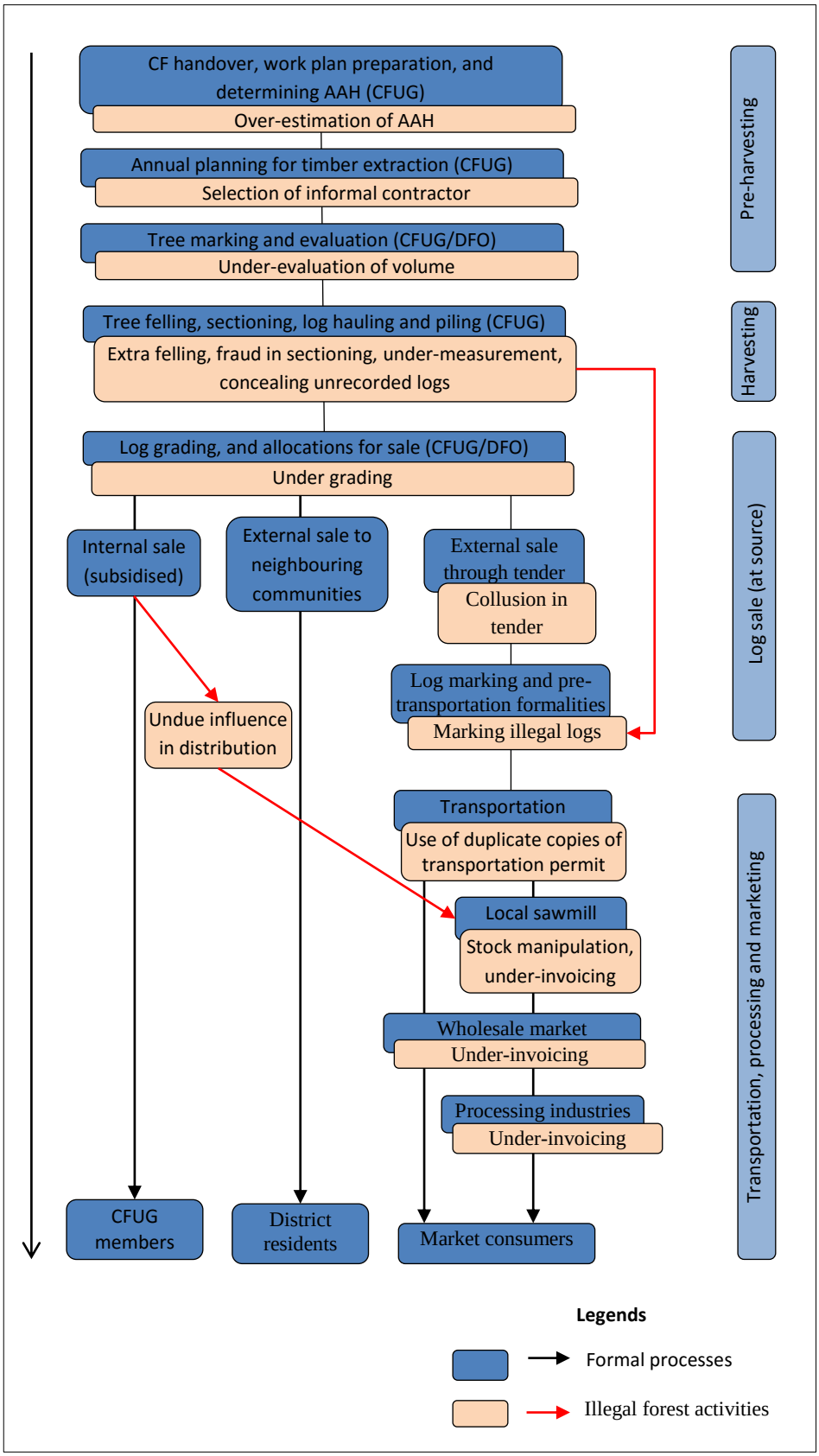
chairpersons interviewed accepted that they take small amounts of informal money from the contractors, and believed that it is not corruption as long as it is 'voluntarily' given. They generally claim such payment as recognition of their *dukha* (labour) during the harvesting process by the contractors.

6.9 Summary: corruption along the timber trade chain from CFs

This chapter presented corrupt practices and associated illegal forest activities occurring at different stages of the timber trade chains from the community forests in Nepal's Tarai. The chapter can be summarised in the following points.

- Various forms of corruption, including bribery, favouritism, conflict of interests, and fraud, prevail along the trade chain of timber from the CFs in Nepal's Tarai. The scale of corruption and associated theft (of timber and/or revenue) may not, in practice, be separated in different stages of the trade chain because they are generally inter-linked. However, major nodes of corruption and principal illegal forest activities along the trade chain are the work plan preparation, where the AAH is over-estimated; harvesting operations, where more harvesting than should be permitted takes place; the log tender, where collusion among contractors minimises stumpage prices; and log-marking for transportation, where the extra harvest is legalised. Figure 6-4 summarises the main illegal forest activities along the trade chain of timber from CFs, which result in theft of timber and/or reduced revenue.

Figure 6-4: Major illegal forest activities along the trade chains of timber from the community forests in Nepal's Tarai



Abbreviations: AAH = Annual Allowable Harvest; CFUG = Community Forest User Group; DFO = District Forest Office

- Bribery is the most dominant form of corruption throughout the chain. Routine informal payments (without involving theft) are made several times along a trade chain, generally every time the contractor meets an official to complete a formal requirement. Additional payments for illegal forest activities are made mainly during log-tender, which involves collusion leading to reduced revenue, and log marking, in which illegal timber is legalised. Both types of informal payments are systemic. Although the scale of timber theft, which is illegal, has been responsive to anti-corruption actions, the theft of revenue through collusion in tendering, which is not explicitly illegal in the forest sector, is a systemic phenomenon.
- The rates of *tuppi kar,* or service charge, which is in aggregate the largest informal payment in the trade chain, are similar to those for GFs. The CFUG and the government lose around one-third of the actual stumpage price of timber due to such corruption, even when timber theft is not committed.
- A range of formal and informal actors are involved in corruption along the trade chain of timber from CFs. The CF office holders and local contractors, who are generally elites of the communities, and forest officials are the major actors, who collude for corrupt outcomes from the beginning of the trade chain. The pattern of distribution of informal income in and out of office units is similar to that for GFs.
- Major actors, including the CF office holders, contractors and forest officials perceive small-scale payments without extortion and illegality as not being a corrupt practice. All of them have their own rationalisations for being involved in informal exchanges, which give positive feedback to reinforce corruption. They generally see theft of timber as a major indicator of corruption.
- The pattern of corruption in CFs is in many ways similar to that in GFs, mainly because the same procedural guidelines govern these forest governance and management regimes. As in GFs, actors from CFs also choose formal trade chains, where they can manipulate information for private benefits. Likewise, similar illegal forest activities and corrupt outcomes occur during transportation and marketing of timber from both GFs and CFs. However, in the case of CFs, community elites, specifically the CF office holders, play more decisive role.

The next chapter deals with corruption and associated illegal forest activities along the trade chain of timber from private forests in Nepal's Tarai.

Chapter 7: Corruption along the Timber Trade Chains from Private Forests

7.1 Introduction

As illustrated in Figure 4-10, the database of the Department of Forests (DoF) shows that private forests make a large contribution to timber production in Nepal, although the area of registered private forests is negligible, below 1 % of the total forest area (MFSC 2015). The non-registered private forests, largely farmlands with scattered trees, produce a large proportion of the timber shown in the private forest account. I therefore use the term private forest (PF) to refer to a privately-owned forest or to other privately-owned land producing timber. Corruption and illegal activities during production and trade of timber from the PFs are long-standing phenomena in the country.

In this chapter, I will describe how different kinds of corrupt practices and illegal forest activities (IFAs) take place along the trade chain of timber from private forests in the Tarai of Nepal. The chapter begins with a brief description of the current laws to regulate timber production and trade from the PFs, and a typical trade chain of timber from the PFs. Then, I present a generalised description of corruption and IFAs along the timber trade chain from PFs, followed by a case study of a timber transaction from PFs, in which a range of corrupt practices and IFAs had taken place. The subsequent sections give a detailed account of informal payments, mechanisms for sharing them, and the beneficiaries. Lastly, I will discuss how actors rationalise their corrupt acts.

7.2 Regulatory framework for timber production and trade from PFs

Three major regulatory tools are in place for regulating timber harvesting and trade from PFs in Nepal (Table 7-1). The *Forest Act 1993* designates timber produced from the PFs as private property, and authorises the owner to use and sell these products at their discretion. However, perhaps considering the possible theft of timber from national forests in the name of PFs, the *Forest Regulation 1995* has made it mandatory for forest owners to secure permits from the DFO to transport timber produced from PFs. The MFSC introduced the *Private Forest Development Directive* in 2012, which prescribes the legal procedures for harvesting and transportation of timber from PFs. Apart from these regulatory tools, government authorities have made repeated, discrete decisions to regulate timber production and transportation from PFs, such as a restriction on the trade of some species (DoF decision dated 31/05/2010) and introducing additional monitoring and verification measures along the timber trade chain (MFSC decision dated 12/07/2010).

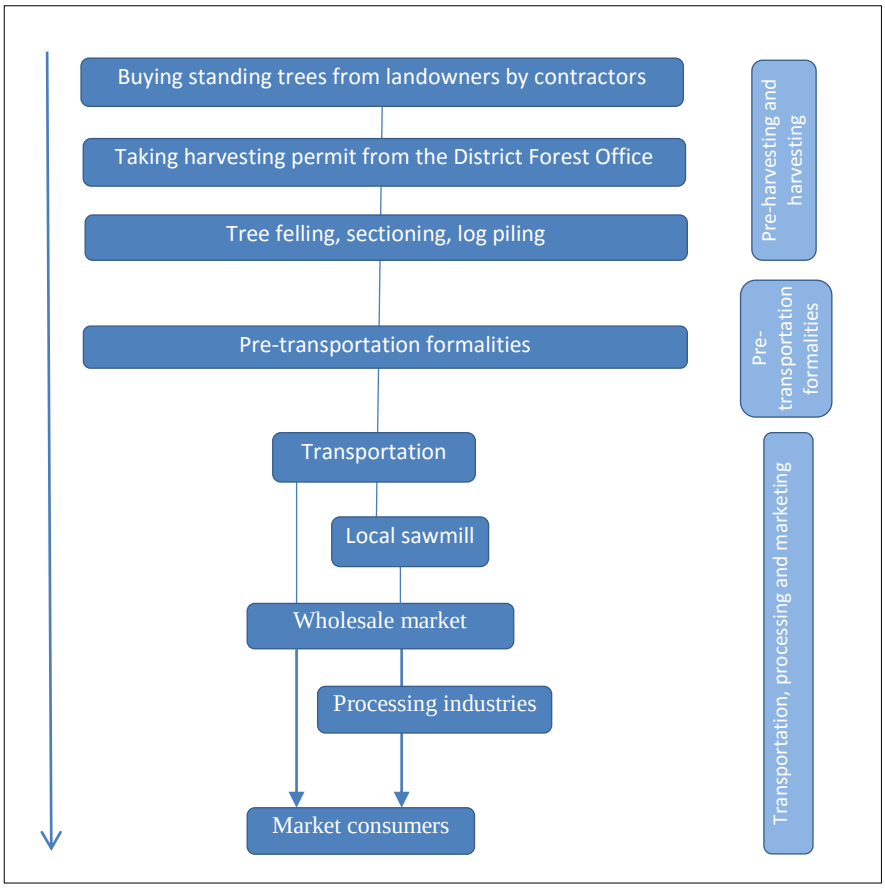
Table 7-1: Major regulatory tools relevant to timber production and trade from private forests

Regulatory tool	Brief description
Forest Act 1993	▪ Chapter 8 (Sections 38-40) prescribes legal provisions for regulation of private forests. ▪ Chapter 11 (Sections 49-54) lists forest offences and prescribes punishments for each offence. Chapter 12 (Sections 55-66) prescribes provisions relating to investigation of forest offences. These provisions are applicable in the case of some illegal activities that are committed while harvesting and trading timber from private forests.
Forest Regulations 1995	Chapter 7 (Rules 61-64) frames rules in relation to regulating private forests, including harvesting and transportation of timber from these forests.
Private Forest Development Directive 2012 **(PFDD)**	Formulated under the authority given by the *Forest Regulation 1995* (Rule 67), the Ministry of Forests and Soil Conservation (MFSC) introduced this directive. This directive prescribes, among others, detailed legal procedures for harvesting and transportation of timber from private forests.

7.3 General trade chain of timber from PFs

Excluding a few cases in which the PF owners themselves harvest timber, the trade chain of timber from a PF generally starts with contractors buying standing trees from the landowners. The contractors acquire harvesting permits from the DFO on behalf of the PF owners, and carry out harvesting. The timber is then transported to the market, directly or through local sawmills (Figure 7-1).

Figure 7-1: Generalised timber trade chains from private forests



Although timber from PFs can be sold, bought and transported freely as a private property, it is mandatory for the persons concerned – seller, buyer or transporter – to produce evidence of legality of the source of timber at any time. The government has introduced a number of legality verification measures along the trade chain. However, corruption and IFAs are common phenomena. In the next section, I present a general description of how corruption and IFAs take place along the timber trade chains from PFs. The following section presents a case study of a timber trade chain in which formalities associated with PF harvesting were abused to harvest timber illegally from national forests.

7.4 Corruption and illegal forest activities along the trade chains of timber from the PFs

Based on a variety of sources, including interviews, focus group discussions and observations, this section identifies a general pattern of corruption and IFAs along the trade chain of timber from PFs. I divide the trade chains into three different stages – pre-harvesting and harvesting; pre-transportation formalities; and transportation, processing and marketing – and briefly describe the prescribed procedures, deviations within the officials' duties, IFAs committed, and informal transactions involved in each of the first two stages. The last stage – transportation,

processing and marketing – is similar in all respects to the timber originating from the government-managed forests (see section 5.4.4); therefore, I do not describe this in this chapter.

7.4.1 Pre-harvesting and harvesting

As prescribed by the PFDD, timber from registered PFs (which have a negligible area) can be harvested without a permit, but information about the harvesting plan and a recommendation letter from the VDC/municipality concerned must be provided prior to harvesting to the forest authority (the DFO, AFO or Range Post). However, in the case of non-registered PFs, the landowner or a person authorised by her/him should acquire a permit from the DFO before harvesting timber. Where a PF adjoins a national forest or other government lands, the harvester should mark the trees to be harvested, and have them checked by the relevant Range Post. If the Range Post requires it, the harvester should also have the marked trees checked by the Survey Office.

When compared with the procedures prescribed by the PFDD, the formalities in practice in both study districts were lengthier, and more intensive in terms of checks and verification of legality along the timber trade chain, but they were also clearer. As revealed by official documents and interviews with officials and contractors, both the AFO and the Range Post are accountable for field-based verification in all cases, regardless of whether or not the forest adjoins the national forests or other government lands. Similarly, field inquiry (*Sarjamin*) with the owners of neighbouring plots, recommendations from the Survey Office and the VDC/Municipality, and public hearings are compulsory for all cases before harvesting permits are issued, as directed by the CIAA.

However, it is common for most officials to deviate from their duties, either with corrupt intention or due to negligence. Junior officials, such as Forest Guards and Foresters, are the only officials who go into the field in most instances. Other officials prepare 'verification' reports without going to the field. During interviews, most officials suggested that it is difficult to go to field due to lack of time and resources (such as vehicles), and therefore they prepare the reports 'trusting' in their sub-ordinates. However, some officials advised that this is rather due to negligence and *hakim* (boss) culture; that is, most officials have their own jobs done by their juniors.

Three main types of IFAs are committed in collusion between contractors and officials at this stage. First, the number of trees or the volume of timber is over-estimated, and a fraudulent report is submitted while requesting a harvesting permit. This is intended as cover for illegal logging from nearby national forests and legalising the wood produced as if it is from the PFs.

Interviews with contractors and officials in both districts revealed many instances when harvesting permits have been granted to harvest trees from farmlands where there were, in fact, no trees. Such cases are common in more remote areas, where higher-level officials rarely go out into the field for verification. During my field survey in district A, I observed that it was common practice to harvest trees from public lands, including canal banks and school premises, abusing the PF formalities. In many instances, this is carried out in collaboration between officials, contractors and the communities themselves because harvesting green trees from public lands is restricted, as they are legally considered to be government forests. Second, the number of trees or the volume of timber to be harvested is under-estimated, with the intention of reducing formal payments, such as the recommendation fees to the VDC/municipality and Value Added Tax (VAT) to the government. This occurs primarily where theft of timber from national forests in not intended. Third, a contractor may submit only one application for harvesting on behalf of a landowner, even though s/he has already bought and planned to harvest trees from other people's land in the neighbourhood.

Although the PFDD authorises the DFO to charge a service fee for a variety of services provided to the PF owners, as fixed by a technical committee[49], the committees in both districts have not been formed and the service fees have not been fixed. Instead, informal fees, in the name of a service charge, fuel, *nasta* (snacks), stationery and TADA, are charged by the officials involved in formal processes, such as the VDC/municipality officials for recommendation letters; the officials from the Range Post, the AFO and the Survey Office for various field verification reports; and the DFO officials for issuance of harvesting permits. Payments are made at basic rates in cases where the officials are not 'knowingly' involved in the IFAs. Extra payments are made to those who are involved in or aware of the IFAs. Basic payments are generally based on established informal norms, while additional payments are based on negotiation between actors.

Monitoring by officials is not formally required during harvesting operations in PFs. Illegal logging during a formal timber transaction from PFs ranges from 0 - 100 per cent of the total. As revealed by various sources, there are three different scenarios of timber harvesting in PFs in relation to illegal logging. First, illegal logging does not occur; this is the case while harvesting from isolated PF patches, such as home orchards, in the southern parts of the districts, which are far from the national forests. Second, harvesting is carried out in private plots additional to the one for which the harvesting permit has been issued. This is most common in areas with scattered trees on farmlands. In this case, the government suffers

[49] This is to be formed by the DFO under the chairmanship of one of its Forest Officers; it will constitute two members recommended by the District Forest Sector Coordination Committee (DFCC).

through reduced tax (VAT) payments, amounting to at least 13 % of the royalty rates of the timber. Third, timber from GFs and public lands is harvested using fraudulent documentation, as if it is from private land. In this case, the VAT is paid as if the timber is from private land but the government loses revenue (viz., the price of the timber). Theft from GFs is most common in the northern parts of the districts, where private lands are close to national forests. It is more prevalent in the less accessible areas, where only junior officials go into the field to carry out verification. Interviews with a range of stakeholders suggest that any form of illegality is rarely possible unless at least one official is involved in corruption. It is generally the field-level officials who allow contractors to mix illegal timber on a small scale. However, higher-level officials, up to the dfo, are involved at times in illegal transactions.

7.4.2 Pre-transportation formalities

Once the harvesting operation is over, the Range Post and the AFO are required to certify the log account submitted by the harvester, before recommending log marking and transportation permits. Upon submission of a certified log account, the dfo issues a log-marking order to one of the officers, generally the officer-in-charge of the AFO. The officer is required to re-check logs for legality, hammer-mark them (*bimarka*), and prepare a log-marking report. This is a crucial stage because the hammer-mark is the main tool for legality verification in the subsequent stages of the trade chain. Then, the dfo issues a transportation permit once the VAT is paid for the quantity of timber as per the log-marking report. The truck is loaded with hammer-marked logs in the presence of a forest official, and officially sealed if it is to be transported out of the district of origin. Finally, an official prepares a departure note (*chalani*) with details of the logs in the truck, and certifies (*darpith*) that the logs are legally sourced and are compatible with the log-account attached to the transportation permit.

Deviation from their responsibilities by officials, due to negligence or corrupt intention, is common at this stage. It is usually the junior forest officials who work in the field; but their supervisors, who are formally required to carry out the tasks themselves, sign the reports in their office. For example, even the hammer-marking job, which is considered to be sensitive, is sometimes assigned to junior officials. Re-measurement or verification of logs rarely takes place while marking. The log-marking report is prepared by copying the log account previously submitted. Any illegal logs harvested from national forests are legalised at this stage. Similarly, timber harvested from trees other than those accounted for, either from permitted or other land, is formalised at this stage.

Fraud is also found due to official reasons. For example, during my field survey in district A, I observed that a large quantity of *Sissoo* logs produced from a PF was not accounted for in the

log-accounting report, but had been put aside as 'fuelwood'. Since VAT payment is not required for fuelwood, such actions reduce government revenues. However, this was not due to any ill-intention but due to a faulty volume table. During interviews with the official and the contractor concerned, it was suggested that the volume table they had been using for many years estimates less than one-third of the actual volume. The official (F-A-2) also suggested that the officials who are involved in tree accounting are held accountable if the actual timber production deviates from the initial estimation by more than 10 %, but this does not occur due to the faulty volume table. Instead, to avoid censure, they leave almost two-thirds of logs without accounting for them, and it is assumed to be 'fuelwood'.

A number of informal transactions take place during pre-transportation formalities. Interviews with officials and contractors disclosed that every official involved in any of the formal processes is paid informally by contractors at least once, generally in the final stage of their involvement. Contractors generally have to pay for fuel, *nasta* (snacks) and TADA for officials visiting the field. During log marking, a small payment for *tancha-puja* (worshipping hammer) is made to junior officials involved in the marking. Similarly, a cubic foot-based rate is paid to the marking officer as a marking fee. A cubic foot-based payment is made to each of the Range Post (RP), the AFO and the DFO in the form of an informal tax – *PC*, *tuppi kar* or service charge – during the process of preparing a transportation permit. Finally, officials involved in formalities involved during loading, truck sealing and *darpith* are paid separately. In certain cases, in particular if activities are known to be illegal and where a highly valuable timber like *Khair* is involved, *chulthe-mundre* (criminal gang) and other local groups such as Youth Clubs and Mothers' Groups may need to be paid during loading, or even on the road during transportation.

7.5 A case study of timber production and trade from PFs

The case described here is a typical timber corruption incident that became public when fraud was detected at the almost-final stage of the trade chain. During an official investigation, it was found that all official documentation had been prepared as if the timber was harvested from private land, but almost the entire quantity of timber had been acquired from the national forests. The case story is based on interviews with many people, including some of the actors involved in the case, their colleagues, the investigation officers, and lawyers. This information was supplemented by a review of official documents and investigation reports and my own observation.

7.5.1 Activities on paper

Mr. A, a local contractor from a relatively remote village, submitted two application files to the DFO – on behalf of two farmers – asking for permits to harvest trees of various species,

including *Khair (Acacia catechu*, a valuable species used for *katha* production), from their private plots. He had enclosed in each file the account (*lagat*) of trees intended to be harvested from the intended plots, authorisation from each farmer in the form of a sale-agreement (*bikrinama*) in his name, a recommendation letter (*sifarish*) from the Village Development Committee (VDC) written to the DFO for issuance of permits for harvesting of the trees listed, and other necessary documents such as copies of citizenship and land registration certificates of the landowners. Upon receipt of the applications, the DFO sent the files to the AFO requesting the requisite investigation (*janchbujh*). The AFO wrote to the Land Revenue Office asking whether those plots were private. The Land Revenue Office replied the AFO with a positive response. Then, the AFO sent the files to the Range Post asking for the requisite investigation in the field.

The officer-in-charge of the Range Post sent the files back to the AFO with recommendation letters to grant permits to harvest the trees listed, stating that they were in the designated plots and their harvesting would not have any social or environmental impacts. An investigation report was attached with the recommendation letter in each file, which enclosed 1) a field inquiry report (*muchulka*) signed by a Forest Guard, a Forester, and the officer-in-charge of the Range Post, stating that the trees mentioned are in the stated plots and it is right to grant harvesting permits, 2) a report of a public hearing as organised under the chairmanship of the VDC Secretary[50] and in the presence of the officer-in-charge of the Range Post, at which more than dozen villagers were present (who had signed confirming their presence), with a statement similar to the field inquiry report, and 3) a letter from the Survey Office with a field report from an *Amin* (Surveyor); the report contained similar statements as above, and provided a sketch showing the locations of the trees in the plots proposed for harvesting.

Once the files arrived at the AFO, one of the AFO's Assistant Forest Officers (afos) submitted a field verification report for each file to the officer-in-charge of the AFO. The reports, which were accompanied by detailed accounts of the trees indicated, as if the afo had verified them in the field, were submitted along with an advisory note stating that it seems right to grant harvesting permits. The officer-in-charge of the AFO sent the files to the DFO asking for the 'required action', attaching this report. On the same day, the officiating dfo (an Assistant Forest Officer of the DFO) issued harvesting permits in the names of both farmers.

[50]In the absence of local elections for more than a decade, a VDC Secretary, who is a civil servant, has also been working as the Acting Chairperson of the VDC.

A few days later, Mr. A submitted applications to the DFO for log-marking (*bimarka*) and transportation permits in the name of a firm (Mr. B's furniture industry), to transport logs to a *katha* mill (*Khair* processing factory) out of the district. The applications were accompanied by the log accounting reports, certified by the Range Post and the AFO, as if the logs had matched the descriptions of the trees initially submitted and for which harvesting permits were issued. The dfo issued the log-marking order (*bimarka adesh*) to the officer-in-charge of the AFO. The officer-in-charge submitted log-marking reports, with details of the logs that were marked (total quantity was above 1200 cubic foot), to the DFO, and recommended granting transportation permits. The dfo then issued transportation permits, upon receipt of a VAT payment invoice. The VAT amount, paid by Mr. B's furniture industry, was 13 % of NRs. 600 per cubic foot, which means that the timber was sold at a price equal to the royalty rate of *Khair* timber produced from government-managed forests.

On the same day that the transportation permits were issued, the logs were loaded onto two trucks. The AFO's Assistant Forest Officer and the Forest Guard from the Range Post prepared a field report (*muchulka*). They officially sealed the trucks, and certified (*darpith*) them before they departed. When the trucks reached a particular village en route, a few kilometres from the loading site, the villagers stopped them, and informed the police that the trucks were carrying illegal timber. The police seized the trucks, and officially handed them over to the DFO for investigation. During the investigation, it was found that the entire quantity of timber was illegal.

7.5.2 Activities on the ground

The documents in the files appear more than adequate to verify the legality of the timber. On paper, all the formalities had been fulfilled, the required series of checks had been done, and a number of actors had verified the legality of the timber. However, all those documents had been prepared with fraudulent intent. During the official investigations, not one single tree or a recently cut stump was found in the plots in which the harvesting was supposed to have taken place.

Corrupt practices and IFAs were taking place behind the scene from the beginning. A contractor working in the neighbouring district (Mr. C) had a small stock of *Khair* logs collected from the national forests (GFs/CFs) over the last few years. Mr. C told Mr. A, who was a *chalta-purja* (active person) in the village, and a local activist of a major political party, about how they could earn some money quickly from the 'businesses' of *Khair* timber. Mr. A approached a timber businessman in the nearby city (Mr. D) for investment, and they jointly concocted the plan with advice from the Assistant Forest Officer of the AFO. Mr. A collected personal

documents, such as citizenship and land registration certificates, from two of his neighbours, and prepared fraudulent documents of authorisation. During the investigation, it was reported that one of the landowners, who was supposed to have signed (with a finger print) on the authorisation, had in fact died three years earlier. Upon advice from the Assistant Forest Officer of the AFO, a Forest Guard of the Range Post had prepared a fraudulent tree-accounting report. To avoid undue attention of the *hakims* (bosses), some trees of less-valuable species were also included in the list of trees to be harvested. Mr. A also involved the VDC Secretary in the plan, and produced recommendation letters from the VDC.

At the field verification stage, the Forest Guard prepared field inquiry reports and public hearing reports with the help of Mr. A and the VDC Secretary. As revealed by villagers' statements during the official investigation, they had signed the public hearing reports as requested by the VDC Secretary and forest officials without looking into the matter in detail. The Forest Guard briefed his superiors that everything was correct in the field. The Assistant Forest Officer of the AFO also advised the same, and persuaded the officer-in-charge of the Range Post to speed up the process. The *Amin* (surveyor) of the Survey Office also prepared the 'field' report in his office. The Forester and the officer-in-charge of the Range Post did not go to the field but signed the reports as if the tasks had been accomplished personally or in their presence. The officer-in-charge of the AFO recommended harvesting permits based on the 'field' verification reports prepared at the office by his colleague. At the time when Mr. A submitted the files to the DFO, carrying them from the AFO, the dfo was out of office, but within the district headquarters, for an official meeting. An Assistant Forest Officer of the DFO, who was the most senior among the officials under the dfo, assumed the position of 'officiating dfo'[51], and issued the harvesting permits immediately.

Mr. A had already harvested some timber from the government forests, and he added some of the illegally-harvested timber after securing harvesting permits. The stumps and other remnants (including bark of the logs) of the trees harvested were burnt to mask the illegal logging. He also mixed in the old logs earlier concealed by Mr. C and some from local villagers. During harvesting and collection of logs, Mr. D was repeatedly paying money to Mr. A.

Waiting for a period to match the minimum time it would take to harvest the permitted quantity of timber, Mr. A asked for log-marking (*bimarka*) and transportation permits on behalf of the furniture industry of Mr. B, who was Mr. D's friend. Mr. D had collected Mr. B's

[51] Generally, the senior most official in the office is regarded as the officiating chief when the officer-in-charge is out of the office, even when the chief has not given such authority. However, it is not that 'normal' for a subordinate to act as an officiating officer-in-charge while the chief is still around the office, i.e. in district headquarters or even within the district.

documents, including a VAT registration certificate. The Forest Guard prepared the log-accounting reports, which were certified by the bosses of the Range Post and the AFO without going out into the field. Once the log-marking order (*bimarka adesh*) was issued to the officer-in-charge of the AFO, he gave the hammer to the Forest Guard of the Range Post, who marked the illegal timbers. He prepared the log-marking reports copying the details of logs from the log accounting reports previously submitted. The officer-in-charge of the AFO signed the log-marking reports as if he had marked the logs, based on which the dfo issued transportation permits.

It was planned to transport the timber in the dark to avoid public scrutiny; therefore, the trucks were loaded in the evening. The old logs, which could be easily identified as such, were kept inside the truck so that the fresh logs could mask the old ones. Some unmarked logs, probably missed in the marking, were also loaded. The Forest Guard was present during loading, while the Assistant Forest Officer of the AFO reached the site in the late evening, when loading was completed. He sealed the trucks, issued departure notes (*chalani*), and certified (*darpith*) the logs as listed on the transportation permits.

The trucks departed around mid-night. Mr. A was present with the trucks. In a village a few kilometres along the route, some youths (who were referred to by almost all interviewees as *chulthe-mundre*) and women (referred to as a Mothers' Group - *Ama Samuha*) stopped the trucks, and asked for NRs. 50,000 as a 'donation'. When Mr. A refused to give them any donation, they seized the official documents, including the transportation permits, and called the police. The police seized the trucks, and an official investigation started.

Along with the deviation from duties and a series of frauds, a number of informal transactions took place throughout the regulatory process. The official investigation was concerned with the 'forest crime', and ignored the informal transactions. During interviews with various stakeholders, including with the actors themselves, the exact amount of informal transactions could not be revealed. However, it was revealed that two types of informal payments were made to officials by the contractors.

First, an informal service charge was paid to each of the officials for accomplishing their jobs without being 'knowingly' involved in illegal activities. All officials interviewed, although they claimed that they were not involved in a conspiracy over illegal logging, accepted that they were seeking such payments, which they termed differently as a 'system payment', 'service charge as per the norms', or 'money given as per the rules'. Most of the other participants interviewed in regards to this case, and who were familiar with the jobs and the character of the officials involved in this case, suggested that the Surveyor, the Forester and the officer-in-

charge of the Range Post, and the dfo should have received only service charges. They further suggested, however, they might have got more than the 'usual' rates of service charge because the team of perpetrators were in more of a rush than usual to get the job done. For example, almost all officials interviewed suggested that Mr. A would have paid an unusually high amount to the Assistant Forest Officer who issued the harvesting permit as an officiating dfo, although he might have been unaware of the illegal activities.

Second, an additional payment was made to those officials who were 'knowingly' involved in the illegal activities. During the interviews, several sources advised that the Assistant Forest Officer of the AFO was likely to have taken a large amount of such payment, while the Forest Guard of the Range Post and the VDC Secretary might also have received considerable amounts. Regarding the officer-in-charge of the AFO, some suspected him as being involved in the conspiracy, assuming that the marking hammer is not given lightly to a Forest Guard, especially in the case of a more valuable timber like *Khair*; others were sympathetic to him as being innocent, considering his relatively honest behaviour in the past.

7.6 Size of informal payments

Informal payments are a systemic phenomenon; not a single timber transaction from the PFs is free of informal payments. During a timber transaction, contractors are required to make formal payments twice – recommendation fees to the VDC/municipality in some instances, and VAT to the government – while they need to make informal payments many times. A basic payment is made at least once to each official formally involved in a timber transaction, while additional payments are made to those who carry out illegal activities. Table 7-2 presents the basic rates of informal payments made to officials along the trade chain of timber from the PFs in the two study districts.

The rates given in Table 7-2 apply to less-valuable species like *Sissoo* (domestic), Mango and *Haldu*, commonly categorised as *kukath* (bad timber), which are abundant in the PFs. The rates of *tuppi kar* payment increase for valuable species like *Khair* (*Sal* is not commonly found in private lands, and its harvesting is also restricted). Officials and contractors disclosed during interviews that the rates of service charge or *tuppi kar* for *Khair* timber from the PFs is similar to that from the GFs or the CFs. The rates also depend on the relative bargaining power of the officials. For example, if a contractor is also a politician, officials hesitate to negotiate but accept whatever s/he nominates, or the prevailing minimum rates.

Table 7-2: Basic rates of informal payments along timber trade chains from private forests

Value chain stage	Activity	Payee*	Basic rates of informal payments (NRs per cubic foot of timber)		Paid as
			District A	District B	
Pre-harvesting and harvesting	Recommendation from VDC	VDC Secretary	1	1	*Chiya-nasta* (tea-snacks)
	Field work (verification, tree marking/numbering, preparing tree-accounting report, and public hearing) by Range Post	RP officials	5	6	TADA, petrol, Stationery
	Field verification and report preparation by Survey Office	*Amin* (Surveyor)	6	5	
	Field verification and report preparation by AFO	AFO officials	3	3	TADA, petrol, Stationery
Total informal payments during pre-harvesting and harvesting (A)			**15**	**15**	
Pre-transportation formalities	Log measurements/verification, and log-account certification	RP/AFO officials	5	5	TADA, petrol, Stationery
	Log-marking, and preparing log-marking report	AFO officer-in-charge	5	5	*Bimarka* cost
		AFO/RP officials	2	2	*Tancha puja*
	Issuing transportation permit by DFO	RP	5	10	Service charge (*Tuppi kar*)
		AFO	9	15	
		DFO	13	20	
	Loading	RP officials	2	2	TADA
	Truck sealing, departure note and certifying truck-load	Sealing officer	4	5	
		Political parties	--	14	Help/ donation
		Local groups	3	3	
Total informal payments during pre-transportation formalities (B)			**48**	**81**	
Informal payments during transportation (as for the GF timber)			**7**	**12**	
Total informal payments along the trade chain			**70**	**108**	

Note: *Payee indicated as particular person (e.g. RP officials) means that the informal payment is for individuals, while that for an office unit or organisation (e.g. RP) means that the informal payment is institutional, and is shared among individuals within the organisation.

Abbreviations: AFO = Area Forest Office; DFO = District Forest Office; RP = Range Post; TADA = Tour and Daily Allowances; VDC = Village Development Committee

Source: Field Survey 2013

The average informal costs before transportation are NRs. 63 and 96 in district A and district B, respectively; those during transportation are similar to those for the timber from GFs or CFs. In

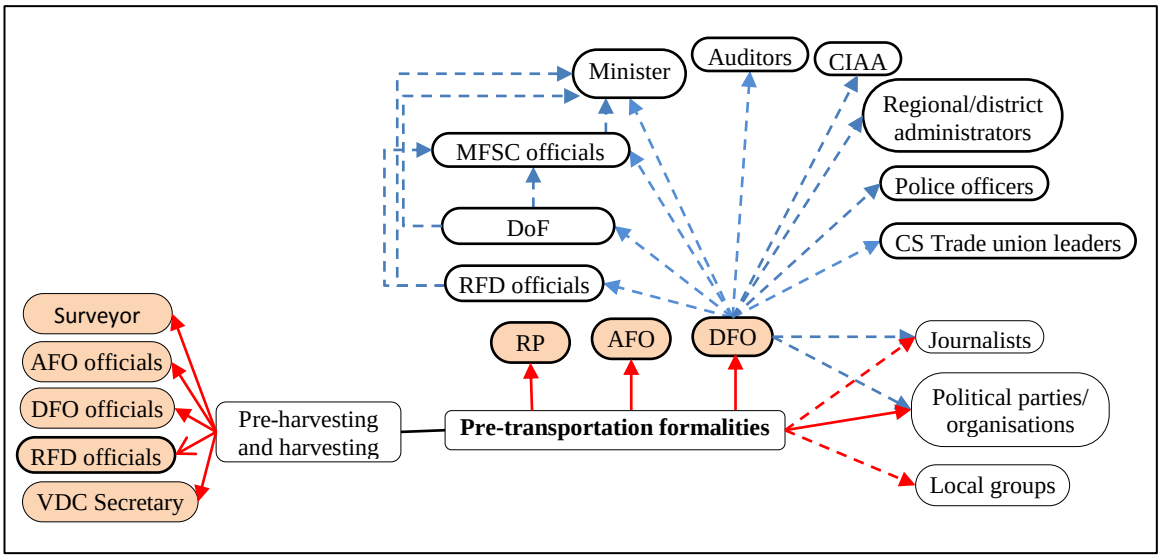
general, the sum of informal payments during the timber trade from PFs is equal to about 20% and less than 10 % of the farmer's selling price and the market price of timber, respectively.

Contractors informed me that the rates and frequency of informal payments increase in the case of large-scale timber transactions, those involving valuable species like *Khair*, or when timber is illegally logged from GFs and mixed with timber from PFs. In these cases, *chulthe-mundre* and other local groups, including youth clubs and mothers' groups, also need to be paid. During interviews, officials advised that the rates and frequency of payments decrease if the landowners themselves harvest the timber.

7.7 Distribution of corrupt benefits

Corrupt benefits, in the form of informal payments, generated from timber production and trade from PFs are distributed among various formal and informal actors at the local as well as central levels. Figure 7-2 presents a general picture of how informal payments are acquired and shared among various actors.

Figure 7-2: Generation and sharing of informal payments during production and trade of timber from private forests, excluding transportation (District B)



Note: Shaded box denotes an actor with direct formal roles, red arrow denotes payment directly made by contractors, and solid and dotted arrows denote regular (standard) payments and occasional payments respectively.

Abbreviations: AFO = Area Forest Office; CIAA = Commission for the Investigation of Abuse of Authority; CS = Civil Servant; DFO = District Forest Office; DoF = Department of Forests; MFSC = Ministry of Forests and Soil Conservation; RFD = Regional Forest Directorate; RP = Range Post; VDC = Village Development Committee

A contractor makes informal payments to various actors. Those who are directly involved in the formal processes along the trade chain are paid regularly, in each transaction, while some

informal actors, such as local groups, are paid occasionally. Among the regular payments made to officials, all payments other than the service charge or *tuppi kar* (informal tax*)* are personal. The *tuppi kar*, which is a cubic foot-based payment made before transportation, is shared by many actors at the local as well as central levels. The *tuppi kar* paid to each of the Range Post and the AFO are shared among the officials within the office, as per general informal norms similar to GFs or CFs.

The *tuppi kar* for the DFO is collected by the designated Section(s) of the DFO, and it is transferred to the DFO's informal fund, the 'central fund'. For example, in district B, the administrative territories (AFO areas) are divided to Administration Section and Crime Section (*Mudda Sakha*) to oversee the PFs in the district, and the respective sections collect the *tuppi kar* from their territories. The central fund, in which informal money is gathered together from other sources as well, such as *tuppi kar* from the GFs and CFs, is shared among the DFO officials over time, as per standard norms. A part of this central fund is shared in cash and used for various informal expenditures, for the benefit of a range of local and central-level actors, from time to time (see section 5.7 for details).

7.8 Perception and rationalisation of corruption in the timber production and trade from the PFs

In general, perceptions and rationalisations of corrupt practices associated with timber trade from PFs are similar to those associated with GFs (see section 5.8). I present here specific rationalisation strategies used in the case of corruption and IFAs during timber production and trade from PFs.

7.8.1 Officials

During group discussions and interviews, all of the officials strongly condemned 'planned' and 'large-scale' illegal logging from the national forests through the abuse of the PF formalities. However, most advised that it is 'natural' to do a little *dayan-bayan* (left-right) or *tala-mathi* (under-above), meaning mixing a small quantity of illegal timber with legal timber. During my inquiry in relation to the case study presented in section 7.5, a forest official, referring to those who were involved in the corrupt plan, remarked:

> "…clearly this is crime, a crime which should never be committed by a forester. It may be considered natural to mix 2-5 trees from the bordering national forest or to under-measure height of trees by 2-4 metres, but what happened in this case can never be considered natural" (F-O-27).

Similarly, while justifying why they allow the harvesting of trees from neighbouring plots for which no permits have been issued, officials commonly say that they pay little attention in this matter, thinking that 'after all, all those trees are private property'. Regarding informal

payments, officials rationalise them as fees or charges for their services provided to the private sector; some emphasise that they do not charge farmers but only the contractors. They further emphasise that it is justifiable since timber production from PFs is not a 'targeted' annual programme of the DFO, and they have to spend extra time for fieldwork relating to timber production from PFs, usually off-duty hours including public holidays.

7.8.2 Contractors

During interviews and group discussions, it was revealed that contractors are generally happy to pay 'reasonable' service fees, considering that officials provide services for entirely private businesses. They do not consider such payment as corruption if it is 'voluntary' and not extorted. However, they complain about the lengthy processes and demanding formalities, which require frequent informal payments, while utilising a private property.

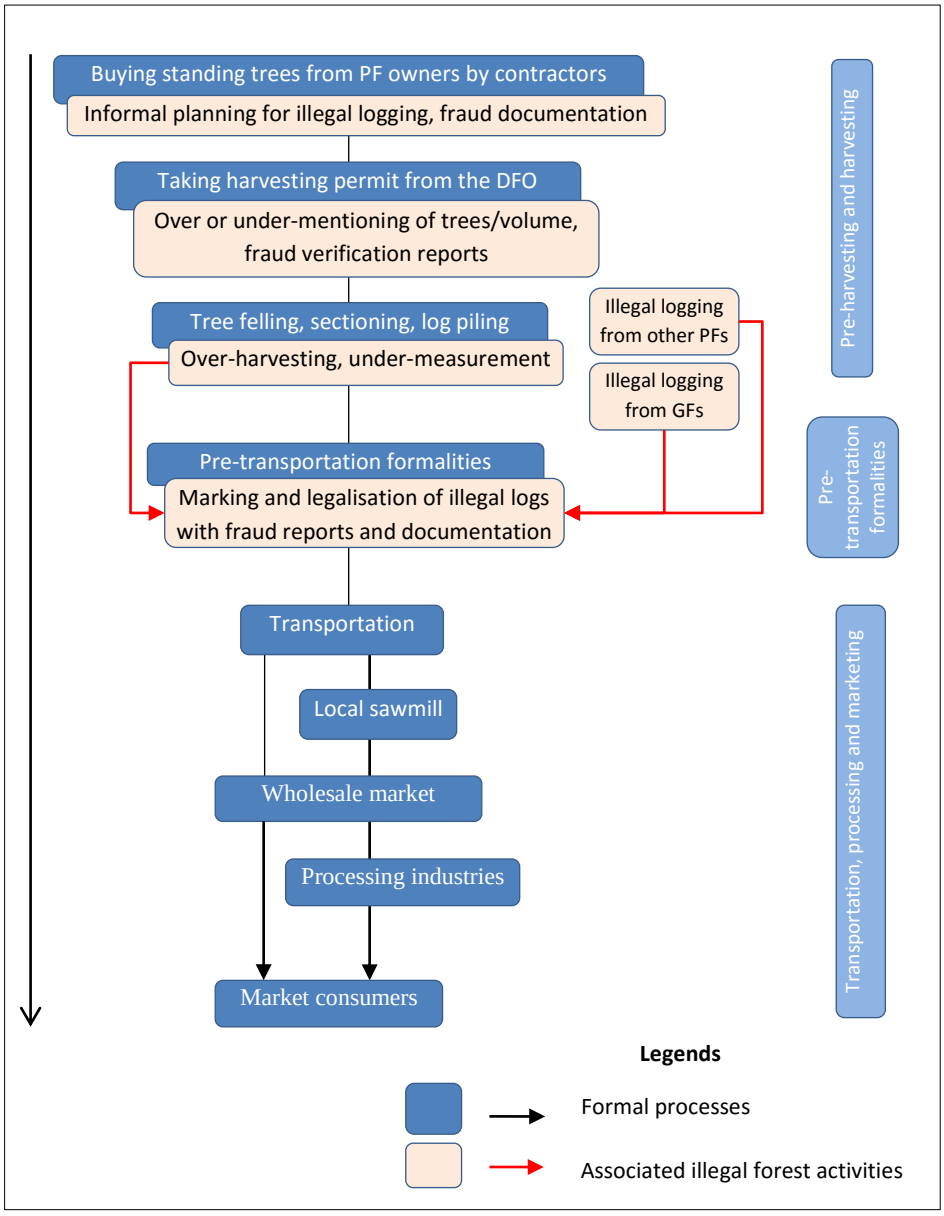
Like officials, contractors also condemn illegal logging from national forests; however, they consider a little *dayan-bayan* or *tala-mathi* to cover informal costs as natural. They justify the harvesting of trees from the neighbouring plots without permits along with harvesting from the approved plots as a strategy to avoid the administrative difficulties of fulfilling formalities for each landowner separately, and the associated informal costs.

7.9 Summary: corruption along the timber trade chain from PFs

Based on information collected during field surveys in two districts, this chapter presented how and what kinds of corruption and illegal forest activities take place along the timber trade chains from private forests in the Tarai of Nepal. The key findings are:

- A lengthy official procedure, involving a range of stakeholders, is in place to regulate timber production and trade from private forests. However, while the procedures appear to be followed on paper, this is rarely the case on the ground. Harvesting timber illegally from national forests and legalising it as if it is from PFs, and harvesting and legalising timber from non-permitted PFs, are the main illegal forest activities associated with PFs. This is made possible through collusion between officials and contractors. Figure 7-3 summarises the main informal activities occurring along the trade chain of timber from PFs.

Figure 7-3: Major illegal forest activities along the trade chain of timber from private forests



- Informal payment (bribery) is the major form of corruption, and it is highly institutionalised. It takes place at almost all stages of the timber trade chain, and all officials involved in the official processes are directly paid at least once along the trade chain. A part of the informal money generated from the timber from PFs is collected in the DFO's informal fund, which is shared with a large number of influential and passive actors. In the case of PFs, the external actors rarely play direct roles in bringing about corrupt outcomes.

- The informal payments made to officials represent about 10 per cent of the market price of timber from PFs.

The next chapter deals with anti-corruption in Nepal. It identifies anti-corruption institutions and actions in the country in general, and in particular, the national as well as local anti-corruption initiatives in relation to timber production and trade from the Tarai.

Chapter 8: Anti-corruption in the Timber Production and Trade from Nepal's Tarai

8.1 Introduction

Various anti-corruption measures have been adopted in Nepal in response to persistent corruption in the public sector. In this chapter, I present the state of anti-corruption initiatives in the country, with special focus on timber production and trade from the Tarai forests. This discussion is based on a review of legal and institutional arrangements, and interviews and discussions with various stakeholders. I begin this chapter with a brief description of the national context of anti-corruption in Nepal. The following section presents an analysis of anti-corruption moves in the production and trade of timber from Nepal's Tarai, using the TAPEE framework as discussed in section 3.6. The section begins with an overview of anti-corruption arrangements in timber governance, and analyses the five components of the TAPEE framework – transparency, accountability, prevention, enforcement and education – in terms of legal-institutional arrangements, their constraints, and practices. The section that follows will give a brief account of non-state anti-corruption responses. Finally, I discuss anti-anticorruption, that is, the activities against the anti-corruption initiatives.

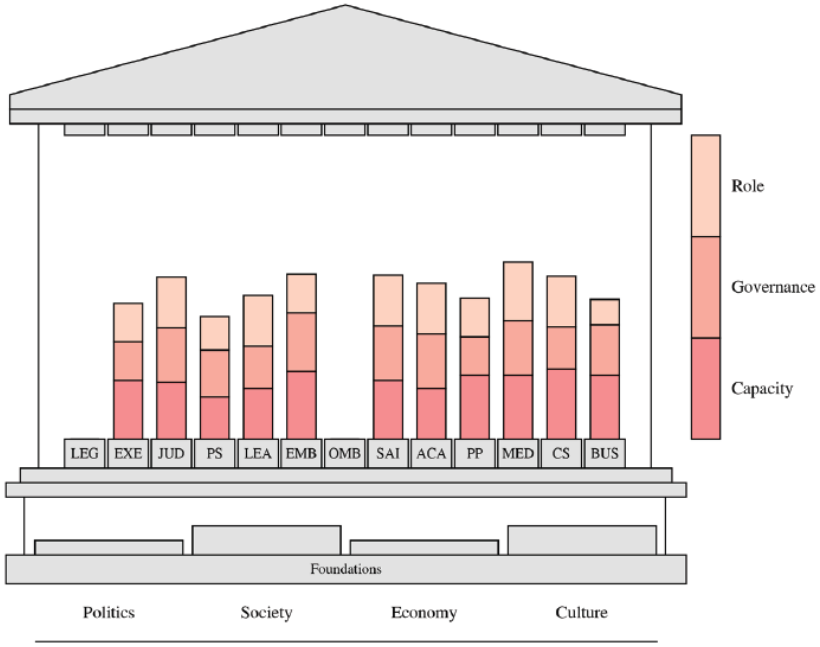
8.2 The national context of anti-corruption in Nepal

The recent assessment of the National Integrity System (NIS) conducted by Transparency International Nepal displays the poor state of anti-corruption in Nepal (TIN 2014). The NIS assessment approach analyses "vulnerabilities of a given country to corruption as well as the effectiveness of national anti-corruption efforts", through evaluating the principal public institutions and non-state actors in the national governance – the NIS 'pillars' – in terms of their capacity (resources and independence), governance (transparency, accountability and integrity) and role (in regards to preventing and controlling corruption), in law and in practice (TIN 2014, p. 5). The assessment also analyse contextual factors – the 'foundations' – upon which the 'pillars' operate. Thus, the NIS assessment results are based on the evaluation of 13 'pillars' (legislature, executive, judiciary, public sector, law enforcement, electoral management body, ombudsman, audit institution, anti-corruption agencies, political parties, media, civil society, and businesses) and four foundations (politics, society, economy, and culture) of the NIS (Transparency International 2010b).

Figure 8-1 shows the capacity, governance status and role of the NIS pillars for, and the degrees to which the NIS foundations are supportive of, the country's integrity system. As the

figure shows, the capacity, governance status and role of all NIS pillars assessed are too weak to build a strong integrity system, despite the fact that these institutions, except the ombudsman, were established five decades ago[52], and have been gradually developed. The overall performances of the executive and the public sector, which were weakest amongst the pillars assessed, indicate poor delivery of public services. Similarly, the relatively poor performance of the law enforcement agencies and political parties suggests a gap between law and practice, and a lack of political leadership's integrity and commitment to strengthen the NIS. Amongst the non-state actors, the media and civil society have performed relatively well to strengthen integrity; however, the private sector (business) has performed poorly.

Figure 8-1: National Integrity System of Nepal 2014



Abbreviations: ACA = Anti-corruption Agencies, Bus = Business, CS = Civil Society, EMB = Electoral Management Body, EXE = Executive, JUD = Judiciary, LEA = Law Enforcement Agencies, LEG = Legislature, MED = Media, OMB = Ombudsman, PP = Political Parties, PS = Public Sector, SAI = Supreme Audit Institution,

Note: Of the thirteen NIS pillars, 'Ombudsman' has never existed in Nepal, while the 'Legislature' was absent during the assessment period.

Source: Reproduced from TIN (2014, p.11)

At the individual indicator level, the majority of the NIS components were assessed as performing more poorly in governance (transparency, accountability and integrity) and role (in

[52] Legislature (1959), Executive (1951), Judiciary (1952), Public Sector (1948), Law Enforcement Agencies (1952), Electoral Management Body (1958), Supreme Audit Institution (1959), Anti-corruption Agencies (1960), Political Parties (1941), Media (1900), Civil Society (1949) and Private Sector (1958) (TIN 2012)

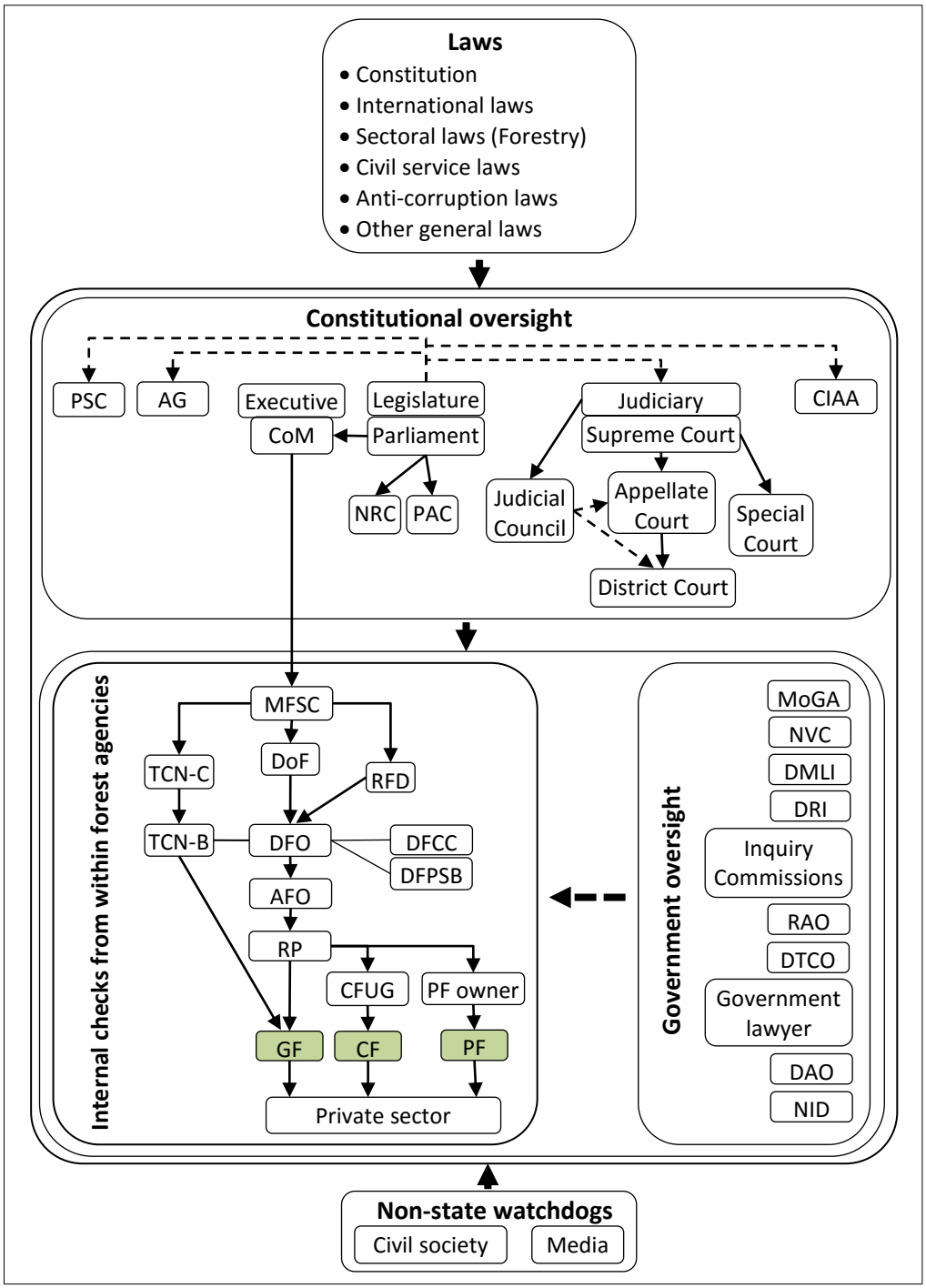
anti-corruption) compared to capacity (resources and independence). The executive, law enforcement agencies and political parties are the weakest institutions in terms of governance, while the private sector performs badly in terms of its expected role in anti-corruption, followed by the public sector. In terms of anti-corruption capacity, the public sector is the weakest institution, followed by law enforcement agencies and anti-corruption agencies, which may be one of the main reasons behind "the worrying gap between law and practice" (TIN 2014, p. 11).

The poor performances of the NIS pillars are linked to the weak NIS foundations. Among the four foundations, politics and economy are less supportive than society and culture of an effective integrity system (Figure 8-1). As discussed in Chapter 4, many characteristics of Nepali politics, such as criminalisation, patronage and impunity, and aspects of the economy, such as the growing middle class and consumerism, are conducive to corruption, or resistant to anti-corruption. Similarly, although the social and cultural foundations are relatively supportive of integrity, these are increasingly influenced by politics and the economy; social institutions are 'politicised' and cultural values are changing due to 'consumerism' and 'materialism' (TIN 2012a).

8.3 Anti-corruption in timber production and trade in Nepal's Tarai

A complex legal-institutional framework has been set up to fight corruption in timber production and trade in Nepal. Various general and sectoral laws have been enacted to maintain transparency and accountability, and reduce corruption risks and vulnerabilities so as to prevent corruption. The enforcement arrangements involve a three-layered mechanism – internal checks from within the forest agencies, oversight by various government agencies, and supervision by constitutional bodies. The non-state actors, including civil society and the media, oversee all the state institutions, and conduct educational campaigns against corruption. Authorities, responsibilities and working procedures of the state institutions are defined by national and international laws. Figure 8-2 presents a general picture of the anti-corruption arrangements in place for timber production and trade in Nepal.

Figure 8-2: Legal-institutional framework of anti-corruption in timber governance in Nepal



Abbreviations: AFO = Area (*Ilaka*) Forest Office; AG = Auditor General; CF = Community Forest; CFUG = Community Forest User Group; CIAA = Commission for the Investigation of Abuse of Authority; CoM = Council of Ministers; DAO = District Administration Office; DFCC = District Forest Coordination Committee; DFO = District Forest Office; DFPSB = District Forest Product Supply Board; DMLI = Department of Money Laundering Investigation; DoF = Department of Forest; DRI = Department of Revenue Investigation; DTCO = District Treasury Comptroller Office; GF = Government-managed Forest; MFSC = Ministry of Forests and Soil Conservation; MoGA = Ministry of General Administration; NID = National Investigation Department; NRC = Natural Resource Committee of the Parliament; NVC = National Vigilance Centre; PAC = Public Accounting Committee of the Parliament; PF = Private Forest; PSC = Public Service Commission; RAO = Regional Administration Office; RFD = Regional Forest Directorate; RP = Range Post; TCN-B = Timber Corporation of Nepal, Branch Office; TCN-C = Timber Corporation of Nepal, Central Office

In the following sub-sections, I will identify the strengths and constraints of the legal-institutional arrangements made to maintain transparency and accountability, to prevent corruption, enforce laws, and make people aware of corruption. I will also present whether and how laws are translated into practice. Distinct characterisation of the TAPEE pillars – transparency, accountability, prevention, enforcement and education – is difficult as they overlap and reinforce each other in various ways; however, I will discuss them separately for ease of analysis. Since, the legal-institutional arrangements of anti-corruption, specifically, the general laws and external oversight mechanisms – the government mechanism, constitutional mechanism and non-state watchdogs – are the same for all sectors, I will use relevant general information and also information related to other sectors, where appropriate.

8.3.1 Transparency in timber governance

8.3.1.1 Legal-institutional arrangements for transparency

A series of policy and legal interventions has been made to enhance transparency in the governance of public resources in Nepal. The *Interim Constitution of Nepal 2007*[53] expresses full commitment to 'complete freedom of the press' in its preamble. It assures a citizen's Right to Information on any matter of 'public interest' as a fundamental right (Article 27) and 'the maximum participation of the people in the governance' as a directive principle of the state (Article 34.2). The government has introduced a number of policies, laws and bylaws that aim to maintain transparency in public affairs, in accordance with the Constitution and the *United Nations Convention against Corruption 2003*, which was signed by Nepal in 2003 and ratified in 2011.

The *Right to Information Act 2007* and the *Rules 2009* mandate all public institutions, including government agencies, political parties and any institutions established by the law (such as the CFUGs), to update, publish or broadcast, and supply on demand relevant information of public interest. Similarly, the *Civil Service Act 1993* and Rules formulated thereunder envision a transparent, fair and efficient bureaucracy free of political motives. The Good Governance (Management and Operation) Act 2008 envisages 'transparency', 'rule of law', 'corruption-free, lean (smart) and people-oriented administration', 'access of people to administrative mechanism and its decision', 'decentralisation and devolution of powers', and 'popular participation' in local resource management, among others, as the bases of the functioning of government authorities (Section 6). It mandates any government office delivering a public service to display the citizen's charter in a visible place with details of services to be provided,

[53] A new constitution was promulgated in Nepal on 20 September 2015; however, the Interim Constitution has been used for analysing the state of anti-corruption because the latter was in effect when the research was conducted.

procedures, time taken, the name of the responsible service providing officer, and service fees if any. The Act has also mandated chiefs of regional, district and local level government offices to conduct public hearings, in the presence of experts, stakeholders and representatives of civil society and officials of the local authorities to make office activities 'fair, transparent and objective' (Section 30). Similarly, various laws, such as the *Financial Procedures Act 1999* and its *Rules 2007*, and the *Public Procurement Act 2007* and its *Rules 2007*, have been enacted to maintain transparency and financial discipline in the process of procurement and sale involving public institutions.

Apart from various legal instruments intended to enhance transparency in the functioning of public institutions in general terms, there are about a dozen forest policies, laws and bylaws which attempt to maintain substantive as well as procedural transparency in timber production and trade. The *Master Plan for the Forestry Sector (MPFS) 1989*[54] accorded high priority to community participation in forest management, and placed community forestry as the most highly prioritised forestry programme. Similarly, the *Forest Sector Policy 2000* has introduced a new participatory model, called collaborative forest management, to manage large tracts of government-managed forests in the Tarai region. In line with the policies, the *Forest Act 1993* and its *Rules 1995* have identified various participatory models of forest management, including community forestry.

Various forest bylaws, such as the *Forest Products (Timber/Fuelwood) Collection, Sale and Distribution Directives 2000* and the *Forest Products Auction Procedural Directives 2003*, have prescribed transparent procedures for timber production and trade, including harvesting contracts and timber tenders. Similarly, the *Forest Rules 1995* mandate the formation of a District Forest Products Supply Board (DFPSB), involving various stakeholders, and the *DFPSB (Procedures) Directives 2007* outlines standards for decision-making processes relating to distribution of timber for non-commercial use. In the case of CFs, various directives and guidelines, such as the *Community Forestry Directives 1995*, the *Guidelines for Community Forestry Development Program 2009*, and the *Guidelines for Inventory of Community Forests 2004*, have provisions to enhance people's participation in decision-making and maintain transparency in the processes of CF handover and work plan preparation. How these are translated into practice will be discussed later in this chapter.

8.3.1.2 Legal-institutional issues constraining transparency

Despite the strong legal-institutional arrangements for maintaining transparency in timber governance, there are some significant challenges.

[54] The 21-year long MPFS was valid until 2009; however, it was relevant until recently when the *Forest Sector Strategy 2015* was introduced.

First, a review of official documents and interviews with officials suggests that enforceability of the provisions prescribed by various laws in regards to transparency is limited. In particular, due to the absence of sector-specific standards, application of the vague concepts of 'transparency' and 'information' is based on the will of officials. For example, the DFOs provide 'relevant information' to the public according to the Right to Information Act; however, the 'relevant information' has become something they generate rather than what the public wants. As an example, during my field survey, I obtained timber transaction records from the DFOs of both case study districts, but the data from district A were not as useful compared to that from district B for analysing if collusion in timber tendering was taking place. During interviews, officials suggested that, except for general progress reports, there are no standards of what kind of records, data or information need to be prepared, and therefore they do what they think is appropriate.

Second, there is a lack of legal mechanisms for citizens to participate in the management of GFs, including timber production and trade arising from these forests. The government introduced collaborative forest management (CFM) arrangements in 2000, to involve local political authorities and communities in the management of large blocks of GFs in the Tarai. However, while these have been practised in some districts, the modality is yet to be legalised.

Third, regarding CFs, the *Forest Act* has given discretionary powers to the dfo to handover 'any part of a national forest' as a CF (Clause 25.1), and there are not policies or rules that prescribe standards, such as for the area of forest to be handed over. Interviews with various stakeholders suggested that this provision has resulted in the handing over of a disproportionately large area of forest as CFs, in many instances through secret negotiations with contractors. Later, the discretionary power of the dfos was reduced through a DoF administrative decision (dated 26/07/2010), which directed the dfos not to handover more than 0.5 ha of forest per household in the Tarai.

8.3.1.3 Transparency in practice

Interviews, group discussions and observations suggest that enforceable legal provisions and administrative orders have been practised simply as a matter of bureaucratic formality, and the real meaning of transparency as envisaged by the laws has been largely ignored. For example, the 'citizens' charter', one of the most highly regarded transparency tools, has been displayed on the front wall of each DFOs, showing the time taken for each service, among others. However, during my fieldwork, some service recipients, such as contractors and CF office holders, suggested that the 'citizen's charter' was there 'to show but not to follow'. They further asserted that, although there exists a mechanism of complaints as displayed in the

charter, they did not want to risk their relations with officials as that could create problems in their future work. During one interview, when I reminded a sawmill owner, who had claimed that the work would not be done in time unless bribes were paid, of the citizens' charter, he said:

> "…the citizen's charter is for visitors like you but not for regular service recipients like us. They [the DFO officials] have showing and chewing teeth like an elephant. The citizen's charter is the showing teeth, they have separate chewing teeth" (T-B-12).

Similarly, as advised by an official in the MFSC (F-O-26), the Right to Information in practice is limited because Nepali bureaucrats have in their minds historically that any information in a government office must be kept secret, and therefore citizens need to use their networks to obtain information. During interviews, many forest officials maintained that procedural transparency at the policy level, through participation in decision making, has been gradually improved. In contrast, leaders of the Federation of Community Forest User Group (FECOFUN) claimed that many policy decisions were being made secretly by bureaucrats, without the participation of stakeholders. Similarly, interviews with a range of stakeholders and my own observations suggest that, at the local level, the legal arrangements for participation in CF governance have often been ignored or manipulated by community elites and officials. As described in Chapters 5, 6 and 7, many of the legal provisions aimed at maintaining transparency along the timber trade chain are rarely followed in practice, although they are fulfilled on paper.

However, it was also evident that some officials were applying innovative measures locally to enhance transparency in the process. For example, the photography-based monitoring system applied for distribution of timber from the DFPSB and piling of logs in the office premises along the highways, introduced by the dfo in district B, were perceived to be effective in maintaining transparency and preventing corruption in the timber production and trade from GFs.

8.3.2 Accountability in timber governance

8.3.2.1 Legal-institutional arrangements for accountability

A number of laws and bylaws have been formulated and institutions established to enhance the accountability of office-holders in the layers of timber governance. The *Interim Constitution of Nepal 2007* has maintained horizontal accountability among the legislature, executive and judiciary through the separation of powers. The constitutional provision of periodic election has sought to make political parties and lawmakers accountable to citizens as voters. As per the Constitution, the executive – the Council of Ministers – is collectively accountable to the parliament, which elects the head of the executive – the Prime Minister, while ministers are individually accountable to the Prime Minister and the parliament. While

judicial independence is maintained by the constitution, the provisions for a parliamentary hearing for the appointment of Chief Justice and other Supreme Court judges, and impeachment motions for ousting them from office, have made judges accountable to parliament and thereby to the citizens. Similar provisions for parliamentary hearings and impeachment have made executives of other constitutional bodies, such as Chief Commissioner and Commissioners of the CIAA and the PSC and the Auditor General, accountable to the parliament.

According to the constitutional provision, the Minister for Forests and Soil Conservation (hereafter, 'forest minister') is individually accountable to the Prime Minister and the parliament for the entire work of the MFSC; this also includes its relevant committees, such as the Natural Resource Committee (NRC) and the Public Accounting Committee (PAC). The *Good Governance (Management and Operation) Act 2008* clearly outlines the responsibilities of the officials, including the Secretary, head of department, and the chief office-holders at the lower levels. It also introduces monitoring committees at different governance layers to monitor and evaluate the performances of officials (Section 38). Similarly, the Act mandates the chief office-holder at every governance layer to submit an annual progress report, based on which the Prime Minister submits a report to the parliament 'concerning the significant progress achieved in the matter of governance reform and good governance' (Section 41).

The *Civil Service Act 1993* mandates the Secretary, head of the department and head of office to 'prepare and enforce the job description of each civil post' based on the work descriptions of their organisations; these 'must clearly specify, inter alia, the functions, duties, responsibilities and powers of such post and qualifications for the same' (Section 5A.1). Similarly, the Act has a provision for a bi-annual and/or annual 'work performance evaluation' of individual officials from three layers – the supervisor, the reviewer, and the review committee (Section 24A). According to the laws related to civil service and good governance, the 'work performance evaluation' is one of the main bases of decision making in relation to a civil servant's career development, such as promotion, study opportunity and rewards. This evaluation mechanism is expected to increase the accountability of officials.

The *Forest Act 1993* and various Rules and Directives thereunder define the authority and responsibilities of forest agencies, including the MFSC, the DoF, the DFO and the CFUG, and officials in these agencies. Similarly, the Working Procedures prepared by the MFSC and the DoF offer detailed work descriptions of the respective agencies and their sub-ordinate organisations. The Procedures also define the roles and responsibilities of officials at various hierarchical posts in these offices.

In the case of community forests, the *Forest Act 1993* maintains that the CFUG has to report its progress, including financial details, to the DFO annually. According to the CF related laws, the periodic work plan and the annual timber harvesting plan of the community forest have to be approved by the users' assembly. Similarly, the CFUG executive committee is accountable to the users since it is formed through periodic election/selection by the users. The Forest Act also holds members of the executive committee individually accountable for working against the CFUG statute and work plan or against the forest laws 'in the name of community interest' (Section 27.1a, 27.3).

8.3.2.2 Legal-institutional issues constraining accountability

The government has introduced a series of laws and bylaws to enhance accountability in the public sector in general, and in timber production and trade in particular. However, accountability continues to be generally seen as poor, due to both legal constraints and challenges in practice. I will describe below some major legal-institutional constraints that are perceived to have contributed to poor accountability in timber governance.

First, there are conflicting legal provisions, which assign authority and responsibility for forest resource management to different institutions. Specifically, the *Forest Act 1993* and the *Local Self-Governance Act 1999* have some conflicting provisions in this regard. For example, while the Forest law mandates the DFO to manage all national forests on behalf of the [central] government without any reference to local bodies, the *Local Self-Governance Act* gives authority to local bodies (known to be local government), including the District Development Committee (Section 189.g.1) and the Village Development Committee (Section 28.h.2), to develop and implement forest plans within their boundaries. Being specific to timber governance, the DFOs and the CFUGs are authorised for the production and trade of timber from GFs, including stray timber (timber swept by rivers), and CFs according to the *Forest Act* but the *Local Self-Governance Act* authorises the DDC to sell 'wood swept by river' (Section 218) and the VDC to sell 'dried timber' (Section 58) within their boundaries. Interviews with forest officials revealed that these conflicting legal provisions have often resulted in conflicts between the DDC and the DFO.

Second, there is no legal mechanism to establish the horizontal accountability of local-level forest institutions to the political authorities. Except for an advisory role of the DFCC, the forest laws do not offer any role to local political authorities – the DDC and the VDC/Municipality – in the management of forests. The prevailing institutional structures of the field level forest institutions, such as the AFO, the Range Post and the CFUG, are also not consistent with the local political bodies in terms of their territories of administration, which

may have practical implications in seeking roles for the local bodies in forest management. Even the advisory role of the local political authority, through the DFCC, has been constrained due to absence of an elected authority in the DDC for over a decade.

Third, the roles, responsibilities and authority of officials are illogically distributed and poorly defined. For example, a dfo and an rfd are mandated to check 10% and 5% of logs respectively in all piling sites (in the cases of both GFs and CFs) in their territory, which is rarely feasible. This may lead to a delayed process or in signing without checking. On the other hand, the responsibilities and authorities of the AFO and the Range Post are not adequately defined. Their functions are largely based on the dfo's orders. Moreover, the AFO is perceived to be a *sifaris adda* (recommendation office), which does not have a definite role other than to forward issues from the Range Post to the DFO with recommendations, and transfer the DFO's orders to the Range Posts.

Fourth, the concentration of power within, and conflicting roles assigned to, the DFOs have weakened accountability in timber governance. The DFOs play the role of technical expert agencies for forest management and of business entities for timber production and trade. Similarly, they also enforce the forest laws as inspectors, and exercise judicial power. On the other hand, the TCN, another government entity, is also involved in timber business. During interviews, many officials called the TCN a 'white elephant' for being an economic burden on the state. The TCN does not operate under any law but is guided by discrete decisions from the Council of Ministers or the MFSC.

Fifth, as for the entire civil service, accountability in the forest bureaucracy has deteriorated since the second amendment of the *Civil Service Act* in 2007 led to the formation of trade unions for civil servants and the introduction of 'special promotions' of officials, also popularly known as '*loktantrik* (democratic) promotion'. As suggested by many current and retired senior officials of the DoF, the trade unions, which are functioning as sister organisations of the major political parties, exert undue influence in the administration of bureaucracy, also undermining the chain of command in the bureaucracy. Likewise, many officials advised that 'special promotion' – automatic promotion based on a fixed term of service – has diminished the value of work performance evaluation, and thereby weakened vertical accountability.

Sixth, there is a lack of measurable indicators for 'work performance evaluation', which leads to subjective evaluation, often influenced by undue means. On the other hand, due to the weak provisions for holding an official accountable for not performing her/his duty, officials prefer not to do a job unless they obtain an incentive.

8.3.2.3 Accountability in practice

While there are some legal-institutional issues constraining accountability, as mentioned above, the main problem of accountability in Nepal lies in the practice. The root of poor accountability in the public sector, including timber production and trade, is believed to lie in the poor accountability of politicians. No election has taken place in the local bodies since 2002, and only occasional elections are taking place at the central level. As discussed in Chapter 4, electoral politics has failed to create an effective public space to hold leaders accountable for a number of reasons, including the use of money, *muscles* and power. Subsequently, a large gap has appeared between law and practice in all layers of public sector governance. For example, in the judiciary, despite widespread media reports on the corruption of many Supreme Court judges in recent years, none of them have been challenged by the parliament.

In regards to the executive functions of the government, transferring decision-making responsibility to higher authorities with the intention of avoiding accountability is a common feature of public officials in Nepal. As revealed by a CIAA official (G-O-2), there are many instances in which a minister does not use his/her decision-making authority to resolve an issue. Rather, the minister refers it up for a decision by the Council of Ministers (CoM) so that her/his accountability is transferred to the CoM and is kept outside the purview of the CIAA. Similarly, it is most common for office bearers at lower level (such as dfos) to seek orders from higher authorities (such as DoF), even in relation to issues with clear legal provisions. During interviews, many dfos advised that they do this to avoid the risk of being held accountable, specifically to the CIAA. On the other hand, as discussed in Chapters 5, 6 and 7, it is also common for officials working in the field not to fulfil their assigned duties but to have them performed by lower ranking officials; however, they are rarely punished for this.

The spirit of the law is rarely followed while carrying out work performance evaluations (*ka.sa.mu.*) of officials, one of the major means of holding them accountable for the exercise of their duties. As suggested by many officials during interviews, these evaluations are generally influenced by *chakari* (sycophancy) and money rather than performance. On the other hand, due to the increasing influence of trade unions and political parties in bureaucratic administration, including over transfers and other incentives, there is an increasing tendency for officials to be responsive to trade unions and political parties rather than to their supervisors.

8.3.3 Prevention of corruption in timber governance

8.3.3.1 Legal-institutional arrangements to prevent corruption

In addition to maintaining transparency and accountability, which are keys to preventing corruption, legal-institutional arrangements have been made to reduce corruption risk factors and vulnerability. A number of laws and bylaws, mostly related to forestry, civil service and anti-corruption, have been enacted in an attempt to limit discretionary powers and reduce incentives for corruption. For example, the *Forest Act 1993* prohibits activities other than those prescribed by the work plans that are prepared based on scientific data, in order to preclude arbitrary extraction of timber. To prevent potential manipulation, the forest laws give authority and responsibility of work plan preparation, approval, implementation and monitoring to different organisations. For example, for GFs, the responsibilities of work plan preparation, approval, implementation, and monitoring have been assigned to the DoF, the MFSC, the DFO and the RFD, respectively. Similarly, in the case of CFs, the plan prepared by a CFUG is implementable by the CFUG itself only when it is approved by the DFO, while regular monitoring of plan implementation is undertaken by the DFO-AFO-RP structure and the RFD. Legal mechanisms have been created for the general public to access timber at cheaper prices for domestic purposes, such as from a CFUG, as discussed in section 6.5.3.2, and the DFPSB and the TCN, as discussed in section 5.4.3.2. These arrangements can be expected to reduce illegal timber extraction.

The *Good Governance (Management and Operation) Act 2008* considers 'economic liberalisation' as one of the main policies to be pursued by the government while carrying out its administrative functions (Section 7.1a), and the forest bylaws involve the private sector in the timber production and trade, accordingly. In line with the *Public Procurement Act 2006* and the *Financial Procedures Act 1999*, the forest related procedural laws, such as the *Forest Products (Timber/Fuelwood) Collection, Sale and Distribution Directives 2000* and *Forest Products Auction Procedural Directives 2003*, mandate forest authorities to apply free and fair auctions or sealed tenders in procuring harvesting services and selling timber for commercial purposes. As discussed in Chapters 5, 6 and 7, the procedural laws limit the discretionary exercise of power through the provision of checks by officials at different levels and various stakeholders at various stages of the trade chain of timber from GFs, CFs and PFs. Similarly, the *Bylaw on Operation of Timber/Firewood Collection, Harvesting, Transportation and Piling Management Fund 2007* envisages a perpetual fund at the DFOs of 25 Tarai and inner-Tarai districts for timber harvesting operations in GFs. It aims to end *milemato* (collusion) in tenders and associated crimes, such as under-measurement and fraud in sectioning, which occurred mainly because of budget deficits in the DFOs leading to harvesting contracts made in 'credit'.

The 2007 amendments of the *Civil Service Act* and its *Rules* attempt to address a long-existing issue of favouritism and illegal exchanges in the transfers of civil servants through clearly defining the time, basis and authority of a transfer. The *Good Governance (Management and Operation) Act 2008* and its *Rules 2009* also define who is authorised to transfer whom. Based on these and other relevant laws, such as the *Government of Nepal (Allocation of Business) Rules 2012* and the *Transfer Standard of the Ministry of General Administration 2014*, the DoF has recently introduced the *Transfer Standard of the Department of Forests 2014*.

As the central preventive measures, the various laws and bylaws prescribe punishment for non-compliance with the legal provisions aimed at maintaining integrity in the public affairs. I present here activities relevant to timber production and trade deemed as those violating integrity, and corresponding sanctions as prescribed by the most relevant legislation.

The *Forest Act 1993*

The *Forest Act 1993* aims to control illegal use or extraction of forest resources from the national forests, such as GFs and CFs. Table 8-1 presents timber-related offences and the corresponding punishments as prescribed by the Act.

Table 8-1: Major timber related crimes and punishments relevant to national forests

Offences	Amount involved (NRs)	Punishment			
		Fine (NRs)		Imprisonment	Remarks
▪ Removing, trafficking or selling and distributing forest products from the forest area ▪ Cutting trees or plants or their branches, extracting rosin or bark or damaging in any way ▪ Damaging any other forest products negligently while cutting, felling, dragging or removing trees from the forest area under licence ▪ Damaging forest products by contravening the terms of the permit in the case the permit is received to take forest products	≤ 100	≤ 100	-	-	Forest products related to the offence shall be confiscated
	100 to 1,000	Equal to amount involved	-	-	
	1,000 to 5,000	Equal to amount involved	and/or	≤ 6 months	
	> 5,000	Double to the amount involved	and/or	≤ 1 year	
Deforesting, ploughing, digging or cultivating in the land of a forest area and constructing house or huts		≤ 10,000	and/or	≤ 1 year	Land shall be included in the NF, house or hut confiscated
Forging the marks or markings or altering, damaging or erasing government mark or markings stamped on the timber or standing trees		500 to 10,000	and/or	≤ 1 year	
Exporting to a foreign country any forest product which are prohibited from export		Equal to amount involved	and/or	≤ 5 years	Forest product shall be confiscated
Setting fire or doing any act to cause firing		≤ 10,000	and/or	≤ 1 year	Amount involved shall be realised
The accomplices to any offences shall be liable to the punishment equivalent to the offender.					

Source: *Forest Act 1993*

The *Civil Service Act 1993*

The *Civil Service Act 1993* contains provisions for the constitution and operation of the civil service, which also includes the Nepal Forestry Service, and aims to make the civil service more competent, service-oriented and responsible. The Act prescribes three types of punishment – warnings by supervisors, ordinary departmental punishment and special departmental punishment – for civil employees, according to the degree of violation of the norms set for each case (Table 8-2).

Table 8-2: Violation of integrity of civil service and prescribed punishments

Circumstances	Punishment
▪ Not being punctual ▪ Not carrying out orders relating to office business given by superiors ▪ Becoming reckless or slow in office works	Warning (by supervisor)
▪ Unsatisfactory performance ▪ Failing to handover the charges pursuant to prevailing laws ▪ Having received warning from supervisor (as of above row) for up to two times a year ▪ Violation of matters relating to conduct mentioned in the Act and the Rules framed under this ▪ Failing to observe any direction given by the superior official in respect to frequent disregard of grievances and complaints of the stakeholders ▪ Failing to do enforce, or cause to be enforced, the job description (for the office-bearer obliged to do so)	Ordinary departmental punishment: censure or withholding of promotion for up to two years or withholding of a maximum of two salary increments
▪ Committing a breach of discipline ▪ Violation of matters relating to conduct mentioned in the Act and the Rules framed under this ▪ Failing to settle advances pursuant to the prevailing law ▪ Failing to observe any direction given in respect of irregularities found from management audit ▪ Frequent absence from office without prior notice	Ordinary departmental punishment: withholding of promotion for two to five years or withholding of a maximum of two to five salary increments or demoting to the basic scale of the post
▪ Failing to perform the duties or responsibilities of the post due to own incapacity ▪ Frequent violation of the matters relating to conduct ▪ Frequent consumption of alcoholic substances during office hours ▪ Frequent commission of acts of indiscipline ▪ Taking part in politics ▪ Frequent neglecting the responsibilities of the post ▪ Being absent from office continuously for ninety days without having sanction for leave	Special departmental punishment: dismissal from service, without being disqualified for government service in the future
▪ Being convicted by a court of a criminal offence involving moral turpitude ▪ Commission of corruption	Special departmental punishment: dismissal from service, with being disqualified for government service in the future

Source: *Civil Service Act 1993*

The *Prevention of Corruption Act 2002*

The *Prevention of Corruption Act 2002* aims to control corruption and maintain financial discipline, morality and good conduct in society. It is the most comprehensive anti-corruption legislation in Nepal. The Act defines a range of activities as corruption and prescribes punishment for being involved in those activities. Table 8-3 presents the corruption offences

which may be relevant to timber production and trade, and the prescribed punishments for them.

Table 8-3: Corrupt practices relevant to timber production and trade and prescribed punishments

Corruption offences	Amount involved (NRs)	Punishment			
		Fine (NRs)		Imprisonment	Remarks
1. Accepting graft (by public servants-PS) in consideration of act pertaining to office 2. Accepting graft (by any person other than PS) with the intention of influencing public servant 3. Giving graft to a PS or other (as of above) 4. Abetting in giving or taking grafts 5. Not submitting, within 7 days, the commission, brokerage fee or benefit obtained while performing duties by PS or hiring/leasing public property 6. Misappropriation, damage, misuse or destruction of public property (by PS)	≤ 25,000	Equal to amount involved	and	≤ 3 months	Graft shall be confiscated (1,2,3) Amount involved shall be confiscated (5) Half punishment in case the abettor is other than PS (4) Public property shall be recovered (6)
	25,000 – 50,000			3 to 4 months	
	50,000 – 100,000			4 to 6 months	
	100,000 – 500,000			6 months to 1.5 years	
	500,000 – 1,000,000			1.5 to 2.5 years	
	1,000,000 – 2,500,000			2.5 to 4 years	
	2,500,000 – 5,000,000			4 to 6 years	
	5,000,000 – 10,000,000			6 to 8 years	
	≥ 10,000,000			8 to 10 years	
Causing revenue leakage including embezzlement of the revenue collected or abetting others to do so	Category of amount of leakage as above	Double of amount leaked	and	3 months to 10 years (as above, according to amount leaked)	
Accepting (by PS) goods or service free of cost or at lower prices from one who is related to any act/function of the office		Equal to amount involved	and	6 to 12 months	Goods shall be confiscated, fine equal to price of service additionally imposed
Accepting (by PS) gift, present, award, donation that is supposed to impact his/her work, or borrowing money from a person who is related to his/her work in the office		---		3 to 6 months	Amount shall be confiscated
Getting illegal benefit (by PS) or causing illegal loss to government or public institution (PI) with *mala fide* intention (10 different activities listed, including under-valuation of public property, payments based on false bills, illegal registration of public property in one's name)		Equal to amount (if known), 10,000 to 50,000 (if unknown)	and	3 months to 3 years	The amount involved, if known, shall be confiscated
Not abiding (by other than PS) by the terms and conditions of oath, undertaking, agreements, contracts, licence, permit, promissory note or dealership entered into PI with *mala fide* intention of personal gains or loss to PI		Equal to amount involved	and	≤ 2 years	Amount of loss shall be confiscated
• Preparing false document (by PS) with mala fide intention of causing loss to PI • Giving false audit report with mala fide intention by an authorised auditor (PS or other) • Preparing false investigation report by a PS or other under duty of submitting report on any subject in connection with functions of PI		10,000 to 50,000	and	3 months to 1 year	
(PS) engaging in businesses, taking part in auction/bidding, becoming partner in company/cooperative while being prohibited by law		10,000 to 50,000	and	3 to 6 months	Property thus earned shall be confiscated
Giving false particulars (e.g. qualification) with an intention of securing or continuing in a position of PS or gaining benefit or facility		10,000 to 20,000	and	6 months to 1 year	
Giving false statement of his/her property (by PS who are under the duty of giving statement of his/her property under any laws)		≤ 10,000	and	1 to 3 months	Concealed property will be confiscated
Exerting illegal pressure to PS or others to violate this act (by PS or others) exercising fear or threat		100,000 to 500,000	and	4 to 8 years	
Acquiring property illegally by PS (no proof of legality of property)		Equal to illegal property		≤ 2 years	Illegal property will be confiscated

Anyone who attempts to commit an offence shall be liable to half of the punishment to be imposed on the PS or other committing such offences.
The accomplices to any offence shall be liable to half of the punishment to be imposed on the PS or other committing such offences. However, the accomplice giving cash, kind or any benefit to PS or taking such benefit shall be liable to the punishment as equal to the person committing such offence.
In case of offences committed by an office bearer of a constitutional body, officials that are nominated by the President, special class officers of the government of Nepal, Head or General Manager of a PI, they shall be liable to the punishment of imprisonment for a term of 3 years in addition to the punishment prescribed for such offences.
Any public servant shall be automatically suspended during the period of detention or until the proceeding of the case is is over if any case has been filed against her/him.

Note: "Graft" means cash, goods or any type of gain or benefit, including bribe. "Public institution (PI)" means any institution that is fully or partially owned or controlled by the government of Nepal (various types are given). "Public servant (PS)" means any person, appointed, nominated or elected, holding a public office under the prevailing laws.

Source: *Prevention of Corruption Act 2002*

The *Revenue Leakage (Investigation and Control) Act 1996*

The *Revenue Leakage (Investigation and Control) Act 1996* aims to increase revenue through preventing and controlling revenue leakage in the areas of custom, excise and tax administration. In timber governance, this law is mainly applicable to hold timber traders or contractors accountable for evading tax. Table 8-4 outlines the provisions of offences, which are relevant to the timber trade, and the punishments in this Act.

Table 8-4: Crimes relating to revenue leakage and prescribed punishments

<table>
<tr><th rowspan="2">Offences</th><th rowspan="2">Situation</th><th colspan="4">Punishment</th></tr>
<tr><th>Fine (NRs)</th><th></th><th>Imprisonment</th><th>Remarks</th></tr>
<tr><td rowspan="2">Any act intended for not paying or paying less of the revenue to be paid to the government
Not paying or paying less of the revenue to be paid to the government, with or without fraud in documentation
Not paying or paying less of the revenue or attempting to do so through unauthorised activities or undue influence to the officials
Preparing false documents showing that revenue was paid or changing amount of revenue to be paid, in collusion with relevant officials
Over- or under-accounting of income and properties required to be presented for revenue purposes</td><td>If products are seized</td><td>Up to double to the price of the product</td><td>and/or</td><td>≤ 3 years</td><td>Seized products shall be confiscated</td></tr>
<tr><td>If products are not seized but revenue leakage was found through investigation of documents</td><td>Double to the price of product and revenue to be paid</td><td>and/or</td><td>≤ 3 years</td><td></td></tr>
<tr><td colspan="6">The accomplices to any offence shall be liable to half of the punishment to be imposed on one committing such offences.</td></tr>
</table>

Source: *Revenue Leakage (Investigation and Control) Act 1996*

The *Money Laundering Prevention Act 2008*

The *Money Laundering Prevention Act 2008* aims to prevent laundering of criminally earned money or assets, which includes money or assets earned through breaching the forest laws and anti-corruption laws among others. The provisions for punishment for money or asset laundering offences are given in Table 8-5.

Table 8-5: Money laundering offence and punishment

Offence	Punishment			
	Fine (NRs)		Imprisonment	Remarks
Laundering or causing to launder assets [Earning from tax evasion or acquiring, holding, possessing or utilising assets by committing any offences under many prevailing laws and conventions (the forest laws and anti-corruption laws are on the list) or doing any act so as to present such assets as legally acquired assets or assisting anyone to transform, conceal or transfer such assets with an intention of avoiding legal actions to the person having such assets]	Equal to the amount involved	and/or	1-4 years	Ten per cent additional punishment in case of an office bearer, chief of staff of a bank, financial institution or non-financial institution or public servant
The person assisting or provoking to commit or causing to commit an offence shall be liable to half of the punishment to be imposed on the offender.				
An official is deemed to be in automatic suspension for a period s/he is in custody or for a period the case is decided if any case has been filed against her/him.				

Source: *Money Laundering Prevention Act 2008*

Other laws and bylaws

Apart from legislation presented above, various other laws and bylaws prescribe punishments for non-compliance with the provisions relevant to maintaining integrity in timber production and trade. These are primarily the *Good Governance (Management and Operation) Act 2008*, the *Right to Information Act 2007*, The *Commission for Investigation of Abuse of Authority (CIAA) Act 1991*, and various bylaws formulated under the *Forest Act* and the *Civil Service Act*. These laws and bylaws prescribe 'departmental punishment', among others, referring to the *Civil Service Act* as mentioned in Table 8-2, for non-compliance with their provisions while discharging duties. For example, the *CIAA Act 1991* prescribes 'departmental punishment' for 'improper actions', specifying the following actions 'taken wilfully or negligently by a person holding a public post' (Section 3).

a) Refusing to do anything within her/his jurisdiction or doing anything for which s/he has no powers,

b) Failing to comply with the mandatory working procedures while taking any decision or issuing any order,

c) Exercising powers vested with her/him for any objective or purpose in contravention of the appropriate laws, decision or order,

d) Exercising her/his discretionary powers in a *mala fide* or arbitrary manner,

e) Creating unauthorised obstruction in the work of any other office, official or employee, or compelling them to do any unauthorised acts by exerting pressure on them

f) Shifting her/his responsibility to another office or official,

g) Failing to discharge any duty pertaining to her/his post,

h) Getting her/his work done by exerting undue pressures on an employee who is sub-ordinate to her/him or any person who is under her/his influence,

i) Abusing the immunity, facilities or privileges acquired in the capacity of his post.

The government has also prepared, in 2008, the *Anti-corruption Strategy and Work Plan*; and, in 2010, sectoral work plans for 34 public agencies, including the MFSC, to implement the Strategy. The Strategy and the sectoral work plans propose a variety of specific measures to prevent corruption (TIN 2012b).

8.3.3.2 Legal-institutional constraints in prevention of corruption

Despite progressive legal-institutional efforts to prevent corruption in Nepal in the last few decades, corruption has been taking place constantly in the public sector in general and in the timber production and trade in particular. In this regard, I have identified the following main legal-institutional issues that are contributing to the failure to prevent corruption in timber production and trade in Nepal's Tarai.

First, overlapping institutions for selling timber at varying prices have not only increased transaction costs but also provided opportunities for corruption. As discussed in Chapter 5, three different institutions – the DFO, the DFPSB and the TCN – have the authority to sell timber produced from GFs, and they are doing so at variable prices. While the DFO sells logs through tender at a minimum price equal to the prescribed royalty, the TCN sells them through the same process at a minimum price more than double that of the royalty[55]. The TCN deposits only the royalty in the government treasury, and uses the rest as operational costs or to nourish (*palna*) its employees formally, and some others informally, as many DoF officials observed. On the other hand, the difference between the minimum prices of logs has provided the DFO or DoF officials the opportunity for negotiation with the cartel of contractors for a bribe before tender approval. Similarly, there are three institutions – the DFPSB, the TCN and the CFUG – which sell timber for domestic use, again at varying prices thus providing opportunities for corruption. Following a directive from the CIAA, the MFSC made a decision to equalise minimum tender prices across all institutions but no further action has been taken since the Supreme Court voided the decision. Similarly, a draft bill was prepared in 2013 to establish the Nepal Forest Product Authority, an institution responsible for timber production and trade from the GFs, so as to dissolve the TCN and keep the DFOs free of timber business; however, the bill is yet to be passed.

Second, there is a lack of legal provisions to take action against the private sector for bid-rigging in the production and trade of timber. The government has enacted the *Competition Promotion and Market Protection Act 2006*, which has prohibited the following three bid-rigging activities in tendering: 1) 'entering into an agreement which provides that any bidder shall not submit a tender or only one bidder shall submit a tender or all bidders shall submit

[55] For example, the average royalty for Grade A, B and C of *Sal* logs was NRs. 533, while the TCN's average minimum price was NRs. 1076 in the year 2013/14.

tenders with similar prices'; 2) 'mutual sharing of information to be set forth in a tender or other matters with bidders prior to the submission of tenders'; and 3) 'submitting tenders by mutual agreement so that the tender of any one bidder can be accepted'. The Act prescribes that bids resulting from such activities be void, and punishment for any person or enterprise involved in such bid-rigging activities with a fine up to NRs. 300,000 in the first attempt and double this for the repeated commission of crime. Although bid-rigging is one of the major issues of corruption in timber production and trade, which has reduced revenue for both the government and the CFUGs, the Act is not enforceable in timber businesses based on the provision in Section 11, which states that this Act is not applicable to a 'business relating to cottage and small industries as referred to in the *Industrial Enterprises Act 1991*[56]' (Clause a), and to 'procurement of raw materials' (Clause c).

Third, there are various issues in regard to punishment for timber-related crimes. As presented in Table 8-2, the punishments for timber-related crimes are perceived to be small, and thus ineffective in deterring offenders. Moreover, as suggested by a retired government lawyer (G-A-1), the provision of greater discretionary power to judges in relation to fines and imprisonment has provided opportunities for judges for corruption. Similarly, when more than one offender has committed a crime, which is most common, it is the judge who decides whether the prescribed amount of the fine should be recovered from each (*janahi*), or on a shared basis (*damasahi*).

Fourth, there are marked differences in punishment for similar offences across the laws, which have provided opportunities for corruption in anti-corruption. For example, compared to the *Forest Act 1993*, the punishments prescribed by the *Prevention of Corruption Act 2002* (Table 8-4) are stringent, specifically in terms of compulsory imprisonment. Further, corruption offences are treated more harshly compared to forest offences. In the former case, officials are automatically suspended until the court proceeding is over, and they are dismissed from their jobs without gratuity or pension if the crime is proven, which may not be the case for forest-related offences. Understandably, the aim of the Forest Act is to control forest offences by private actors, and that of the anti-corruption law is to punish forest officials involved in the 'misappropriation of public property' through timber theft. However, in the absence of a clear legal demarcation on this issue, forest officials involved in timber theft in collusion with private actors are usually favoured when they are prosecuted under the Forest Act. For example, all of the seven forest officials involved in the case of timber corruption and crime discussed in

[56] The *Industrial Enterprises Act 1991* defines a 'small industry' as an industry 'with a fixed asset of up to an amount of thirty million rupees' (Section 5); most of the timber-based industries fall under this category. Moreover, no standard stipulates what kind of firms can take part in timber tenders.

section 7.4 were prosecuted under the Forest Act. During interviews, both the prosecuting officials and the accused had shared their happiness at being able to 'save [colleagues]' and to 'be saved', respectively, from being prosecuted under the *Prevention of Corruption Act*. The differences in punishment can also be seen across three specialised anti-corruption laws (Tables 8-4, 8-5 and 8-6).

Fifth, there is a lack of third-party monitoring and checks along the timber trade chains, specifically in the GFs. The monitoring officials from various forest organisations in the hierarchy are actually from the same administrative group (that is, the General Forestry Group of the Nepal Forestry Service), who are frequently transferred to executive positions and vice-versa. Therefore, as suggested in interviews and informal discussions with officials, monitoring officials usually are sympathetic to the officials who are monitored.

Sixth, regarding transfers, many officials criticised some legal provisions that provide room for manipulation. For example, the *Civil Service Act 1993* has prescribed a minimum, but not a maximum, period of service in a place in a geographical region (Section 18.3), which is why some officials known to be '*dons*', as mentioned in section 5.7, had remained for more than a decade in position in a DFO. Similarly, the mandatory provision of the Act to manage the transfer of trade union officials 'on their demand to their appropriate working area' (Section 53.6) has left room for manipulation. For example, once an official charged with frequent violations of codes of conduct was about to be transferred by his supervisor, he was nominated as a central member of a trade union overnight[57].

8.3.3.3 Prevention of corruption in practice

As I have mentioned in Chapters 5, 6 and 7, deviations from legal provisions were common phenomena in timber regulation in Nepal's Tarai. The provisions targeted to prevent corruption were often ignored, negligently, or abused with corrupt intention. As advised by DFO officials, the Timber/Firewood Collection, Harvesting, Transportation and Piling Management Fund, which could be expected to reduce collusion in timber tendering, had never been operational due to budget deficits. Regarding the transfer of officials, interviews with officials revealed that the transfer standards are often mediated by bribes and political interests.

[57] A Facebook post by a dfo (July 2015)

The mediation is usually exercised through trade unions for the lower ranks and political parties for the higher ranks, which leads to what is widely known as '*gainda* (rhino)' and '*danfe* (pheasant)' transfer[58]. During my fieldwork, I observed a trade union leader dealing face-to-face and on the telephone with other officials seeking transfers; his conduct indicated that he was the competent authority for transferring those officials.

The failure of the prevailing laws to prevent corruption and illegal forest activities was realised in the post-2006 political transition. Therefore, various agencies have made successive administrative decisions in an attempt to address this. The decisions have often cited cases of corruption and crime that have come to light through people's complaints (*jana-gunaso*), media reports and inquiry reports as to why such actions had been taken. Table 8-6 presents the major administrative decisions, made in the last few years, in regard to the prevention of corruption in the production and trade of timber from Nepal's Tarai.

Table 8-6: Administrative actions to prevent corruption in timber production and trade

Target corrupt practice	Agency/date	Preventive actions
Actions relevant to both government-managed forests (GFs) and community forests (CFs)		
Uncontrolled harvesting or over-exploitation of timber throughout many parts of the country, specifically in the Tarai and inner-Tarai districts, around the FY 2009/10	MFSC 21 May 2010	Restriction on harvesting, sale and transportation of timber for commercial purpose throughout the country (restriction was released for other than six districts after ten days)
	CoM 16 Jun 2010	Restriction of timber harvesting throughout the country
	NRC 15 Jul 2010	Direction to the government to restrict harvesting and sale of timber in 24 districts (mostly Tarai and inner-Tarai)
	MFSC 2 Dec 2011	Decision to harvest *dhala-pada* (fallen) trees only (within the AAH)
	MFSC 6 Mar 2012	Decision to adopt 'protective forest management based on limited use' in the Chure region
Leaving logs unrecorded to transport illegally, and under-measurement	MFSC 23 May 2012	Decision to strictly restrict piling of logs inside forest, and to do it in open spaces near forest offices so as to facilitate monitoring
Collusion in tender resulting in large discrepancy in stumpage price and market price of timber; selling timber from different agencies at unnaturally varying prices, resulting in loss of revenue	MFSC 7 Feb 2008	Direction to DFOs (through DoF) to arrange timber sales through transparent tender processes, considering TCN's prices, so as to get maximum revenue
	CIAA 5 Jan 2012	Direction to MFSC to make equal minimum tender prices of timber across all agencies
	MFSC 17 May 2012	Direction to DoF, TCN and FPDB to make equal minimum price of timber sold by various agencies
	MFSC 4 Oct 2012	Decision to make minimum price of timber tendered by other agencies equal to that of the TCN (Supreme Court made this void through an interim verdict on 12 Oct 2012)
	DoF 4 Oct 2012	Decision to take reactions from DFOs on applying Maximum Retail Price (MRP) for timber

[58] In Nepal, the Tarai region is more accessible and most offices in this region are considered to be profitable in terms of extra income compared to remote Himalayan region. Therefore, the terms *gainda* (rhino, living in the Tarai region) and *danfe* (pheasant, living in the Himalayan region) transfer are used to refer to unjustified transfers of officials, such as from a Tarai district to another Tarai district and from a Himalayan district to another Himalayan district.

Actions exclusively relevant to government-managed forests (GFs)		
Collusion in tender through excluding some contractors forcefully	DoF 14 Jul 2009	Direction to DFOs to make provision for purchasing and submitting tenders in RFD and DoF, in addition to DFO
Timber harvesting from DFO, by self (amanat) informally involving contractors or through tender in 'credit', resulting in collusion in tender	CIAA 5 Jan 2012	Direction to MFSC to arrange separate budget for harvesting, and apply transparent tendering, including e-bidding
	MFSC 18 Sep 2012	Decision to stop contractors' investment in harvesting, but to harvest only after arranging budget
	CIAA 1 Apr 2013	Direction to DoF not to carry out harvesting through DFOs by self (*amanat*)
Actions exclusively relevant to community forests (CFs)		
Haphazard felling/over-exploitation of timber in many CFs in the Chure region	DoF 17 Jun 2010	Decision not to hand over CF and not to harvest timber in the Chure region
CF handover or work plan approval with intention of timber harvesting and trade; over-estimation of AAH	DoF 26 July 2010	▪ Decision not to hand over an area of forest as a CF exceeding 0.5 hectare per household
	MFSC 23 May 2011	Decision to arrange amendment of CF work plans of which the AAH has been estimated as if the growing stock were above 178 cubic meters per hectare (national average)
	CIAA 5 Jan 2012	Direction to MFSC to arrange adequate monitoring of the work plan preparation and approval process
	MFSC 6 Mar 2012	▪ Decision not to grant harvesting approval until one year from the date of CF work plan approval or amendment in regards to timber, except for harvesting *dhala-pada* trees for internal use ▪ Decision to grant approval to CFUG for harvesting a maximum of 85% of the approved AAH for internal use only, and 60% in the case it is also for external sale ▪ Decision to arrange harvesting in CF by the CFUG itself, without involving contractors ▪ Decision to arrange that 25% of the timber to be sold outside CFUG is sold/distributed to neighbouring communities/districts through the DFPSB
Actions exclusively relevant to private forests (PFs)		
Illegal logging from national forests and preparing documents as if the timber is from the PFs	DoF 31 May 2010	Restriction on trade of *Asna (Terminalia alata)* and *Karma (Adina cordifolia)* timber (species that are not generally found in farm lands)
	MFSC 12 Jul 2010	Direction to DFOs (through DoF) to do the following for effective monitoring/verification of timber from PFs: ▪ Numbering and marking on trees while granting harvesting permit ▪ Writing tree and section numbers and dimensions on each log ▪ Stating area of PF in transportation permit ▪ Stating volume (in addition to number of logs as usual practice) while doing certification (*darpith*)
	CIAA 5 Jan 2012	Direction to MFSC to arrange field-monitoring by a multi-stakeholder team, and conduct public hearing before granting harvesting permit from private forests

Source: Official documents, including correspondences

In addition to the direct responses to corruption and associated crimes in timber production and trade, as listed in Table 8-6, administrative decisions have been made, repeatedly, in response to other relevant issues, such as corruption in the transfer and deputation of officials.

Similarly, in addition to the enforcement of directives given and decisions made by higher authorities, the DFOs applied additional preventive measures locally. For example, as found during my field survey, the DFO in the case study district B had applied the following measures: 1) piling logs from the GFs in the premises of AFOs and Range Posts along the highways to increase monitoring and thereby minimise timber theft and other frauds such as under-measurement; 2) placing restrictions on the harvesting and trade of some species (such as *Sissoo* having a girth above 60 cm and *Jamun*; these are rarely found in farmlands in that district) from the PFs, in addition to those restricted nationally, to prevent wood harvested illegally from national forests being attributed to PFs (see discussion in Chapter 7); and 3) a photography-based monitoring system to prevent fraud in the distribution of timber from the DFPSB. During interviews, many stakeholders revealed that these measures were effective in preventing corruption; however, they expressed their suspicions that these practices would not continue once a new dfo came into office.

8.3.4 Enforcement against corruption in timber governance

8.3.4.1 Legal-institutional arrangements for enforcement

As presented in Figure 8-2, three types of state agencies are relevant in the enforcement of laws to maintain integrity in the production and trade of timber – forest agencies, oversight agencies under the government, and constitutional oversight agencies.

Forest agencies

The local-level forest organisations are the principal agents of enforcement of forest laws. A Community Forest User Group (CFUG) enforces its Statute to control small scale irregularities committed by its members. The DFO-AFO-RP structure, equipped with armed and unarmed forest guards, enforces forest laws to regulate timber production and trade from all kinds of forests, including GFs, CFs and PFs. The *Forest Act 1993* gives the authority to forest officials to take measures to prevent forest offences (Section 55), including to search property, seize forest products, tools and vehicles, and make arrests without a warrant. The Act also gives them a special power to 'shoot the offender' if required (Section 56). Forest officials under the District Forest Officer (dfo) investigate the offences and forward the cases, taking advice from the government lawyer, to the adjudicating authority. The authority for adjudication of cases with fines up to NRs. 10,000 and/or with imprisonment of up to one year rests with the dfo, who exercises this power under the *Special Court Act 2002*. The RFD is there to monitor all forest authorities and their activities in a region.

To maintain the integrity of officials in discharging their duties, office bearers of each office unit are authorised to issue warnings to and recommend departmental punishment for their sub-ordinate staff members, according to laws related to the civil service and good

governance. The central level forest organisations, such as the DoF and the MFSC, are authorised to enforce 'departmental punishment' according to the *Civil Service Act*. The MFSC has set up an 'Investigation Section', headed by an Under-Secretary, which investigates irregularities in timber production and trade, and recommends necessary actions. In addition, the MFSC forms, from time to time, ad-hoc committees or teams to investigate forest corruption and irregularities in the districts.

Government oversight agencies

Various anti-corruption and oversight agencies of government are in place from the central to the local levels. The District Treasury Comptroller Office (DTCO), under the Financial Comptroller General Office of the Ministry of Finance (MoF), audits the DFOs annually, in what is known as an internal audit *(aa. le. pa.).* The District Administration Office (under the Ministry of Home Affairs – MoHA), headed by a Chief District Officer, oversees the functioning of local level offices, including the DFO, in their capacity as principal administrative authority in the district, as well as being a representative of the Commission on Investigation of Abuse of Authority (CIAA). Similarly, the district office of the National Investigation Department (under the MoHA) secretly investigates criminal activities taking place in a district, and reports to the relevant authorities. The Regional Administration Office, headed by a Special Class civil servant (Secretary level), oversees the functioning of regional and district level offices – such as RFD and DFO – 'to make them service-oriented and economical as well as to refrain from delay, negligence and corruption' pursuant to the *Local Administration Act 1971* (Section 4B.2c). The Regional Administrator also holds power delegated by the CIAA.

There are three specialised anti-corruption agencies under the government – the National Vigilance Centre (NVC), the Department of Money Laundering Investigation (DMLI), and the Department of Revenue Investigation (DRI) – which oversee the functioning of public institutions and enforce relevant laws to control corruption. The NVC, under the direct control and supervision of the Prime Minister, carries out preventive and promotional activities against corruption. The *Prevention of Corruption Act 2002* defines functions, duties and powers of the NVC, which include arranging 'regular surveillance, surprise checks and investigations in corruption prone places or works' and making necessary recommendations to the government with regard to 'the policies, strategies and reformation on laws to be adopted for corruption control', among others (Section 38). Headed by a Special Class civil servant, the NVC comprises civil and police employees, and functions according to the *National Vigilance Centre (Working Procedure) Rules 2009*. It forwards the cases, if deemed necessary to be filed, to the anti-corruption agencies concerned, such as the CIAA.

The DMLI (under the MoF) has been established to enforce the *Money Laundering Prevention Act 2008*. The Act gives power to the DMLI or the investigating officer, in the course of investigation into cases of asset laundering, to access and take control over documents and evidence in the government entity, banks, financial institutions and non-financial institutions; order the entity concerned to freeze related assets; and seize passports if required. The investigation officer can also search related property and take suspect(s) into custody. The Department files the case, after gaining written advice from the Attorney General, to the Special Court. The Financial Information Unit of the Nepal Rastra Bank (central bank of Nepal) accesses and scrutinises the banking details of the suspect(s), and assists the DMLI in investigations of the asset laundering offences.

The DRI (under the MoF) investigates into offences pursuant to the *Revenue Leakage (Investigation and Control) Act 1996* and files cases to the designated adjudicating authority. The DRI or the investigating officers are given powers, if required in the course of an investigation, to search and seize any property; arrest a suspect and take her/him into custody; access banking details; and seize passports. As authorised by the Act, the government has deployed officials of the Armed Police Force to work under the DRI, who are empowered to use firearms if required while enforcing the law.

Similarly, the Ministry of General Administration (MoGA) oversees the administration of the civil service in the MFSC, including transfer and promotion, and enforces civil service laws as a central civil service authority.

In addition to the permanent agencies as discussed above, the government forms ad-hoc commissions to investigate corruption and irregularities. For example, in 2010, the government formed a High Level Investigation Commission, led by ex-Chief Justice Govinda Prasad Parajuli (the Parajuli Commission), pursuant to the *Inquiry Commission Act 1969*. The Commission was mandated to investigate forest encroachment and deforestation in the national forests, including community forests, in the fiscal year 2009/10; recommend punishment of the offenders, including officials and CFUG executives if any; and recommend necessary policy, legal and institutional reforms (HLIC 2011). The commission provided a range of recommendations, from punishing individuals to changing laws.

Constitutional oversight agencies

At the apex of the hierarchy of oversight agencies are several constitutional bodies, including parliamentary committees, Office of the Auditor General (OAG), the CIAA, Courts and the Public Service Commission (PSC). The Public Accounts Committee (PAC) of the Parliament is mandated to scrutinise issues presented in the Auditor General's report and other matters

related to public accounts that it views appropriate (TIN 2013). The Natural Resource Committee (NRC) is specifically relevant to maintaining integrity in timber production and trade. The NRC gives directions relating to integrity in timber governance, from time to time, to the executive authorities. For example, the NRC directed the government on 20 June 2010 to form an Inquiry Commission in response to widely reported forest destruction in the Tarai and inner-Tarai districts, which resulted in the formation of the Parajuli Commission cited above. Prior to this, the NRC had formed a 'Sub-committee to Study Forest Conservation Issues', chaired by Hon. Ram Kumar Sharma, MP. Based on the report submitted by the Sub-committee, the NRC published a report with a range of recommendations and directions, including those in relation to policy and legal reform to improve integrity in timber production and trade (NRC 2010).

The OAG, headed by the Auditor General, is the supreme audit body in Nepal. It operates according to the *Audit Act 1991*, which empowers the Auditor General to conduct a final audit of financial and other activities of all government offices, including constitutional bodies, and government-owned corporate bodies (such as the TCN) with regards to 'regularity, economy, efficiency, effectiveness and propriety' (Section 4). The OAG has its own cadre of employees under the civil service. The OAG principally conducts compliance audits; however, it also conducts performance audits, issue-based concurrent audits, risk-based audits and IT-based audits in limited numbers (TIN 2013).

The CIAA is the apex anti-corruption agency in Nepal, which enforces the *Prevention of Corruption Act 2002*. The *Interim Constitution of Nepal 2007* authorises the CIAA to investigate 'any abuse of authority committed, through improper conduct or corruption by a person holding any public office', except judges, appointees of other constitutionally-specified positions, and Army personnel (Article 120). The duties, powers and responsibilities and working procedures of the CIAA are defined by the *CIAA Act 1991*. With a team of commissioners headed by the Chief Commissioner, the CIAA has civil servants and police employees as its workforce. The CIAA investigates improper conduct and corruption; recommends departmental punishment in cases of improper conduct to the authorities concerned; and files cases in the Special Court in cases of corruption. The CIAA or the investigating officer is empowered to search any property, be given access to or seize documents or goods possessed by any office or person, inquire and record statements, arrest any person or take her/him in custody, seize passports and restrict travel, freeze property, and order a concerned authority to suspend a public official, in the course of investigation. All public institutions are mandated to co-operate with the CIAA in investigation of corruption offences. Similarly, pursuant to the CIAA Act, it is mandatory for the government of Nepal to

deploy any of its employees if the CIAA requests, while the CIAA can also appoint an expert if it requires a specialised service (Section 21).

Courts are the main adjudicating authorities in Nepal. There are three layers of regular courts – Supreme Court, Appellate Court and District Court, while a Special Court has been established according to the *Special Court Act 2002* for speedy hearing of corruption cases. The District Court is the court of first referral, where forest officials file cases of offences (beyond the dfo's jurisdiction) pursuant to the *Forest Act 1993*. The Appellate Court reviews decisions made by the dfo or the District Court if appealed. The anti-corruption agencies, including the CIAA, file corruption cases in the Special Court. The Supreme Court hears appeals on the decision made by the Special Court and the Appellate Court. The Judicial Council, chaired by the Chief Justice, prosecutes corruption cases relating to judges of District and Appellate Courts.

The PSC recruits civil servants, including forest officials. It also has an advisory role in the administration of the civil service, such as promotions and departmental punishments.

There is no mechanism for prosecuting judges of the Supreme Court and constitutional appointees, such as the Auditor General and the Chief Commissioners and Commissioners of the CIAA and the PSC for corruption charges, while they hold office. However, according to the Interim Constitution, they can be removed from office through an impeachment motion passed by a two-thirds majority of the parliament, and the CIAA can prosecute them once they are out of office.

8.3.4.2 Legal-institutional issues constraining enforcement

A review of official documents, interviews with relevant officials, and observations revealed that poor capacity, in terms of human and other resources, is a common problem across all law enforcement institutions, including forest agencies and anti-corruption agencies. At the local level, officials from both districts suggested that given the number of staff, it is 'not possible' to truly follow the rules to regulate timber production and trade. Moreover, it was suggested that many officials do not have the orientation or capacity to work in the changed socio-political, legal and technological contexts. In terms of material and financial resources, observation and interviews showed that the local-level forest agencies were seriously impaired in carrying out their duties due to the lack of basic resources, such as computers, vehicles, fuel and field expenses. The budget allocated from the government was insufficient and no formal mechanisms existed to obtain additional resources locally except for the service fees charged to the recipients of timber from the DFPSB. In 2007, the government had established the Forest Development Fund whose aim was "to develop a decentralised and sustainable financial system at the local level to enhance … effective management and utilisation of local forests"

(Amatya 2013, p. 30). NRs. 10 (5 from the contractor and 5 from government revenue) per cubic foot of timber sold from all regimes was deposited in the fund. However, the Supreme Court disbanded the Fund, questioning its legality. Interviews with officials revealed that they were collecting resources for various official purposes such as building and vehicle maintenance informally, both openly and secretly, from CFUGs and the private sector. During my fieldwork, I observed accessories in some forest offices, such as chairs, tables and fans, on which the names of CFUGs or furniture suppliers were marked as donors. Many forest officials suggested that the lack of resources was affecting their capacity to enforce forest laws directly through limiting their field activities and indirectly through demotivation and demoralisation. During interviews, one dfo (F-B-6) suggested that it was naturally difficult to be tough on misdeeds committed by private actors from whom officials frequently had to accept assistance.

A lack of human and financial resources in the monitoring agencies, such as RFD, has also affected internal checks on corruption. Interviews with officials from the district-level oversight institutions, such as NID and DAO, also suggested that they were suffering from a lack of human and financial resources which was hampering them from effectively performing their duties. Similarly, TIN (2013) identified poor institutional capacity, specifically in terms of inadequacy and incapability of human resources, as among the constraints of anti-corruption agencies, such as CIAA, OAG and NVC. During an interview, a CIAA official (G-O-2) also suggested that the poor investigation skills of the officials are among the main constraints of the CIAA.

Apart from poor institutional capacity in terms of human and other resources being a common problem, there are specific legal-institutional issues relating to different enforcement institutions. The DFO-AFO-RP structure is hindered in enforcing the forest laws due to the lack of administrative provisions, such as on-the-spot fines, but has a mandatory provision of adjudication for all kinds of forest crime, including, for example, those involving less than NRs. 100. Many forest officials admitted that they turn a blind eye, with or without taking bribes, to avoid lengthy adjudication processes in cases of small-scale offences. During interview, the officer-in-charge of a Range Post (F-B-18) said that they would be occupied for about 25 days to file a case, no matter how small the illegality. The Investigation Section of the MFSC has always kept a low profile, with poorly defined roles and little capacity. As revealed by an MFSC official (F-O-18), this Section was established not by realising its necessity but just to ‘pull’ an official, an under-secretary of the Department of Forest Research and Survey (DFRS), who felt uncomfortable about working in the DFRS when his junior at some point would become his boss.

Poor legal-institutional mechanisms for retaining officials in the anti-corruption agencies for any length of time is regarded as one of the constraints of the oversight and anti-corruption agencies, including the NVC and CIAA. For example, the NVC had had eleven chiefs in ten years after its establishment in 2002 (TIN 2013). Similarly, the lack of the legal right to give out punishments, lack of incentives for officials and the highly centralised organisational structure are other issues constraining the effectiveness of the NVC (NVC 2012). The CIAA does not have a mandate to look into corruption cases involving judges, Nepal Army personnel and the private sector. Therefore, as advised by a CIAA official (G-O-2), about 70 per cent of corruption is beyond the purview of the supreme anti-corruption agency. Similarly, the CIAA is facing problems in regards to staff management. It does not have its own cadres, but civil servants from various ministries and police employees are deployed, thus turnover of staff is high. According to the CIAA Act, it can hire experts, but given the lack of adequate budget and prevailing government practice, it is not in a position to offer attractive salaries that could attract experts (TIN 2013). The OAG, the apex audit agency, does not look into all public entities but only 60-70 % of the total government budget (TIN 2013). In the timber sector, the CFUGs are out of its purview. It has its own group of cadres, under the civil service, but performance audit of technical activities is constrained due to the lack of relevant technical human resources.

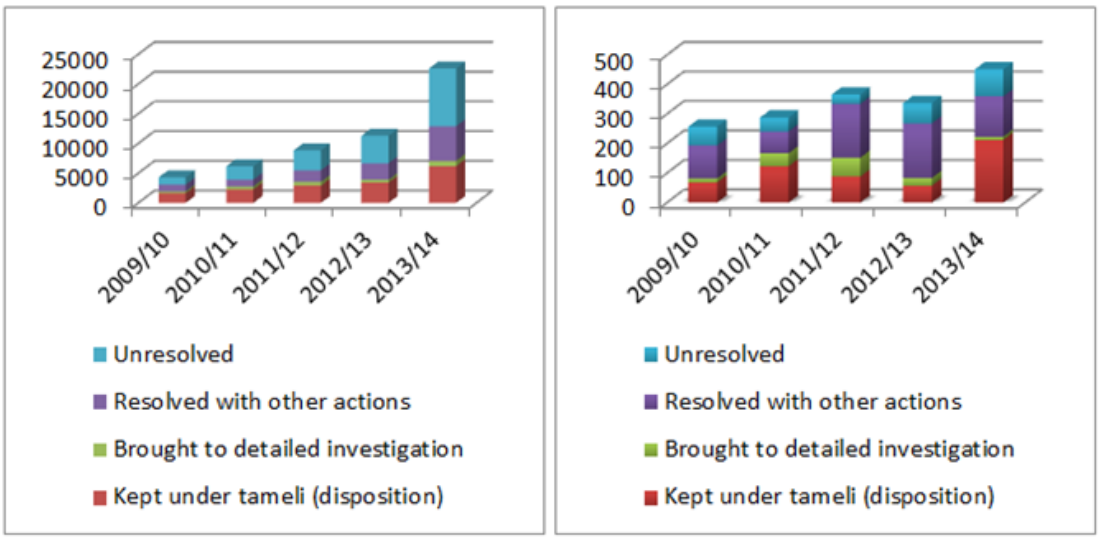
Lengthy proceedings are one of the major challenges in the Courts. The Special Court is treated as a temporary court, with deployed judges. While the number of corruption cases has been increasing, the same single bench of the Special Court has delayed proceedings. Further, appeals of corruption cases are not given priority in the Supreme Court (TIN 2013).

8.3.4.3 Enforcement in practice

Enforcement from within the forest agencies is generally limited to prosecution of members of the general public and giving nominal punishment to lower-level officials involved in small-scale offences. As suggested by various stakeholders, more serious offences are usually committed in collusion between officials and the private sector, and are prosecuted only if the cases become public, through the media or other means.

However, anti-corruption agencies are active in punishing or prosecuting persons involved in improper conduct and corruption. Specifically, the CIAA, as the supreme anti-corruption agency, has increasingly received complaints of corruption. Figure 8-3 lists corruption complaints and the CIAA's responses in general and in the forest sector, respectively, in the past five years.

Figure 8-3: Complaints of corruption and improper conduct received by the Commission for the Investigation of Abuse of Authority (CIAA) and its responses (Left - total, Right - forest sector)

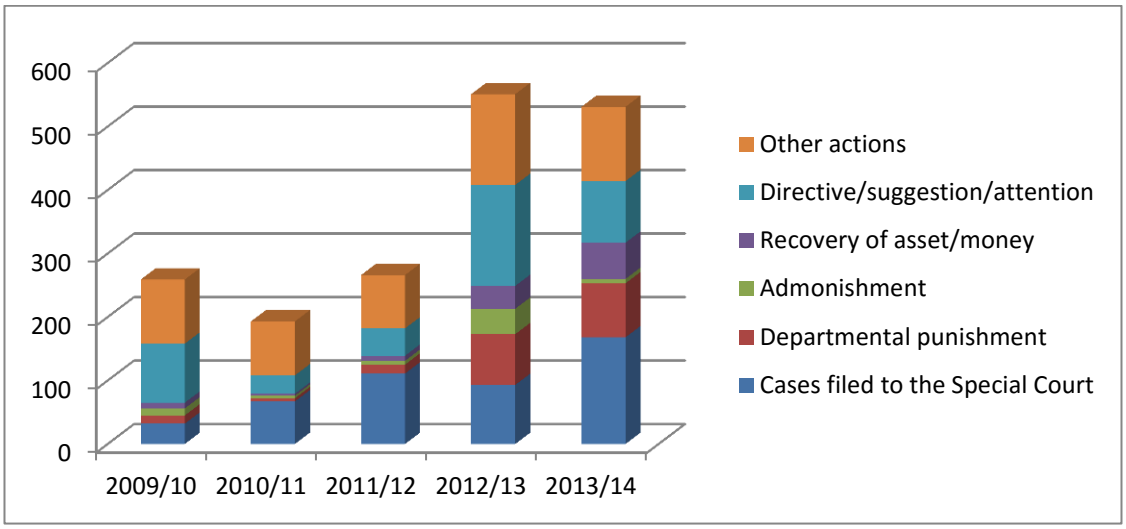


Source: CIAA Annual Reports

As shown in Figure 8-3, the number of complaints substantially increased in the Fiscal Year (FY) 2013/14, when the CIAA's regional offices were established. The majority of complaints have been resolved through preliminary investigation, leading to *tameli* (disposition) or other actions such as directives to the authority concerned for investigation and taking necessary actions. A small proportion of complaints has been investigated in detail as recommended by preliminary investigations. The proportion of corruption complaints that were investigated in detail were high in the forest sector compared to that in total, specifically in the FY 2010/11 and 2011/12, when uncontrolled timber harvesting was widely reported from the Tarai and inner Tarai region.

The specific actions prescribed by the CIAA as a result of its investigations in the last five years are given in Figure 8-4.

Figure 8-4: CIAA's actions against corruption (total)



Source: CIAA Annual Reports

The CIAA has taken a variety of actions to control corruption, including prosecution in the court, other punitive actions against officials, and directives to office bearers. The number of actions taken has increased substantially since FY 2012/13. According to the CIAA Annual Reports, 532 and 139 officials have been recommended for departmental punishment and admonishment respectively, while 1,538 persons have been prosecuted in the Special Court in the last five years. In the last four years, out of 311 cases filed in the Special Court, the CIAA has achieved success in 243 cases (78%). Similarly, in FY 2012/13, the NVC resolved 1,218 complaints out of a total of 2,020 received. Among the cases resolved, it forwarded 142 cases to the CIAA for necessary actions, issued admonishment and directive/advice for 12 and 154 cases respectively, and kept 910 cases under disposition (*tameli*) (NVC 2013).

The OAG acts primarily in relation to the recovery of government assets and money. According to the 52nd Auditor General's Report (OAG 2014), the OAG carried out audit of 3,933 government agencies and 586 boards and institutions, and recovered more than two billion rupees in FY 2013/14. In the forest sector, it identified more than 527 million rupees to be recovered or regulated, of which it recovered 90 million rupees from government agencies in the same year. Similarly, it found NRs. 54 million to be recovered or regulated in three boards or institutions under the MFSC.

The DMLI prosecuted 4 cases in the Special Court in 2013/14, when it had received a total of 459 complaints about money laundering (DMLI 2014). The DRI took action for recovery of more than 6.5 billion Nepalese Rupees, including over 9.6 millions of VAT and 31 millions of income tax evaded, in FY 2011/12 (DRI 2012). According to the DRI Annual Report 2011/12,

two forest-based industries were detected to have evaded income tax and VAT, and more than 4 million Rupees were recovered from them.

8.3.4.4 Corruption in anti-corruption

With increasing reports of prosecution against corruption in different sectors from various anti-corruption agencies, corruption associated with the anti-corruption agencies is also widely reported. For example, the CIAA recently caught its own officials in the act of taking bribes[59]. Similarly, in August 2014, the CIAA arrested a DMLI official while taking a bribe of NRs. one million from a person who was under investigation for money laundering[60]. As I discussed in Chapter 4, the Courts are considered as one of the most corrupt institutions in Nepal. During an informal discussion, an ex-leader of the Bar Association of Nepal (the peak lawyer's association) expressed the same view.

In the timber sector, as discussed in Chapter 5, it is established practice for DFOs to pay a certain amount, based on their informal income, to local level oversight agencies/officials, such as CDO and DTCO, at least once a year. During interviews and group discussions, many participants showed their mistrust of the anti-corruption agencies, and claimed that they were catching only *small fish* (officials at lower ranks), who cannot bribe them and who do not have political access. To justify their claims, many of them pointed to some of those whom they perceived to be the most corrupt dfos (they named a few dfos in common), but who have never been prosecuted by any agency. Referring to the High Level Inquiry Commission (HLIC) 2010, which had become a big *hauguji* (fear) in the forest sector around the time of its formation, a field-level TCN official said,

> "… in fact, the Commission punished lower level officials involved in small misdoings but it worked as a pundit to cleanse highly corrupt officials. … I was witness when an official [he named one] hammer-marked thousands of cubic foot of illegal timber, but the Commission did not touch him. A *len-den* [monetary transaction] took place" (F-B-14).

During interview, a CIAA official supported this claim, and suggested that the HLIC was 'apparently' involved in corruption. Referring to the negligible punishments recommended by the HLIC for some officials involved in illegal logging, he questioned:

> "… if they [the HLIC officials] had not *eaten money* [taken bribe], how could they recommend for punishment of 'grade cut' only, while the CIAA has later determined a *bigo* [amount involved] equal to NRs. 430 million?" (G-O-2).

[59] The *Kathmandu Post*, 13/01/2015 and 24/01/2015

[60] http://www.ekantipur.com/2014/08/17/capital/anti-money-laundering-dept-officer-caught-taking-bribe/393695.html

During interviews, some forest officials who were involved in the HLIC investigation team also said that bribery took place during the investigations, resulting in 'cleansing' of some of the most corrupt officials.

Similarly, many officials and contractors claimed that the CIAA is also not free from corruption. For example, an official (F-B-1), who was a focal person for the management of an informal fund, claimed that he was bribing CIAA officials from time to time. During interview, one of his colleagues (F-A-2) told me that this official had recently said to him:

> "…the *line* was already *clear* in the Ministry [MFSC] and the Department [DoF], but it was not that *clear* in the CIAA. I recently went to Kathmandu and made it *clear* there too, and I am assured not to be in problem [*line clear garen, balla dhukka bho*]" (F-A-2).

The auditors from the OAG are regularly bribed by the DFOs, as I have stated in Chapter 5. During interview, the above-mentioned official (F-B-1) revealed that the DFO had arranged accommodation and food, including *darupani* (alcoholic drinks), for a week and finally handed them NRs. 100,000 in cash, in the latest audit prior to my fieldwork.

The PSC is generally perceived to be one of the least corrupt institutions in Nepal. However, during interview, a retired Director General of the DoF told a story of how law enforcement was influenced due to the favouritism that prevailed in the PSC, as in other institutions in Nepal:

> "…once I sent a file to PSC, proposing an action against a Ranger, for advice as legally required but it was not responded to for a long time. When I inquired, I learnt that the Ranger's brother-in-law was a Commissioner" (F-O-16).

Interviews and group discussions with various stakeholders revealed that the Courts are one of the most corrupt institutions associated with timber governance, and that corruption in the Courts is well-institutionalised. A forest official explained how corruption took place in a case in which he had caught a man with a tractor full of illegal timber and filed the case in the District Court. He explained what he had learnt from various sources during and after the Court proceedings:

> "…the private lawyer copied details of timber from the file I had submitted to the Court, and prepared a back-dated bill from a sawmill accordingly as if the confiscated timber was legally purchased. The lawyer, who is also a Nepali Congress leader, also got a paper stating 'it was a legally purchased timber but the Ranger filed the case because of personal reasons' signed by a Forest Guard without reading what was written. As revealed by the tractor owner, who was one of the bribe payers, the private lawyer, the government lawyer and the judge had colluded from the beginning, and a good deal of informal transaction took place" (F-A-2).

During interviews and group discussions, many forest officials, including F-A-2, expressed their frustration over the Court proceedings. Their major concern was that the Court officials or judges often treat the forest officials as the offenders, while the real offenders are respectfully

treated. In another case, in which a man was caught with about 100 cubic foot of illegal *Sal* timber in district A during my field visit, the following informal payments were made: NRs. 7,000 to AFO in-charge (to accelerate the case to the government lawyer), NRs. 25,000 to the government lawyer (to accelerate the file to the court), NRs. 3,500 to the book-keeper (*shrestedar*, Under-Secretary) at the District Court to accelerate the case to the Judge, and finally NRs. 1,500 to the Post of Armed Forest Guards while the suspect was released through the Court's verdict 'to release on bail'. According to the informant (N-A-3), who was a close aide of the suspect and was closely involved in the dealings, lengthy negotiations had taken place to determine the amount of bribes paid to the government lawyer and the Court book-keeper; however, they had given money to the others voluntarily.

8.3.5 Anti-corruption education in timber governance

8.3.5.1 Legal-institutional arrangements for anti-corruption education

In Nepal's formal education system, a course called 'Moral Education' is taught in the lower secondary level (grades 6-8), which mainly deals with good and bad conduct in society. Similarly, with the development of community forestry as a dominant forest management intervention in the country, the forestry institutes have gradually included governance issues in their courses. However, apart from non-state actors such as civil society and the media, anti-corruption education as such is largely the function of the CIAA and the NVC. The *CIAA Act 1991* authorises the CIAA to carry out research and awareness activities against corruption (Section 35.B). Similarly, according to the *Prevention of Corruption Act 2002*, one of the main objectives of establishing the NVC is to 'promote people's awareness against corruption' (Section 37.1). In accordance with this objective, the *NVC (Working Procedural) Rules 2009* mandates the NVC to carry out awareness promotion activities (Rule 18.1).

8.3.5.2 Anti-corruption education in practice

The CIAA and NVC have been carrying out educational programmes to create awareness against corruption. The CIAA has been broadcasting a radio programme called '*Sadachar*' (good conduct) since 2005 to inform people of the CIAA's activities, share corruption-related news, and create awareness on anti-corruption. It is broadcast from Radio Nepal and many FM stations around the country. Similarly, it launched a community education programme in 2008, with focus on anti-corruption education in the schools and colleges. In FY 2011/12, a total of 27,744 students from 189 schools and colleges participated in this programme (CIAA 2012). Similarly, the CIAA has been organising anti-corruption interaction programmes for multiple stakeholders at the local level. In 2012/13, a total of 5,231 participants from various groups, including government agencies, I/NGOs, civil society, political parties, lawyers, businessmen, and general public, attended the programme (CIAA 2013). It has also used posters and

hoardings to promote awareness against corruption. During my fieldwork, I observed a variety of posters with slogans against corruption, displayed in many offices, including the DFOs.

The CIAA has conducted, from time to time, specific educational activities in the forest sector. For example, it organised a multi-stakeholder interaction programme on "Forest Destruction and Roads through the Forest" in January 2012 in Dadeldhura and Kanchanpur districts, from where large-scale corruption associated with timber production and trade from community forests was reported. Similarly, it organised an interactive programme on "Forest Destruction and the CIAA's Investigation Process, and Role of Students in Corruption Control" in some schools in Bardiya, Dadelhdura and Doti districts in June 2013 (CIAA 2013).

The NVC is also conducting awareness activities against corruption, including multi-stakeholder workshops and school programmes. In 2014, it organised an 'Anti-corruption Comedy Journey' and a *deusi-bhailo* (a cultural musical ceremony) in collaboration with *Sisnu-pani* Nepal, a well-known comedian group, to create awareness against corruption[61].

8.4 Media and civil society: non-state watchdogs against corruption

Media and civil society, including individuals and Non-Government Organisations (NGOs), are playing a significant role against corruption in Nepal. They have assumed the roles of watch-dogs to players of governance in all sectors and at all levels. Specifically through research, education and advocacy, the media and civil society have contributed to all of the five elements of integrity as discussed earlier in this chapter.

Two highly esteemed individuals, Dr. Govinda KC and Mrs. Sharada Bhusal Jha, are known to have been fighting against corruption in their own efforts. Dr. KC, a senior orthopaedic surgeon in a government hospital, has staged a series of five hunger strikes since 2012, demanding punishment of 'medical mafias' and an end to corruption and irregularities in the medical education sector[62]. His campaign has been widely supported by doctors and other individuals throughout the country, and it has been able to bring about change. Mrs. Bhusal Jha started her fight against corruption in 1999, and has already staged a series of three hunger strikes against public sector corruption in the country.

As of July 2014, a total of 39,759 NGOs are registered in the Social Welfare Council (SWC) of Nepal, with 1,451 and 1,146 focusing on 'environmental protection' and 'moral development' themes respectively[63]. Some of these NGOs are actively working against corruption. Transparency International Nepal (TIN), established in 1995 as a national chapter of

[61] www.youtube.com/watch?v=kKHIzjcm0hg
[62] http://www.pressreader.com/nepal/the-himalayan-times/20150323/281603828957005/TextView
[63] http://www.swc.org.np/wp-content/uploads/2015/08/By-Sectorwise.pdf (Accessed: 24/08/2015)

Transparency International, is the most-recognised NGO among these. TIN has a network of 26 affiliated organisations in 25 districts of Nepal. During interview, a TIN official (N-O-1) suggested that it is closely working with the state's anti-corruption institutions, specifically the CIAA and the NVC, through sharing relevant information. Other NGOs which have a special focus on anti-corruption include Pro-public (Forum for Protection of Public Interests), GOGO (Good Governance) Foundation, and the Anti-Corruption Movement, Nepal. In all cases, their focus is on public sector corruption in general, and they do not have a special focus on the forest sector.

Many of the NGOs registered in the SWC under the 'environmental protection' theme are working in the forest sector. Many such NGOs are focused on forest governance, but not explicitly on anti-corruption. During an interview, I asked a high-level official of Forest Action, a leading NGO working in the area of forest governance for many years, why the forestry NGOs were not involved in anti-corruption activities. He presented three possible reasons for this. First, it may be because it is difficult to find funding to work in anti-corruption. Second, it may be because they may have ignored the issue of corruption as it is acceptable in this sector. The third and the most important may be:

> "…because working in corruption ultimately becomes 'personal', which deteriorates relationships. Since the circle of forestry professionals is small, knowing each other, it's really difficult" (N-O-3).

FECOFUN, the country's largest civil society organisation with about 13,000 forest user groups as members[64], is the most influential non-government actor in the forest sector. A FECOFUN leader (C-O-1) told me that they have set certain norms to uphold the integrity of their members. For example, it has been decided that if any of the CF executive committee members is found to have colluded with a contractor, s/he is not eligible to be selected for any FECOFUN committees from the local to the national level. It also carries out activities to improve CFUG governance, such as facilitating public audits, holding public hearings, facilitating meetings, and legal awareness. However, it is widely realised that FECOFUN has not acted against corruption in the forest sector as expected. Specifically, while it has been 'fighting' the government for community rights since it was established, it has not publicly advocated against corruption. During interviews and group discussions, many FECOFUN leaders, at both central and local levels, claimed that the government officials are the major actors in corruption even in the CFs. However, when asked about why they do not raise the issue, they pointed the problem of 'relationship', similar to that nominated in my discussion with the NGO official (N-O-3) as cited above. In contrast, many government officials asserted

[64] http://fecofun.org.np/introduction.php (Accessed: 24/08/2015)

that FECOFUN leaders do not take a stance against corruption as they are themselves engaged in corruption. FECOFUN and NGOs are also criticised for aligning themselves with aid projects and then compromising their views (e.g. Ojha et al. 2016).

The media is playing a significant role in the fight against corruption. The conventional media, such as newspapers, television and radio, have regularly exposed cases of corruption in the public sector, including in timber production and trade. For example, the analysis of forest-related news articles published in *Kantipur*, one of the most widely circulated national daily newspapers, in the year 2012 revealed that 334 news articles (about half of the total number of such articles) were related to crime and corruption. Among them, 152 were related to timber-related corruption and crime, with more than 80% coming from the Tarai and inner-Tarai districts. I also found that the newspaper had followed a single case of corruption up to 17 times, through which it not only informed the general public but also constantly alerted the anti-corruption agencies. However, investigative journalism is yet to be developed in Nepal. During an interview, a forest-sector reporter from a leading national daily newspaper (J-O-1) advised that the poor human and financial resources of the media houses are limiting the prospects for investigative journalism in Nepal.

More recently, the increasing use of online media has created a platform for people to present, discuss and debate ideas relating to corruption and anti-corruption. Similarly, social media, such as Twitter and Facebook, are increasingly used to promote anti-corruption in Nepal. For example, as reported by Sigdel (2015), hashtags "#Imwithdrkc" and "#saveGKC" were widely used, and a Facebook page "Solidarity with Prof Dr Govinda KC" gathered over 10 thousand 'likes', during Dr. KC's latest hunger strike against the 'medical mafia'.

8.5 Anti-anticorruption

Apart from secret informal transactions and other forms of corrupt practices in anti-corruption institutions and processes, there have been some formal activities that have challenged anti-corruption in general and in the timber production and trade in particular. In relation to timber production and trade, some of the activities of FECOFUN and FenFIT and FPEAs are serving, in one way or other, to counter anti-corruption efforts.

FECOFUN has been constantly protesting against most of the government's moves targeted at preventing corruption in the timber production and trade from the CFs, including restrictions or limitations on timber harvesting, making the minimum tender price of timber equal to that of the TCN, restrictions on CF handover in Chure region, and finally the declaration of Chure region as an Environment Protection Area. While doing this, FECOFUN has claimed that these

decisions have undermined community rights established through the *Forest Act 1993*. During an interview, a FECOFUN leader (C-O-1) claimed:

> "…corruption taking place in a few CFs, by some bad individuals, has been used as a *bahana* (excuse) to sabotage people's rights established by community forestry by those officials who always wanted to keep forest resources in their control" (C-O-1).

During a brief discussion with a small group of local-level women FECOFUN representatives in the Sixth Community Forestry National Workshop in Kathmandu, they echoed the claim of 'people's rights' made by their leaders. One of them, who was a chairperson of a CFUG, advised that she was in a position to give up her 'social service' due to '*akhtiyar atanka*' (CIAA terror), specifically referring to corruption cases filed against the CF office holders in some districts and the CIAA directives like '*yo gar, tyo nagar*' (do this, do not do that), referring to timber pricing. In a similar vein, some FECOFUN representatives in the Workshop demanded that the CFUGs should be outside the purview of the CIAA.

FenFIT and FPEAs, timber contractors' syndicates at the central level and district levels respectively, have also played roles in anti-anticorruption. For example, FenFIT filed a petition against the government decision to make the tender price of timber equal across all agencies, and on which the Supreme Court immediately gave an interim verdict in FenFIT's favour. At the local level, the FPEAs advocate against free competition in timber tendering, as advised by the FPEA chairperson in district A during an interview:

> "…the FPEA's main objective is to reduce competition among contractors, thereby supplying timber at cheaper price to the consumers in the market, and act to resolve contractors' *pir-marka* (grievances)" (T-A-1).

There are also cases in which the FPEAs have attempted to resist local anti-corruption initiatives, such as log piling at a publicly visible site out of the forest in district B, as I mentioned in Chapter 5. Similarly, a case in district B shows how an official can become helpless in the face of organised resistance by contractors to anti-corruption. As revealed by some officials and contractors, when a newly deployed officer in-charge of the AFO, who found fraud in the measurement of logs in collusion between a contractor and the previous officer-in-charge, refused to mark logs without re-measurement, he was subject to organised harassment by the contractor. The officer tried to have him punished but failed as the FPEA organised a *dharna* (sit-in-protest) and influenced all the relevant officials, at local and central levels, using money and political power. Instead, the officer was transferred out of the district, as a result of the informal charge of, as he (F-B-2) heard from others, 'not being able to *milera basna* (to collaborate with others)'.

The media has also provoked, knowingly or unknowingly, anti-anticorruption in many instances. For example, the media widely criticised the CIAA's aggressive capture of lower-level officials, the *small fish*, but not the higher level ones, the *big fish,* in the recent past. The discourse of '*small fish'* and *'big fish'* has shaped people's sympathy for the lower- level corrupt officials, with the Prime Minister ultimately requesting the CIAA not to harass lower-level public servants[65]. Whatever is the media houses' objective, whether to create pressure on the CIAA to catch the *'big fish'* or to defame the CIAA Chief for vested reasons as claimed by some media at the time of his appointment[66], it is being considered an anti-anticorruption activity.

8.6 Conclusion

This chapter presented the state of anti-corruption in Nepal, with particular reference to timber production and trade from the Tarai forests. The poor state of anti-corruption in the national context is demonstrated by the weak national integrity system, characterised mainly by poor governance of the key public institutions and non-state actors at the national governance level. The state of anti-corruption in the country's governance is reflected in the timber sector. The following conclusions can be drawn from the analysis of anti-corruption in relation to timber production and trade from the forests of Nepal's Tarai, as presented in this chapter.

- A comprehensive legal-institutional framework exists to prevent and control corruption in the timber governance in the Tarai of Nepal. With strong commitment in the Constitution and ratification of the UN Convention Against Corruption, Nepal has introduced a number of general and sectoral laws to enhance transparency and accountability in public sector governance. Various anti-corruption laws and forest laws have introduced preventive measures, including stringent punishments for offences. Similarly, monitoring, oversight and enforcement agencies have been established at various levels of governance, and formal arrangements have been made to promote anti-corruption education. Non-state actors, such as media and civil society, are playing active roles in creating public awareness and advocacy against corruption, and their freedom has been guaranteed by the state through the constitutional provision of a free press and freedom of expression.

- However, there are some critical legal-institutional issues that are constraining anti-corruption. The lack of sector-specific standards to implement general laws and the

[65] http://www.ekantipur.com/2014/11/05/oped/...big-fish/397217.html
[66] *Annapurna Post*, 05/05/2013

lack of legal arrangement to involve citizens in the governance of government-managed forests have hindered transparency in the timber governance. Accountability has been constrained due to conflicting laws; the lack of roles of political authority in forest governance; conflicting, illogically assigned and poorly defined roles and responsibilities of officials; and poor performance evaluation systems coupled with the arrangement of trade unions and automatic promotion in the bureaucracy. Similarly, the existence of multiple institutions for timber production and trade and the differential stumpage prices of timber across those institutions; non-illegality of bid-rigging; greater discretion in the degree of punishment; and the lack of a third-party monitoring mechanism, specifically in the government-managed forests, are some of the major hindrances in the laws targeted to preventing corruption. The enforcement of laws against corruption in timber production and trade has been constrained mainly due to the poor institutional capacity of enforcement agencies in terms of human, financial and other resources, and jurisdictional complexity in some instances.

- There is a wide gap between the principles of integrity, established by the laws, and practice. With regards to all components of integrity, including transparency, accountability and prevention of corruption, the legal provisions are usually followed on paper but not in actual practice, resulting in widespread corruption in timber production and trade. In response, the higher authorities, specifically the oversight and anti-corruption agencies, have taken various administrative actions, over time. Many of those administrative actions involve conservative measures to prevent corruption, such as restricting the handover of community forests and limiting timber harvesting, which may have negative implications for forest management, communities' livelihoods, and the timber market. Similarly, widespread corruption in the anti-corruption and oversight agencies, including the judiciary, has had serious implications for the fight against corruption.

- Media and civil society, the non-state watch-dogs, are playing significant roles against corruption in Nepal, specifically through research, education and advocacy. However, despite a strong network of civil society organisations working exclusively in the forest sector, civil society does not play an effective role in fighting corruption in timber production and trade. Rather, some of their campaigns are against anticorruption measures.

In the next chapter, I will consolidate the results of all empirical chapters, draw key findings of the research, and discuss them in relation to the relevant literature.

Chapter 9: Discussion and Conclusions

9.1 Introduction

Corruption in natural resource management is a worldwide phenomenon. In the forest sector, various forms of corruption and associated illegal forest activities (IFAs) are widely reported, especially from developing countries (Amacher et al. 2012; Cerutti et al. 2012; Hansen et al. 2012; Hicks 2013; Teye 2013; To et al. 2014). Although the forms and levels of corruption may differ, corruption is present in both democratic and dictatorial regimes (Smith et al. 2003; Springate-Baginski et al. 2014) and in both the centrally managed (Cerutti et al. 2012; Roy et al. 2013) and community-managed forests (Iversen et al. 2006). Corruption associated with the Tarai forests, which are the main sources of timber for Nepal's timber markets, is one of the most narrated but little explored phenomena in the forest sector of Nepal, a country that has experienced rampant corruption and a constant decline in the key governance indicators in the last two decades (Transparency International 2015a; World Bank 2014b).

In this context, the main objective of this research was to understand the nature of corruption in timber production and trade from the Tarai forests. To achieve the objective, I examined three specific research questions: 1) in what forms and scales does any corruption occur, at each stage of the timber trade chain?; 2) what actors are involved in any corruption at each stage of the timber trade chain, what are their motivations, and what institutional arrangements and processes enable them?; and 3) what have been the responses to any corruption in timber production and trade? Following the commonly used definition of corruption as "abuse of entrusted power for private gain" proposed by Transparency International (Transparency International 2009, p. 14), I explored answers to these questions using primary and secondary data. The primary data were collected using confidential interviews and group discussions with various actors involved in timber production and trade and observations of formal and informal processes at different stages of the timber trade chains; the secondary data were obtained mainly from official sources. I presented findings relating to research questions 1 and 2 for government-managed forests (GFs), community forests (CFs) and private forests (PFs) in Chapters 5, 6 and 7, respectively, and those relating to research question 3 in Chapter 8. In this final chapter, I discuss the key research findings, link them to existing theories and knowledge about corruption and anti-corruption, and draw conclusions.

As I discuss in the following sections, the findings suggest that timber governance in Nepal's Tarai is plagued with systemic, institutionalised and decentralised corruption, in which multiple, mutually-reinforcing corrupt practices, including bribery, fraud and theft, patronage

and favouritism, illegal pressure, and conflicts of interest, occur as common phenomena. Bribery is the primary form of corruption; it seems to be deeply engrained in timber trade chains from all forest governance and management regimes. While some instances of bribery, such as routine informal payments, did not involve illegal forest activities (IFAs), others involved IFAs resulting in the unsustainable production of timber and reduced revenue to government and communities.

Many actors in the timber value chains perceived some forms of corruption and IFAs as acceptable behaviours, and rationalised them in various terms. Such perceptions and rationalisations have ultimately facilitated the perpetuation of corruption. Similarly, the 'loopholes' in transparency and accountability mechanisms of the current legal-institutional arrangements, corruption-friendly management and regulatory measures, and poor law enforcement have provided corrupt actors with opportunities for engaging in corruption at low risk. Paralleling the situation in the country generally, anti-corruption efforts in timber production and trade have been largely ineffective and inefficient in controlling corruption. Some anti-corruption measures have even led to negative social, ecological and economic outcomes.

As I discuss in this chapter, five key analytical findings that challenge conventional understandings emerged from this research. First, the findings challenge the conventional assumption about implications of a binary distinction between non-collusive and collusive forms of corruption. The conventional assumption is that non-collusive corruption has a higher potential of being reported, and so is less persistent than collusive corruption (e.g. Smith et al. 2003). The findings of this research suggest that the distinction between non-collusive and collusive forms of corruption is often blurred, and that the former is less reported and more persistent than the latter, at least under institutional arrangements that require repeated interactions between public sector officials and private sector actors.

Second, the findings of this study contradict the conventional wisdom that decentralisation reduces corruption (e.g. Shah 2006). As with some other studies (e.g. Asthana 2003), this study reveals that the level of corruption is higher in the more decentralised resource governance regime. However, this finding does not mean that corruption is necessarily more inherent under decentralisation; rather, in this case, it is a result of the weak accountability mechanisms and excessive government controls that facilitate the operation of a nexus between the bureaucracy and local elites.

Third, this research challenges the conventional explanation of power relations in the forest governance of Nepal. The conventional explanation holds that Nepal's forest governance is

shaped by the patron-client relations, that is, the vertical relations between forest officials as the more powerful actors and local elites as the less powerful actors (e.g. Malla 2001). The findings of this research suggest that the forest governance of Nepal's Tarai is shaped more by informal network-based relations, in which various categories of powerful actors co-operate with each other to generate mutually beneficial outcomes from corruption.

Fourth, the findings of this research contradict the conventional understanding that the arrangement of overlapping jurisdictions for dispensing the same public service reduces corruption, as it allows a service recipient to seek an honest service provider (e.g. Ades and Tella 2009). The findings suggest that the arrangement of overlapping jurisdictions may be counter-productive in the case of collusive corruption, in which a service recipient has incentives to seek a corrupt service provider. They further suggest that overlapping jurisdictions may be even less effective in reducing non-collusive corruption when the supply of the product is limited, and where there is the 'culture of corruption' in the system that makes it difficult for a service recipient to find an honest service provider.

Fifth, the findings of this research raise question on the effectiveness of the conventional 'monitoring and punishment' approach to anti-corruption, which is based on the logic of corruption as a principal-agent problem. Consistent with the results of some other studies (e.g. Persson et al. 2013), the findings of this research suggest that systemic corruption can be better explained as a collective action problem, and other approaches are necessary to address such corruption.

The key research findings are discussed in the next three sections: 1) forms and scale of corruption in timber production and trade; 2) actors, institutions and processes shaping corruption in timber production and trade; and 3) anti-corruption in timber governance; each of these corresponds generally with the three research questions set out above. After addressing these issues, I present reflections on the methodology used for the research, and discuss the contribution to and implications of the research for knowledge, policy and practice. The last section of the chapter suggests an agenda for further research.

9.2 Forms and scale of corruption in timber production and trade

Exploration of the forms and scale of corruption along the timber trade chains from different categories of forest was the first sub-objective of the research. The detailed findings relating to this objective have been presented in Chapters 5, 6 and 7, and were based on analysis of actors' experiences as reported during interviews, observation of phenomena, and interpretation of official documents. In this section, I draw key findings, and discuss them in the following three sub-sections.

9.2.1 Systemic, institutionalised and decentralised corruption

The results suggest that timber governance in Nepal's Tarai is characterised by systemic, institutionalised and decentralised corruption, in which multiple, mutually-reinforcing corrupt practices, such as bribery, fraud and theft, patronage and favouritism, illegal pressure, and conflicts of interest, occur as common phenomena along the timber production and trade chains from all major forest governance and management regimes.

As discussed in Chapters 5, 6 and 7, bribery was the primary corrupt practice; it occurred systematically at all stages of the timber trade chains from all forest governance and management regimes. For example, in all timber transactions, timber harvesters and/or buyers made a series of routine informal payments for legal activities, and additional payments for any illegal activities, to many formal and informal actors. In addition, informal payments were made occasionally or periodically to many actors, such as political parties/politicians, journalists, and officials from oversight agencies, regardless of the issue of illegality. Fraud and theft, viz. misappropriation of public resources without involving external actors, occurred in both GFs and CFs, for example, office holders seized subsidised timber to sell privately. Patronage, favouritism and illegal pressure were also common at various stages of the timber trade chain, for example, during log tenders in GFs and selection of informal contractors in CFs. These corrupt practices also played an influential role in the transfer of officials to 'lucrative' locations, and in safeguarding criminals from legal action. These practices often took place together with bribery. Conflicts of interest were also evident, more commonly in CFs but also in GFs and PFs; for example, forest officials, CF office holders and politicians were engaged, directly or indirectly, in timber businesses.

The findings are consistent with those of the studies relating to corruption in public sector governance generally in Nepal, and for the timber sector in many developing countries. Panday (2000) presents a repertoire of corrupt practices consisting of bribery, illegal pressure, political patronage and favouritism prevailing in Nepal's public sector governance. The NSCEH (2008) and Pfaff-Czarnecka (2008) report various cases of conflicts of interest associated with several Nepali government departments. Paudel et al. (2006) and Iversen et al. (2006) had observed similar corrupt practices in timber production and trade from both GFs and CFs in a central Tarai district, and from CFs in two western Tarai districts, respectively. Similarly, various studies reveal that bribery, favouritism (nepotism and cronyism) and political patronage are common forms of corruption in timber production and trade globally (Amacher et al. 2012; Callister 1999; Downs and Tacconi 2012; Kolstad and Søreide 2009; Palmer 2001; Springate-Baginski et al. 2014; To et al. 2014; Transparency International 2010a).

The findings of this study suggest that bribery is not just a transactional modality, but is deeply ingrained in the timber production and trade chains. Some forms of bribery, specifically the routine informal payments, were practised as a culture, often without being perceived as corruption by either bribe payers or receivers (section 5.8); therefore, the distinction between "demand-side" and "supply-side" corruption (O'Higgins 2006; Transparency International 2010a) was largely blurred. Bribery is so institutionalised that informal norms were maintained for its governance; for example, there were standard rates of informal payments for different services along the timber trade chains (sections 5.5, 6.6 and 7.6), and standard procedures for collection and distribution of informal money (sections 5.7, 6.7 and 7.7). Similarly, the results show that corruption is well-decentralised; a contractor (service recipient) had to deal with, and pay bribes to, multiple agencies and many officials at different levels for a single service (Bardhan 2006; Begovic 2005; Shleifer and Vishny 1993). In fact, timber governance in Nepal's Tarai is plagued with the 'culture of corruption', where corruption is the rule rather than exception (Robbins 2000; Smith 2007).

While the immediate causes of different forms of corruption can be traced to the 'loopholes' in the legal-institutional and managerial arrangements for timber governance, actors' motivation, power-relations and perceptions, and to anti-corruption initiatives (to be discussed later in this chapter), the underlying drivers of corruption were associated with broader socio-political and economic factors. These socio-political and economic factors influenced the motivations and power relations of social actors, the formulation and enforcement of sectoral and anti-corruption policies and laws, and the functioning of integrity institutions. As I have explained in section 4.4, reciprocity of patronage and favour has long been a dominant characteristic of Nepali politics, and this has been reproduced despite major political changes in 1990 and 2006, and is becoming worse in some political parties. Many politicians have engaged in rent-seeking activities using various strategies, such as illegal pressure on civil servants and collusion with the private sector (Panday 2000).

On the other hand, as discussed in section 4.5, the economic context of the country, which features a growing middle-class culture and consumerism, has motivated various actors to engage in illegal income generation activities, such as bribery, fraud and theft. The lack of social security arrangements (Acconcia and Cantabene 2008) and poor salaries of public officials (Yasmi et al. 2010) have also favoured corruption. Although their strength is gradually diminishing with recurrent political changes, some historically rooted social-cultural attributes of Nepali society, such as the social hierarchy, the gap between rich and poor, where the richer people are considered to be *thulo manchhe* (man of higher status), have increased social acceptance of, and thereby perpetuated, corruption (Truex 2011).

The findings suggest that it is likely to be difficult to address corruption in timber production and trade in Nepal's Tarai without a 'big push' (Acconcia and Cantabene 2008; Persson et al. 2013), for two main reasons. First, corruption associated with timber production and trade from the Tarai is a sectoral and local manifestation of corruption in the national context of Nepal, where all major institutions are plagued with rampant and increasing corruption (Transparency International 2013a, b; World Bank 2014b). Second, the systemic, institutionalised and decentralised nature of corruption, as identified here, increases the sector's resistance to anti-corruption reforms, and feeds on itself, through eroding the legitimacy of law enforcement agencies, breeding public mistrust of the state and pessimism in civil society actors, and negating any political will for anti-corruption reform (Brinkerhoff 2000; Cadot 1987; Nygren 2005; Panday 2000; Truex 2011). In this context, sectoral and technocratic anti-corruption efforts may have little impact. Therefore, stronger anti-corruption measures may need to be developed and implemented holistically and in the context of a long-term strategy, taking into account the underlying drivers of corruption associated with the socio-political and economic environments (McCarthy 2002b; Sung 2002).

9.2.2 Illegal forest activities associated with corruption

As mentioned in section 9.2.1, corruption, specifically bribery, was a common phenomenon occurring at all stages of all timber trade chains, from all forest governance and management regimes. While some instances of corruption, such as routine informal payments, did not involve illegal forest activities (IFAs), others involved IFAs resulting in unsustainable production of timber and reduced revenues to government and communities. Although their scale and frequency differed, the types of IFAs and techniques for their formalisation were similar across GFs and CFs, perhaps due to the similar legal procedures for the production and trade of timber from these regimes.

As described in sections 5.4 and 6.4, in the case of GFs and CFs, the over-estimation of allowable harvest during work plan preparation, and under-estimation of volume during tree marking and evaluation, were the major IFAs in the pre-harvesting stage. These activities were intended, respectively, to maximise the permissible volume and number of trees to be harvested. During harvesting operations, a greater volume of timber than permitted was harvested; the illegal proportion was either legalised using various formalisation techniques or concealed without being recorded. A similar study from an inner Tarai district estimated that the quantity of illegal timber harvested beyond the permitted volume was up to three times that of the legal timber (Paudel et al. 2006). Government investigations have also reported a range of IFAs, including manipulation of AAHs, over-harvesting, and under-measurement, in

both GFs and CFs in many parts of the country, and specifically in the Tarai districts (HLIC 2011; NRC 2010).

Similarly, timber allocated for direct or subsidised sale for non-commercial purposes was redirected to sawmills using fraudulent documentation; this is consistent with results reported by Iversen et al. (2006). The log tender processes for commercial purposes were often a facade due to collusion, resulting in sales at the minimum stumpage prices of timber. These research findings corroborate various government investigations and studies, which show that collusive tenders were common phenomena in Nepal's timber trade (HLIC 2011; NRC 2010; Sharma 2015). Sharma (2015) estimated that truly competitive tenders generate about double the amount of revenue to government and communities currently being generated through nominally competitive, but actually collusive, tenders. The profit from collusive tenders was shared among various actors, including contractors, forest officials, and CF office holders. The non-illegality of bid-rigging in timber businesses (section 8.4) and the involvement of criminal gangs (section 5.4) facilitated collusive tenders. During log marking before transportation, the illegal timber from previous stages of the production chain, such as that concealed during harvesting operations, was legalised.

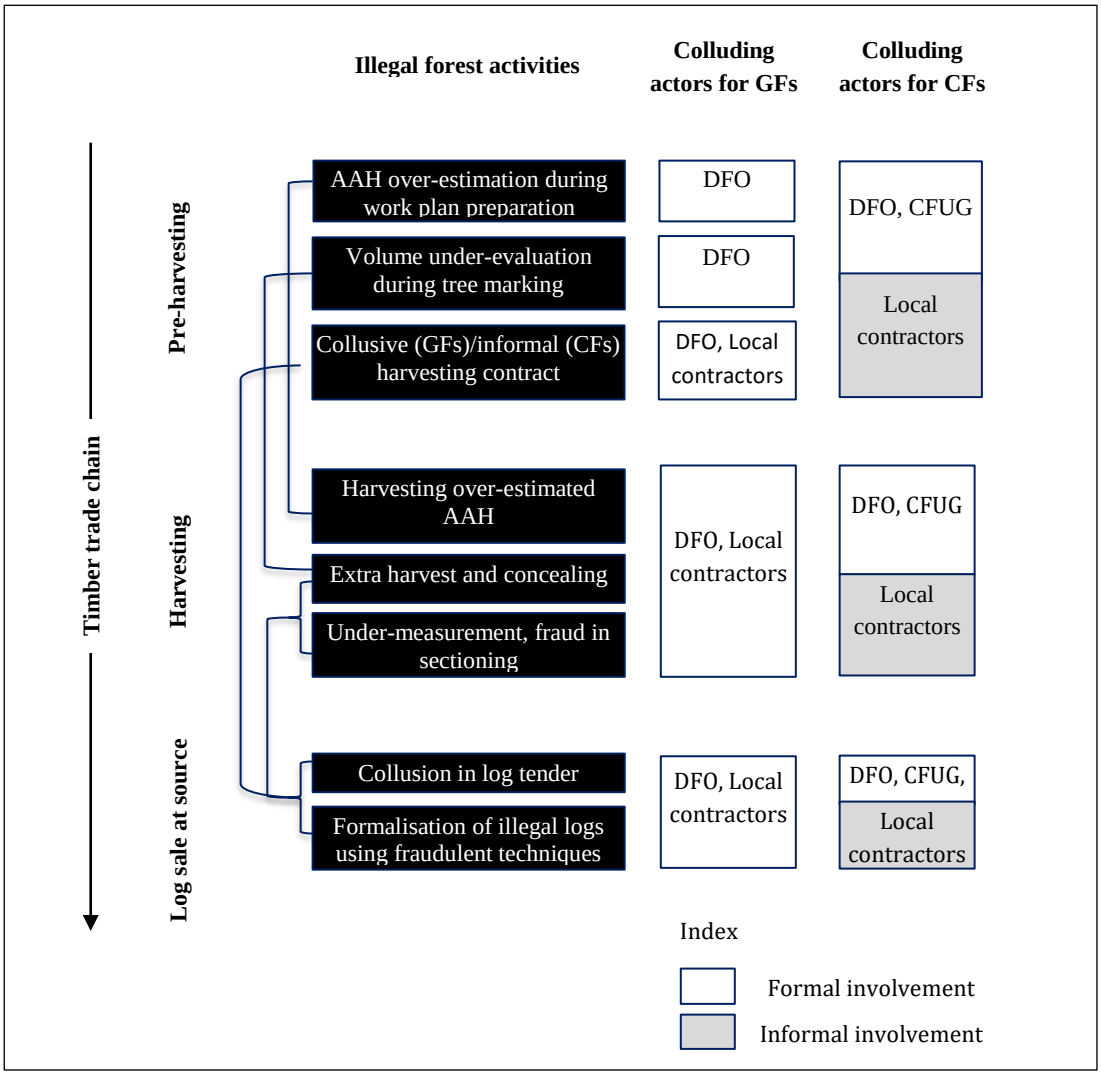
In the case of the timber trade chain from PFs, the volume of timber and/or the number of trees were generally over-estimated, to maximise volume in harvesting permits. Timber equivalent to the over-estimated volume was extracted illegally from GFs or CFs, and also from PFs other than those permitted (sections 7.4 and 7.5). The partially legalised and illegal logs from all sources, including from the entirely informal harvesting from GFs, were legalised in sawmills through manipulation of timber stocks. Under-invoicing to avoid taxes was a common IFA in both the wholesale (sawmills) and retail timber markets (section 5.4).

These findings are consistent with those of various studies in many other developing countries. These studies reveal various kinds of illegal forest activities associated with corruption along the timber trade chain, such as over-harvesting, timber laundering, harvesting of highest valued and best-formed trees, and tax evasion (Amacher et al. 2012; Callister 1999; Contreras-Hermosilla 2002; Hansen et al. 2012; Nygren 2005; Smith et al. 2003; Transparency International 2010a).

These findings suggest that corrupt practices and IFAs at the different stages of timber trade chain were not independent transactions, but were interlinked in such a way that collusion of actors was required in the subsequent stages to realise the intended corrupt benefits. Figure 9-1 shows the linkages between various IFAs in the three successive stages of timber trade chains from GFs and CFs. For example, over-estimation of AAHs and under-evaluation of

volume during pre-harvesting planning do not yield benefits to the actors engaged at this stage unless they collude with contractors during harvesting operations, and again in log tendering and log marking (Figure 9-1). The current institutional arrangements, in which the same agencies are authorised to make harvesting plans, carry out harvesting operations, and sell the harvested products (such as DFO for GFs, and DFO and CFUG for CFs), have provided opportunities for collusion among actors in successive stages of the timber production and trade chain. This finding has significant policy implications; delinking engagement of the same actors in successive stages of the timber trade chain may help to reduce corruption. For example, when three different entities govern forest management plan preparation, harvesting operations, and log sales separately, the incentives to actors to commit IFAs during the first two stages would reduce significantly.

Figure 9-1: Major corruption-induced illegal forest activities in timber trade chains from government-managed and community forests, and colluding actors



Source: Results presented in sections 5.4 and 6.4

Abbreviations: AAH = Annual Allowable Harvest; CF = Community Forest; CFUG = Community Forest Users' Group; DFO = District Forest Office; GF = Government-managed Forest

The prevalence of the two forms of bribery, viz. routine informal payments for legal activities and additional payments that involved IFAs, implies that both non-collusive and collusive forms of corruption prevailed in the case studies, as widely discussed in the corruption literature (Bardhan 1997; Bardhan 2006; Dzhumashev 2014; Isaksson 2015; Shleifer and Vishny 1993; Wadho 2013) and in the forest sector (Carlsen and Hansen 2014; Downs and Tacconi 2012; Laurance 2004; Smith et al. 2003; Sundström 2016; Wendland et al. 2014). As discussed in section 2.2, non-collusive corruption refers to a corrupt practice, such as bribery, that does not involve illegal activities (even if bribery itself is illegal) but serves to avoid delays or expedite the legal processes, whereas collusive corruption involves illegal activities in collusion between office holders and the private sector (Isaksson 2015; Smith et al. 2003). Theoretically, the binary distinction between non-collusive and collusive forms of corruption leads to a fundamental assumption in relation to detection, and thereby persistence, of corruption. Non-collusive corruption, also known as 'extortive' corruption (Isaksson 2015), victimises individual private sector actors (bribe payers) through imposing additional levies for legal activities; thus there is a perpetrator-victim relationship between office holders (bribe recipients) and private sector actors (bribe payers). In contrast, collusive corruption victimises the general public, for example, through tax evasion, but office holders (bribe recipients) and private sector actors (bribe payers) are mutually benefitted, as they share the profit from tax evasion. Therefore, in the former case, private sector actors are likely to make complaints against bribery, whereas in the latter case, both the office holders and private sector actors have no incentive to make complaints. This suggests that detectability is higher in the case of non-collusive than collusive corruption and, therefore, the collusive corruption is more persistent than non-collusive corruption (Bardhan 2006; Bauhr and Nasiritousi 2011; Coleman 1987; Smith et al. 2003).

However, the findings from this study suggest that the binary distinction between non-collusive and collusive forms of corruption is blurred, and the related assumption about implications for detectability and persistence is flawed, based on evidence from the case studies. In timber businesses, unlike in some other government transactions, such as issuance of a passport, the same client (such as a contractor) has to obtain services from the office holders repeatedly, in a single trade chain or subsequent timber transactions, for many years. Therefore, the routine informal payments, although not involving any IFAs immediately, were often intended to 'please' or 'keep up a relationship with' the office holders, so that they would be blind to the potential IFAs, or at least be 'cooperative', in the subsequent stages of the trade chain or in future timber transactions. Thus, as discussed in section 9.2.1, the bribe payers themselves did not regard such payments as 'extortion'. Also, because of the limited

(cf. market demand) (Kanel et al. 2012; Paudel et al. 2014) and irregular supply of timber to the market (Figure 4-10), contractors usually did not need to cut their profits to pay bribes. The burden of all informal expenses could be easily transferred to consumers through increasing the market price of timber. Therefore, the assumption that non-collusive corruption, viz. the routine informal payments in these cases, victimises the private sector and therefore has greater potential for generating complaints, and so corruption being detected, was flawed. Instead, collusive forms of corruption, such as those resulting in over-harvesting and concealing timber, were detected and prosecuted more frequently (CIAA 2012; HLIC 2011; NRC 2010). This occurred mainly because IFAs were more visible to the media and monitors, and also traceable in the subsequent stages of the trade chain, than the informal payments alone. Therefore, as reported in Chapters 5, 6 and 7, non-collusive corruption was more persistent than collusive corruption in all forest governance and management regimes, with the latter form often being more responsive to anti-corruption actions.

Despite the nature of corruption being generally indistinguishable, in terms of outcomes, between non-collusive and collusive corruption, the distinction is nevertheless useful for anti-corruption efforts. Strategies that are most appropriate in response to what is considered as non-collusive corruption, which is often rationalised by actors, may be different from those intended to address apparently collusive corruption. For example, reducing the regulatory load, responding to officials' 'rational' rationalisations, and promotion of competitive timber markets (Alexeev and Song 2013) could be important for combating routine bribery that does not involve IFAs. On the other hand, delinking the engagement of an actor from successive stages of a timber trade chain, as discussed earlier in this section, arranging third-party monitoring, promoting competition in tendering through criminalisation of bid rigging, and security arrangements against criminal gangs (*chulthe-mundre*) might be more useful to address corruption involving IFAs. Overall, more sustainable management of forests, which increases timber supply and thereby reduces rents derived from scarcity, and also reduces opportunities for IFAs prevailing in the current approaches to timber harvesting, is probably the most significant strategy to respond to both forms of corruption. Studies show that the Tarai forests are managed at sub-optimal level, and when they are managed at a more 'optimal' level can produce many times the volume of timber currently being harvested (Banjade and Ojha 2009; Brampton and Cammaert 2007; MFSC 2015; Ojha 2008; Paudel et al. 2014). For example, the recently introduced Forest Sector Strategy aims to produce one million cubic metres of timber annually for commercial purposes, which is more than three times greater than the current production, through applying sustainable forest management approaches to half of the Tarai forests and one-fourth of the hill and mountain forests (MFSC

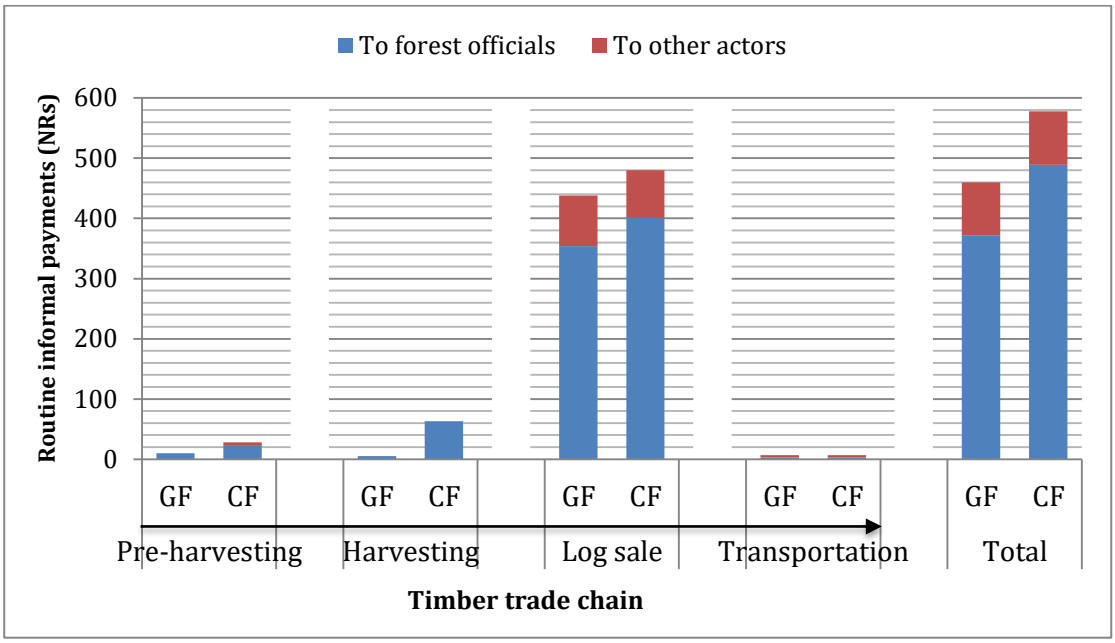
2015). Increased market competition may sometimes increase some forms of collusive corruption, such as concealing timber by which payment of revenues can be avoided (Alexeev and Song 2013; Wendland et al. 2014). However, actors will have less incentive to collude for some other forms of IFAs, such as overestimation of AAHs, for which payment of revenues cannot be avoided.

9.2.3 Varying levels of corruption across forest governance and management regimes

As discussed in section 9.2.1, corruption in timber production and trade from Nepal's Tarai is systemic. Every timber transaction from each forest governance and management regime involves informal payments, some of them resulting in illegal forest activities (IFAs), as discussed in section 9.2.2. However, the level of corruption varies across regimes. Based on the frequency of corrupt practices, size of informal payments, and the scale of illegal forest activities (IFAs), the level of corruption was found to be higher in the case of CFs than for GFs[67]. For example, the incidence of informal payments (bribery) along the trade chain of timber from CFs was nearly twice that in the case of GFs (Tables 5-2 and 6-2). The occurrences of other forms of corruption, such as patronage and favouritism, fraud and theft, and conflicts of interest, were also higher in the case of the timber trade chain from CFs than those from GFs, as discussed in Chapters 5 and 6. Similarly, the amount of routine informal payments for timber from CFs was higher than that from GFs. Figure 9-2 summarises the amounts of routine informal payments occurring along the trade chains of *Sal* timber from GFs and CFs in one case study district, with collusive tendering in both cases; it shows that the average amount of informal payments for timber from CFs was around 1.3 times higher than that from GFs. The higher frequency and amount of routine informal payments in CFs was due to the lengthy legality verification process comprising a number of recommendations and approvals along the timber trade chain (sections 5.4 and 6.4). The level of corruption-induced IFAs was also higher in CFs than GFs. For example, interviews with various actors, including officials and contractors, revealed that illegal production of timber, such as through over-estimation of AAHs, was higher from CFs than GFs. Similarly, collusion in tendering, resulting in significant loss of revenue to government and communities, was more systematic in CFs than GFs. There were rare cases of competitive tenders in CFs in both study districts; however, in the case of GFs, although almost all tenders were collusive in the district which was most distant from the market, about half of the tenders in the other district, which was relatively close to the main timber markets, were competitive (sections 5.4 and 6.4).

[67] PFs could not be included for comparison due to lack of comparable data, particularly because harvesting of *Sal* timber, which constitutes the major proportion of timber produced from GFs and CFs, was restricted from PFs.

Figure 9-2: Amount of routine informal payments along the trade chains of *Sal* timber from government-managed forests and community forests



Source: Tables 5-2 and 6-2 (excludes informal payments in kind)

Abbreviations: CF = Community Forest; GF = Government-managed Forest; NRs = Nepali Rupees

This result is consistent with the findings of the investigation carried out by the High Level Investigation Commission on Deforestation, Forest Encroachment and Community Forests (HLIC 2011), which reported higher incidences of timber-related corruption and IFAs in CFs than GFs in Nepal. However, some studies are critical of the government investigations, and claim that the government is deliberately highlighting some 'sporadic' cases of corruption in CFs to defame community forestry in an attempt to recentralise forest management (Sunam and Paudel 2013; Sunam et al. 2013), as claimed by leaders of Federation of Community Forest Users' Groups of Nepal (FECOFUN) and discussed in section 8.6. Comparative analyses of levels of corruption between government-managed and community-managed forests are limited; however, studies that have been reported show that corruption is a part of forest governance in both these regimes in Nepal's Tarai (Banjade 2013; Iversen et al. 2006; Paudel et al. 2006; Paudel et al. 2014; Sharma 2015).

As discussed in section 2.5, there are differing views on the relationship between decentralised resource governance and corruption, and these are relevant to the differential levels of corruption in GFs and CFs. One view holds that decentralised governance reduces corruption by empowering local people to make decisions about management and utilisation of resources and making the public sector responsive and accountable (Gurgur and Shah 2005; Shah 2006).

The alternative view holds that decentralised resource governance has higher potential for decision making and resources being captured by more powerful local actors, popularly termed as 'elite capture', and may increase corruption (Asthana 2003; Kandel 2015; Persha and Andersson 2014; Tambulasi and Kayuni 2007). The major factor that defines a positive or negative relationship between decentralised resource governance and corruption is how the accountability of actors is structured (Chomba et al. 2015; Hirons 2014; Larson and Soto 2008; Persha and Andersson 2014; Véron et al. 2006).

The findings suggest that weak accountability, due to both legal-institutional flaws and the socio-political circumstances in Nepal, is why the level of corruption is higher in timber production and trade from CFs than GFs. Legally, the responsibility for CF management has been shared between the CFUG – the community-level autonomous institution – and the (central) government. Although the government's role is mostly facilitative, the officials are provided with sufficient power to control CFUG decision-making through applying a series of formalities in timber production and trade. This has created a situation in which both forest officials and CF office holders have opportunities to derive benefits, but are usually less answerable for any misdoings, as they can blame the other party. Similarly, accountability in CF governance has been seriously weakened due to the lack of CFUGs' accountability to local political institutions. On the other hand, socio-political factors, such as the presence of patronage networks and widespread impunity, as discussed in Chapter 4, have also weakened the accountability of community leaders, as reported by other studies (Iversen et al. 2006; Véron et al. 2006). I found that CFUG decisions were heavily influenced by a few local elites, including CF office holders and/or others, who had the ability to forge a nexus with forest officials, contractors and politicians. The opportunity for elite dominance was higher in the remote areas, where forests were mostly managed as CFs, and where the educational status of community members was generally low.

Widespread media reports and the findings of investigations of different agencies, including independent inquiry commissions in the last few years, have identified large-scale corruption and illegality in timber production and trade from the Tarai CFs (HLIC 2011; NRC 2010). As a result, as experienced in the rest of the world, community forestry in Nepal "has lost its initial coherence and supporters" (Dressler et al. 2015, p. 1). In particular, this has renewed the debate about whether community forestry, which is regarded as a highly successful forest governance and management regime in the hills of Nepal (Acharya 2002; Gilmour 2003; Kandel 2010; Ojha et al. 2016; Pokharel et al. 2015), is appropriate in the Tarai. Generally, government forest officials, who have historically displayed a technocratic mindset, perceive the problem as being inherent in the community forestry regime (Giri and Ojha 2010). During interviews,

many forest officials at different levels suggested that community forestry is best suited to forests managed for subsistence use, such as in the hills of Nepal, but not for forests with high commercial potential, such as in the Tarai. This view is rooted in the initial objective of community forestry in Nepal – "… to handover the state forest area to communities … *to meet daily requirements for fuel, fodder, leaf litter and timber*" (MFSC 1990, p. 6, emphasis added) or "… to develop and manage forest resources through the active participation of individuals and communities *to meet their basic needs*" (DoF 1991, p. 14, emphasis added) – which has created the dominant paradigm of Nepal's community forestry to favour subsistence, but not commercial, production of forest products from CFs (Brampton and Cammaert 2007). This paradigm favours recentralisation or increased government control as a response to the problem of corruption in the Tarai CFs, as reflected in the government's recent policy response to widespread corruption and deforestation in the Chure region: the entire Chure region has been declared as an Environment Protection Area (GoN 2014a). Extraction of forest products from an Environment Protection Area is limited according to the *Environment Protection Act* 1997 (Section 10.2) and its *Rules 1997* (Rule 30). On the other hand, community forestry advocates perceive corruption in the Tarai CFs as a result of 'bad' individuals (section 8.6). They argue, with reference to the success of community forestry in the hills, that the existing community forestry model is a "time-tested innovation in Nepal forest sector, and should be continued in the Terai [Tarai] as well" (Ojha 2016, p. 1).

The findings of this research challenge both these views. The higher level of corruption in CFs compared to GFs does not justify recentralisation of, or increasing regulations for, forest management, for two reasons. First, as discussed in section 4.6, corruption in timber production and trade is a historically persistent phenomenon in Nepal's Tarai. To forest officials, CF management has become just a new window for almost equivalent opportunities to influence decisions as in GFs, but with lower levels of responsibility and answerability, as discussed earlier in this section. Second, it is the excessive regulation of CF timber, which involves more frequent recommendations and approvals along the trade chain, that generates a greater amount and frequency of routine informal payments than for GF timber (Chapters 5 and 6). Notably, government forest officials reap the largest share of corrupt benefits (Figure 9-2). Therefore, the difference between corruption in CFs and GFs, in both of which forest officials are core actors in the corrupt nexus, reflects how forest officials have shifted their corrupt strategies to a lower-risk environment, mediated by local elites. For example, Paudel et al. (2006) found that corruption was higher in GFs than CFs in a similar geographical context during the period of Maoist insurgency, when the role of local elites in social affairs was largely constrained. Therefore, it is not likely that corruption can be reduced through increasing

government control over forest management; instead, increasing devolution of power and local autonomy, with appropriate accountability mechanisms, may have positive impacts (Dressler et al. 2015; Paudel et al. 2006). Too many controls provide opportunities for collusion among corrupt actors; and also demotivate honest decision makers (Soreide 2014).

However, on the other hand, increased devolution may increase 'elite capture' of community decisions and resources, in the absence of adequate accountability arrangements (Andersson and Agrawal 2011; Coe 2016; Hirons 2014; Kumar et al. 2015; Kyamusugulwa and Hilhorst 2015; Manor 2004; Nygren 2005; Persha and Andersson 2014; Zulu 2012). This may be more serious when there is potential for a political-economic nexus, as evident in the case of high value resources (Iversen et al. 2006). Therefore, a legal-institutional mechanism similar to that for the hill forests[68] is not likely to be equally effective for the governance of the high-value forests in the complex socio-political context of the Tarai (Iversen et al. 2006; Khanal 2012). This demands policy and legal-institutional reform to enhance accountability in CF governance, which should be designed to be relevant and effective in the resource and socio-political contexts of the Tarai.

9.3 Actors, institutions and processes shaping corruption

The second research question sought to identify actors engaged in corruption in different stages of the timber trade chain, and the roles of the institutions and processes in enabling their engagement. The findings, which were based on the analysis of data from interviews, group discussions, observations, and a review of legal documents, were presented in Chapters 5 to 8. The following three sub-sections present the key findings relating to the stated objective, consolidated from those chapters, and discuss their significance.

9.3.1 Actors, their motivations, and power-relations

The key actors engaged in corruption associated with timber production and trade from Nepal's Tarai comprise executive forest officials, timber contractors and community leaders, the latter two groups often being local politicians, and having multiple roles with conflicts of interests. In addition, other categories of actors, such as officials of monitoring and oversight agencies, criminal gangs, journalists and local groups, are also involved, directly or indirectly. Based on Chapters 5, 6, and 7, I present in Table 9-1 a typology of the actors engaged in corruption along the timber trade chain, based on their roles and powers in influencing the occurrence and extent of illegal forest activities.

[68] The *Forest Act 1993* does not have varying provisions for forest management in the hills and the Tarai; however, a series of legal-institutional and administrative measures have been introduced, time and again, to limit expansion of CFs in the Tarai (such as introduction of collaborative forest management regime) and to control the autonomy of CFUGs.

Table 9-1: Typology of actors involved in corruption in timber production and trade from Nepal's Tarai

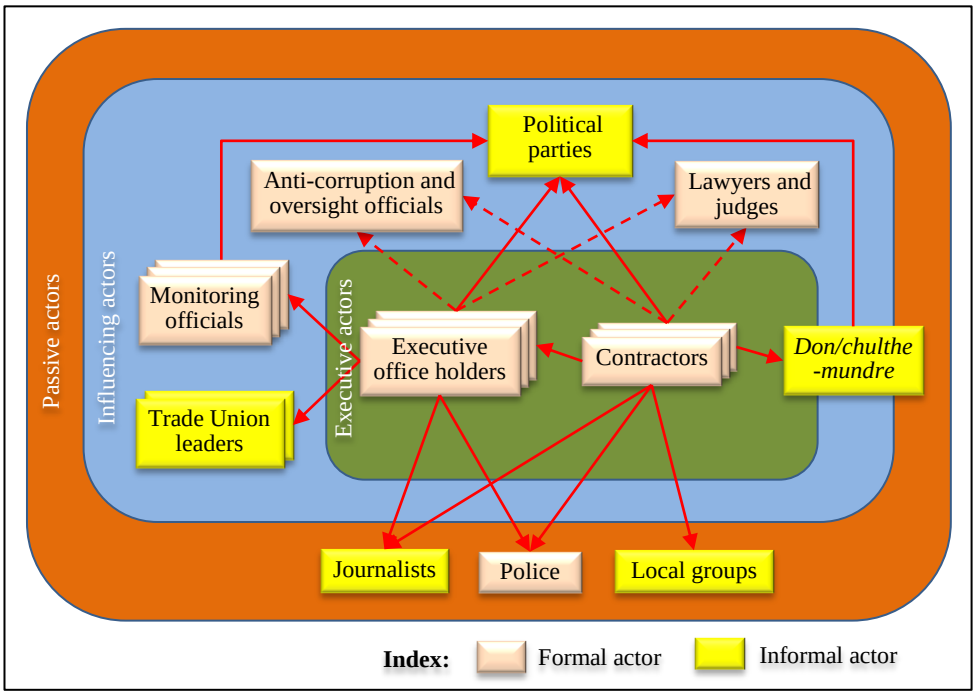
		Government forest	Community forest	Private forest
Executive actors *(those who collude at different stages of trade chain)*	Formal	• Executive forest officials • Contractors (who may also be local politicians) • Tax officials	• Executive forest officials • Community leaders as CF office holders (who are generally local politicians) • Tax officials	• Executive forest officials • Contractors (who may also be local politicians) • Tax officials • Local authority's officials • Surveyor
	Informal	• Criminal gangs *(Dons/chulthe-mundre)*	• Contractors (who may also be local politicians)	
Influencing actors *(those who are not involved directly in the trade chain but influence corruption and IFAs to take place)*	Formal	• High-level (MFSC) forest officials, including minister • Officials of oversight and anti-corruption agencies • Lawyers and court officials, including judges	• High-level (MFSC) forest officials, including minister • Officials of oversight and anti-corruption agencies • Lawyers and court officials, including judges	• High-level (MFSC) forest officials, including ministers • Officials of oversight and anti-corruption agencies • Lawyers and court officials, including judges
	Informal	• Political parties • Civil Servants' Trade Unions	• Political parties • Civil Servants' Trade Unions	• Political parties • Civil Servants' Trade Unions
Passive actors *(those who do not directly influence IFAs but share the corrupt benefits)*	Formal	• Other government officials, such as police	• Other government officials, such as police	• Other government officials, such as police
	Informal	• Local groups • Journalists • Community elites	• Local groups • Journalists • Criminal gangs (*Dons/chulthe-mundre*)	• Local groups • Journalists • Criminal gangs (*Dons/chulthe-mundre*)

As shown in Table 9-1, the participants in timber-related corruption ranged from public to private sector and even civil society actors, and from local to central-level actors. The typology of actors illustrates that, although a range of actors share the corrupt benefits, only a few actors – formal executive actors – can be held accountable for any IFAs that might be detected.

Figure 9-3 presents how bribes were distributed among various actors that are categorised as executive, influential and passive actors, as mentioned in section 5.9 and shown in Table 9-1. As a general pattern, executive office holders and contractors collude to commit IFAs at various stages of the timber trade chains, and they disburse bribes upwards to many formal and informal actors, such as officials responsible for monitoring, oversight and anti-corruption, and outwards, such as to political parties and criminal gangs. In return, patronage and favour flow downwards and inwards. Corruption is so institutionalised that informal norms are in

place to allocate corrupt benefits among individual actors within each category, according to the institution's and individual's roles and powers (section 5.7). Since timber production and trade is a localised and ongoing phenomenon, often involving the same actors, bribery and patronage are taking place cyclically, and are reinforcing each other.

Figure 9-3: Distribution of bribes in timber production and trade in Nepal's Tarai



Notes: 1) Solid arrows denote regular informal payments with or without regard to illegal activities; dotted arrows denote occasional informal payments made when illegal activities are detected. 2) 'Executive office holders' mean those with formal executive power at any stage of timber trade chains, and include forest officials (for all regimes), CF office holders (for CFs), officials from Survey Office and local authorities (for PFs), and tax officials (for all regimes, in the market). 3) Contractors at times are engaged informally, such as in harvesting operations in CFs.

The findings suggest that timber-related corruption is occurring through the core nexus of local political and economic elites and executive forest officials; however, these actors have established connections with other powerful social actors from the local to the central levels, such as criminal gangs and high-level bureaucrats and politicians, through bribes and political networks. Thus, the individual actors, who are powerful in terms of social role, status and position, and the nexus between them reinforce each other to make them more powerful, and thereby increase opportunities for corruption (McIllwain 1999). The presence of such a powerful nexus has created a situation where a rational individual is better off co-operating with the corrupt actors than acting against them (Panday 2000; Persha and Andersson 2014). This is perhaps why even journalists and groups of local people, who could play significant roles in anti-corruption activities, are seeking a small share of the corrupt benefits rather than

complaining against corruption. This may also indicate pessimism among general public and civil society actors due to the widespread corruption, political patronage and impunity in the country (Panday 2000). Portraying Nepal's state of corruption in the 1990s, Panday (2000) suggested that rampant corruption involving almost all powerful actors in the society had created a situation in which being a party to corruption is 'fair game' for everyone. The situation has not improved subsequently, but has worsened, in the case of timber production and trade (Banjade 2013; Paudel et al. 2006).

The findings challenge the conventional explanation of power relations in the forest governance of Nepal. The conventional narrative holds that forest governance is defined by the patron-client relations – the informal vertical relations between the more powerful (patron) and the less powerful (client) actors – in which forest bureaucrats and local elites are the patrons and clients, respectively (Malla 2001). However, the case studies suggest that the actors' power relations are not so straightforward, but rather more complex, and involve multiple actors with both vertical and horizontal ties between them. As evident in the case studies, timber governance in the Tarai is shaped by informal networks, which are defined as:

> loose groups of individuals and organisations between whom transactions are conducted on a basis of mutual trust, itself supported by relationships which are stable, specific, mutually compulsory and not legally controllable (Boyer and Hollingsworth 1997, cited in Cartier–Bresson 1997, p. 467).

The diminishing power of the bureaucracy (ARRC 2014) and the increasing power of local elites in the context of decentralised forest governance, as well as the increasing influence of political parties and criminal gangs in economic activities, as discussed in Chapter 4, has led to a situation in which all actors are benefited by participating in the network (Lin 1999).

These changing power relations can be attributed mainly to the political changes of the 1990s and thereafter. As discussed in section 4.4, the restoration of democracy in the 1990 disrupted the hierarchy-based 'disciplined' society and bureaucracy maintained by the autocratic Panchayat regime. Despite increased media and civil society activism, Nepal's democracy after 1990, termed a 'poliarchy' by Pfaff-Czarnecka (2008), witnessed widespread corruption, a culture of impunity, and political instability, leading to "a crisis of governance" (Lawoti 2008, p. 365). Further, the Maoists' people's war (1996-2006) nearly destroyed the hierarchy-based social institutions, and disrupted local-level political institutions[69]. Therefore, the end of the war and the onset of the republic in 2006 led the country to a situation where the old socio-political institutions were almost destroyed but new institutions were yet to be developed.

[69] No election has taken place in local bodies since 2002

This institutional gap has been occupied by the corrupt networks comprising powerful actors, including society's 'new elites'.

The Constituent Assembly promulgated the new constitution of Nepal in September 2015; this made a major political shift from the unitary regime to a federal State, opening up new avenues for legal-institutional reform in the forest sector, among others. The (re)establishment of elected political authorities at the local level can be assumed in general to enhance accountability, transparency and governance effectiveness (Parajulee 2010). In this context, forest sector reform should take into account the motivations of and power-relations among the different categories of actors engaged in corruption in timber production and trade. Specifically, forest sector reform should focus on enhancing accountability; linking the local forest institutions, including CFUGs, to the elected local authorities could be an important step in this regard (Manor 2004; Nygren 2005).

9.3.2 Actors' perception and rationalisation of corruption

As discussed in sections 5.8, 6.8 and 7.8, key actors in timber governance did not perceive or treat all corrupt practices equally. Some forms of corruption, such as favouritism, illegal pressure and conflicts of interest, although they were thought of as 'bad' practices, were not generally understood to be 'corrupt' unless they also involved bribery. Bribery was perceived to be either an acceptable or a condemnable behaviour based on various attributes, such as its outcome, the amount involved, the ways bribes were taken, and the actors involved (Table 9-2). For example, the routine informal payments made by contractors to executive office holders were acceptable to both parties (bribe recipients and payers). This finding is consistent with those reported by Truex (2011), who found that petty bribery not involving illicit services was an acceptable corrupt practice in Nepali society.

Table 9-2: Basis for acceptance or condemnation of bribery amongst actors in timber production and trade chains from Nepal's Tarai

Attributes for judgement	Accepted if	Condemned if
Outcome of bribery	Legal	Illegal
Scale of bribes	Small	Large
Type of bribes	In-kind	Cash
The way bribery takes place	Voluntary (without extortion)	Through extortion
Actors from whom bribes are taken	Timber contractors	Forest users/farmers
Purpose of timber transaction for which bribery takes place	Commercial trade	Domestic use
Actors who take bribes	Actors directly involved in formal activities	Actors not involved in formal activities

Participants in corruption rationalised different corrupt practices in various terms. The common rationalisations of corruption made by forest officials included the lack of official

resources to perform duties, and the excuse that their poor salaries were not sufficient for basic living. They also rationalised routine bribery as a 'universally acceptable phenomenon' and a 'service charge' for their services to the private sector. The contractors perceived routine informal payments as 'rules' followed by everyone, and rationalised small-scale illegal forest activities as a compensation for those payments. Various actors who were involved informally in timber production and trade, including leaders of political parties, rationalised receiving informal payments from contractors through assumptions that contractors would commit illegal activities. The rationalisation of corrupt practices increases their acceptance, and thereby facilitates the persistence of corruption (Truex 2011). It also negatively affects anti-corruption actions, as evident in Nepal, where officials receiving small-scale bribes receive sympathy from other interests as '*small fish*' (section 8.6).

Scholars suggest that challenging such rationalisations of corrupt acts is an important anti-corruption strategy (Gorta 1998). However, in this case, not all rationalisations can be challenged. In fact, some of the rationalisations are indeed rational; for example, government officials, specifically those at the local level, are not provided with reasonable resources, such as vehicles, fuel and TADA for the field-based activities that are part of their duties. Therefore, in practice, they have little alternative to taking informal payments to perform these duties. In this context, addressing such issues might be an important part of the anti-corruption strategy. One of the strategies to address the 'rational' rationalisations could be the formalisation of service fee payments, in which officials may charge standard fees formally for specified services to CFUGs or the private sector. The *Private Forest Development Directives 2012* has already made such provision in the case of PFs, but officials were not willing to put this into practice because formal fees could be less than the informal fees they were charging. Performance-related monetary incentive schemes, as practiced in the civil services of India, Singapore, South Korea and European countries (GoI 2008), can also be useful to enhance the performance and behaviour of officials. In these schemes, monetary incentives are provided to officials based on specific organisational, group or individual performance parameters (GoI 2008). Similarly, since some of the corrupt practices that were not explicitly illegal in the research context, such as collusive tenders, were rationalised as being legally allowable practices; therefore, criminalisation of such practices may challenge such rationalisation and consequently reduce corruption (Soreide 2014).

9.3.3 Legal-institutional arrangements and processes enabling corruption

The findings of this study suggest that various loopholes in current legal-institutional arrangements and processes have provided opportunities for corruption and/or constrained anti-corruption in timber production and trade from Nepal's Tarai. Despite a series of advances

in forest policies and institutional innovations seeking to improve forest governance in the last four decades (section 4.6), the Tarai forests are still facing issues of poor transparency, weak accountability, corruption-friendly management and regulatory measures, and poor law enforcement. As discussed in section 8.3, the highly concentrated, discretionary power of officials with conflicting roles, the lack of third-party monitoring mechanisms, the lack of roles for elected local authorities in forest management – including absence of reporting and monitoring mechanisms between elected authorities and forest institutions at local level – and the lack of the sector- and regime-specific standards of transparency, have weakened transparency and accountability in timber governance and reduced risks associated with corruption. Similarly, a poor performance evaluation system and undue influence on the civil service administration from the politically-motivated Civil Servants' Trade Unions have weakened the accountability of officials. There are also factors specific to the different forest governance and management regimes: in the case of GFs, the lack of legal mechanism for people's participation has provided opportunities for corrupt actors; in the case of CFs, the shared property rights arrangements with poorly-defined responsibilities, and the lack of procedural guidelines, have weakened accountability.

Similarly, as presented in Chapters 5, 6 and 7, corruption-friendly forest management systems, such as selective harvesting from an extensive area of forest, have facilitated corrupt actors to commit a range of illegal forest activities, including over-harvesting and timber stealing; they have also made monitoring difficult. The loopholes in the regulatory processes, such as excessive regulation requiring recommendation and approval at various points, the paper-based formalities requiring frequent encounters between actors, and the legal acceptance of bid-rigging, have maximised opportunities for collusion. The presence of overlapping jurisdictions involved in timber production and trade from a district, such as DFO, TCN, DFPSB and CFUG, has also increased corruption opportunities (sections 5.4 and 8.4). Similarly, the poor institutional capacities of law enforcement agencies, and complex adjudication processes, have also enabled corrupt actors to commit illegal forest activities (section 8.4).

These findings are consistent with the results of many studies which have identified various legal-institutional loopholes that enhance corruption in timber production and trade: for example, excessive regulation (Paudel et al. 2006); greater discretionary power of officials with poor checks and balances mechanisms (Contreras-Hermosilla 2002; Iversen et al. 2006; Transparency International 2010a); legal ambiguities (Cerutti et al. 2012); conflicting property rights structures (Robbins 2000); technological and procedural complexities (Kishor and Damania 2007; Kolstad and Søreide 2009); and poor institutional capacity for enforcement (Callister 1999; Paudel et al. 2006; Pellegrini 2007). However, the findings contradict the

general understanding that overlapping jurisdictions for dispensing the same public service reduce corruption (Ades and Tella 2009; Bardhan 2006; Rose-Ackerman 1978). The 'principle of overlapping jurisdictions' holds that decreasing the monopoly of public service providers (officials), by "allowing benefit applicants to reapply in other departments if they are asked for bribes", reduces corruption, potentially to zero, if that the cost of reapplication is low enough and some honest officials exist (Ades and Tella 2009, p. 8). In the case studies, a contractor had opportunities to apply for timber from any of the three jurisdictions – DFO, TCN or CFUG; however, this arrangement rather increased corruption through providing corrupt actors with additional opportunities to collude because of the differential minimum stumpage prices of timber across these jurisdictions. This suggests that while overlapping jurisdictions may be applicable to reduce non-collusive corruption, in which a service recipient has incentives to seek a non-corrupt service provider, it may be counter-productive to arrange overlapping jurisdictions in the case of collusive corruption, in which a service recipient, such as a contractor in this case, has incentives to seek a corrupt service provider. The overlapping jurisdictions may be even less effective to reduce non-collusive corruption when the supply of the product is limited, as was the case in this study, because the service recipients (contractors in this case) may incur a high opportunity cost in seeking an honest official. The findings also suggest that it may be ineffective in cases where there is a 'culture of corruption' in the system, and thereby finding an honest official is difficult, as evident in the case studies.

9.4 Anti-corruption in timber governance in Nepal's Tarai

The third research question anticipated examining anti-corruption in timber production and trade. The analysis was based mainly on review of legal-institutional arrangements, interviews with various categories of actors, including anti-corruption officials, and a review of official documents. The detailed findings relating to this question have been presented in Chapter 8.

As described in section 8.3, Nepal has a comprehensive anti-corruption legal-institutional framework, comprising general and sectoral laws, monitoring and enforcement agencies, and civil society as independent watchdogs. A number of general and sectoral laws have been developed and promulgated to enhance transparency, accountability and deterrence from corruption. A multi-layered institutional mechanism of monitoring and enforcement has been established, consisting of internal checks within the sectoral institutions, oversight by government agencies at multiple layers, and constitutional oversight involving strong anti-corruption agency, audit institution and independent judiciary. Similarly, civil society and the media are working as watchdogs of the players in governance in all sectors and at all levels. However, these efforts have not been very effective in controlling corruption in the country (section 4.3). This has exposed a wide gap between law and practice (TIN 2014). Further, it is

widely perceived that the level of corruption will not reduce in the near future (Truex 2011). Paralleling the country's overall situation, anti-corruption efforts in timber production and trade have been largely ineffective and inefficient in controlling corruption, as evident in the persistent and systemic corruption in the sector. Given the pervasiveness of benefits to many in politics, the bureaucracy and the private sector from corruption and associated illegal forest activities, anti-corruption strategies may be more symbolic, to appease public and international communities, rather than really intended to be effective (Fritzen 2005).

The more immediate reasons for anti-corruption measures being ineffective can be traced to loopholes in the legal-institutional arrangements to enhance transparency and accountability and reduce corruption vulnerabilities, as discussed in section 9.3.3, and weak law enforcement due to the lack of institutional capacity of enforcement agencies in terms of human, financial and other resources (section 8.3). However, the underlying causes of failure of anti-corruption might be associated with the design of anti-corruption strategies, which are inadequate to address the 'culture of corruption' prevalent in Nepali socio-politics, as discussed in Chapter 4. Nepal primarily follows a lawyers' approach to anti-corruption (section 2.4), which focuses on measures, such as devising anti-corruption laws, establishing powerful anti-corruption agencies, strengthening law enforcement capacity, empowering judicial institutions, and encouraging media and civil society, that help deter individuals from engaging in corruption, and detect and punish those engaged (Ades and Tella 2009). These measures are part of the 'holistic anti-corruption strategy' prescribed by the international community, and conform to the logic of corruption as a principal-agent problem (Persson et al. 2013). As described in section 2.3, the principal-agent model is constructed on two basic assumptions: 1) there is a goal conflict between principals (who are assumed to pursue the public interest) and agents (who are assumed to be engaged in corruption insofar as the benefits of engagement overweigh the costs), and 2) there is an information asymmetry between the principals and agents, the latter having more information than the former (Klitgaard 1988; Marquette and Peiffer 2015; Persson et al. 2013; Rose-Ackerman 1999). Hence, this model assumes that "corruption lies exclusively with the agent", and leads to suggest the anti-corruption strategy having "effective monitoring and punishment" by the 'principal' (Andvig et al. 2001; Persson et al. 2013, p. 452). Thus, the anti-corruption strategies guided by the logic of corruption as a principal-agent problem may not be effective in the systemic corruption context, in which the 'principals' are also corrupt (Persson et al. 2010, 2013).

Systemic corruption, as in the case of Nepal, resembles a collective action problem, where every actor (including the 'principals' and 'agents' of the principal-agent model) is expected to act corruptly if corruption is the expected behaviour in the organisation or society (Bauhr and

Nasiritousi 2011; Mungiu-Pippidi 2011; Persson et al. 2013; Rothstein 2011). This explanation leads to anti-corruption strategies like "revolutionary change in institutions" (Diamond 2007, p. 120) or a "'big push' involving all major political, economic and social institutions" that is able "to change actors' beliefs about what 'all' other actors are likely to do so that most actors expect most other actors to play fairly" (Persson et al. 2013, p. 464, 465). Such 'revolutionary change' demands a strong political commitment, which is not promising in the current political context of Nepal. The recently promulgated Constitution of Nepal curbed the powers of the apex anti-corruption agency by reducing its mandate to investigations of "corruption" (Article 239) from that of "abuse of authority committed through improper conduct or corruption" in the *Interim Constitution of Nepal 2007* (Article 120). Anti-corruption activists consider this change in constitutional arrangements as a "regressive move towards fighting corruption in Nepal" (Pant 2015).

The failure of the 'monitoring and punishment' regime to control corruption in timber production and trade led to the application of more conservative measures of prevention of corruption, such as restrictions on harvesting of live trees, restrictions on handing over national forests to local communities as CFs, reducing annual allowable harvests (AAHs) of CFs, and increasing regulations (Table 8.7). The findings suggest that, although these conservative anti-corruption measures have reduced some of the corrupt practices and IFAs, they have had negative implications for forest management, revenue and timber markets and have ultimately contributed to fostering corruption and illegal logging. For example, restricting harvesting of live trees and reducing AAHs have seriously compromised the application of silvicultural principles for sustainable management of commercially viable Tarai forests. Many forest patches are stocked with over-mature trees that are constraining regeneration, and therefore, the productivity of the forests is diminishing (Ojha 2008). This has resulted in the loss of large amount of revenue for both the government and the local communities. For example, a recent assessment shows that removal of approved AAHs alone from Nepal's CFs would generate eight times the revenue the government collects annually from timber, and the approved AAHs themselves are well below the production potential (Paudel et al. 2014).

Similarly, another study estimates that 'optimal' timber production from the Tarai forests could generate at least NRs. 50 billion a year, which is 125 times the revenue currently being generated; the study also suggests that more than this amount could be generated if the forest condition were improved through management interventions (Banjade and Ojha 2009). On the other hand, the restrictions have led to inadequate, irregular and unpredictable supplies of timber in the market; this has raised timber prices artificially. In turn, the non-systematic harvesting practices and increased timber prices have contributed to increased corruption and

illegal logging (Kanel et al. 2012; Paudel et al. 2014). Similarly, these anti-corruption measures may have substantial negative impacts on community development, as a consequence of the loss of revenue, and on the livelihoods of local people, including through lost employment opportunities. Thus, the anti-corruption measures, which are expected to reverse the vicious cycle of corruption and create a virtuous cycle (O'Higgins 2006), have themselves created a vicious cycle.

Previous studies have discussed the negative implications of the anti-corruption measures applied in timber production and trade in Nepal. For example, Banjade (2013) terms the restrictive measures as 'irrational' and claims that they have encouraged a 'black market' of timber. Similarly, Paudel et al. (2014) discuss a series of measures applied by the government to limit timber harvesting from CFs, including legally limiting AAHs to 40-60 % of the annual increment, a further reduction of AAHs while approving work plans, and granting harvesting permits for quantities less than the approved AAHs. They suggest that the restrictions on timber production have cut revenues for both the communities and the government, reduced local employment, encouraged the import of timber, and ultimately contributed to illegal logging and other social crimes. These analyses imply that it is necessary to evaluate whether the benefits derived from the reduced corruption as a result of anti-corruption measures exceed their costs, which is beyond the scope of this research. There are examples of such studies that have significant policy implications for the design of anti-corruption strategies. For example, Olken (2005) estimates net social benefits of the two alternative anti-corruption strategies in the village road construction projects in Indonesia using a cost-benefit analysis approach.

9.5 Reflections on methodology

The conceptual framework for the research (Figure 3-1) provided a clear understanding of the data required to answer the research questions, and helped to locate data sources and design the guiding questions. The research applied a qualitative approach, but also used quantitative data to support qualitative information. This approach proved to be useful for explaining the hidden phenomenon of corruption. The multiple case study approach allowed in-depth understanding of the phenomenon with reasonable breadth. The organising framework – the value chain analysis – was very useful in defining the boundaries of the research, and thus data collection and analysis. Two sets of data were collected and analysed: 1) data in relation to specific timber trade chains in the case study districts, and 2) the discrete trade chain-based data from the entire case study districts and beyond, up to the market and to central-level organisations. While the former provided more systematic and in-depth understanding of the

inter-linked corrupt practices along the successive stages of timber trade chains, the latter enhanced the breadth of information and generalisability of the findings.

The piloting of the methodology prior to actual fieldwork proved to be very useful in 1) understanding how potential participants would respond to the researcher; 2) visualising the overall research environment; and 3) the revision of guide questions. My personal relationships with some of the officials in the study districts helped in initiating the fieldwork, selection of participants, and obtaining unpublished office records.

During the conduct of the fieldwork, I found that most of the participants from various categories of actors, including government officials and contractors, were comfortable to disclose information about corruption. However, it was easier to obtain more reliable information about some corrupt practices than others. Specifically, obtaining information about acceptable corrupt practices, such as routine informal payments, was easier than corrupt practices that involved illegalities. During interviews, most actors generally accepted that they were involved in routine bribery, but each blamed the other party or other individuals of their group for involvement in illegalities.

Confidential interviews, triangulated with data from other sources, were very useful to collect data regarding the hidden phenomenon of corruption. However, I encountered three main issues in interviews. First, participants frequently deviated from the guide questions, taking time from future questions, and thus requiring a subsequent meeting. Second, participants generally hesitated to be interviewed repeatedly, while it was frequently necessary to triangulate data obtained from other sources. Third, some interviewees were motivated by vested interests. The focus group discussion was useful to complement and triangulate data from interviews and, in some instances, build rapport with the participants to be interviewed later. Observation was helpful in understanding actors' interactions, revealing some unique information not obtained from interviews, and triangulating data from other sources. The timing of the field research was beneficial, as it matched the critical stretch of the annual cycle of timber production and trade. However, it was not possible to collect complete data regarding the specific timber trade chains in the main fieldwork period. This was achieved by the second field visit.

9.6 Contributions and implications of the research

9.6.1 Contributions to theory and knowledge

In general, this research offers an enhanced understanding of corruption in natural resource management through exploration of various dimensions of corruption in timber production and trade under varying forest governance and management regimes, in the context of Nepal.

It has several implications for theories and knowledge related to corruption and anti-corruption in natural resource management.

First, the results question the implications of the commonly-made binary distinction of corruption between non-collusive and collusive forms in the context of natural resource management. As discussed in section 9.2.2, the basic assumption for distinguishing between non-collusive and collusive forms of corruption is that the former is extortive, victimising individual private sector actors and thus increasing the potential of corruption being reported; hence, it is less persistent than the latter form, which is mutually beneficial for both officials and private sector actors (e.g. Bardhan 2006; Smith et al. 2003). This basic assumption was found to be flawed in the case studies – informal transactions considered as non-collusive corruption (i.e. those that did not involve IFAs) were not perceived to be extortive, and were rarely reported and thus less detected. These transactions were found to be more persistent than apparently collusive corruption. The results suggest that non-collusive and collusive forms of corruption are often blurred in the businesses that require repeated interactions between officials and private sector actors, a characteristic of many extractive resource sectors (O'Higgins 2006), because these involve possibilities of collusion between them at some points in the future. In this situation, the potential for corruption being reported by the 'victims' decreases, and therefore what is considered to be non-collusive corruption is more persistent than apparently collusive corruption. This is due to the latter form being more visible to the media and monitors, and also more traceable in the subsequent stages of resource production and trade chains.

Second, the research contributes to the theoretical debates on the relationship between corruption and decentralised resource management. As discussed in section 9.2.3, there are differing views on whether the decentralisation of natural resource management reduces corruption. While some argue that decentralisation reduces corruption through enhancing accountability and empowering local people to make decisions about local resources (e.g. Gurgur and Shah 2005; Shah 2006), others contend that decentralisation leads to 'elite capture' of decision making and resources, and increases corruption (e.g. Kyamusugulwa and Hilhorst 2015; Manor 2004; Persha and Andersson 2014). This study found that decentralised forest management experienced a higher degree of corruption than the state-led management. The key factors that led to increased corruption in the decentralised forest management regime were identified as 1) inadequate accountability structures for decentralised forest governance, characterised by poorly defined responsibilities and authority of government and local forest institutions, and the lack of forest institutions' linkages to local political authorities; 2) excessive government controls resulting in increased opportunities for

officials to derive bribes as well as to collude with the private sector; and 3) the conducive environment for the operation of bureaucracy-local elite nexuses in a socio-political context that is characterised by patronage networks and widespread impunity. In addition, one of the structural reasons for the higher levels of corruption in CFs compared to GFs was that CFs were scattered in the remote areas, where public scrutiny was poor. Hence, the higher degree of corruption in CFs does not necessarily suggest that corruption is more strongly inherent in decentralised natural resource management regimes, and that recentralisation or increased regulations can reduce it. Rather, increased devolution of power and local autonomy, in conjunction with appropriate accountability mechanisms, can have a positive impact.

Third, the results challenge the conventional patron-client based explanation of power relations in Nepal's forest governance. Interpretation of the patron-client relationship has been based on a vertical relationship between government officials, as the more powerful actors (patrons), and local elites, as the less-powerful actors (clients) (Malla 2001). However, as discussed in section 9.3.1, corruption in timber governance is occurring through a nexus among multiple actors who are emerging and asserting their power in the changing political and economic contexts. The power relations among actors are complex, with vertical and horizontal ties between them. Hence, this research suggests that a nexus or network-based explanation of power relations, in which various categories of powerful actors co-operate with each other to generate mutually beneficial outcomes from corruption, is a more appropriate model.

Fourth, the findings of this research contradict the conventional wisdom that overlapping jurisdictions for dispensing the same public service reduce corruption (e.g. Rose-Ackerman 1978, Bardhan 2006, Ades and Tella 2009). As discussed in section 9.3.3, it is assumed that the arrangement of overlapping jurisdictions decreases the monopoly of officials, allows a service recipient to seek an honest official, and thereby reduces corruption. However, the findings of this research suggest that the arrangement of overlapping jurisdictions may – at least in circumstances such as that prevailing in Nepal's forest sector – increase collusive corruption, in which a service recipient has incentives to seek a corrupt official. They further suggest that overlapping jurisdictions may be ineffective in reducing non-collusive corruption in cases where a service recipient incurs a high opportunity cost in seeking an honest official because of the limited supply of products and the pervasive 'culture of corruption' in the system.

Fifth, this research contributes to the theoretical debates about anti-corruption design. The anti-corruption regime based on the explanation of corruption as a principal-agent problem emphasises measures such as fixing incentives, monitoring and punishment, whereas an

alternative framework based on the explanation of corruption as a collective action problem leads to an anti-corruption strategy involving a 'revolutionary' change in all major socio-political and economic institutions (e.g. Ades and Tella 2009; Persson et al. 2013). This research argues that corruption in the case studies, which is systemic, institutionalised and decentralised, can be better explained as a collective action problem, rather than a principal-agent problem. Thus, the failure of the anti-corruption regime, despite a strong legal-institutional framework, may be attributed partly to the inadequate, if not faulty, design of strategies guided by the mischaracterisation of the problem. The research also suggests that anti-corruption initiatives in natural resource management may lead to negative social, economic and ecological consequences, and even become counter-productive for corruption control, if not anti-anticorruption, when they are designed in a reactive way without taking into account the costs and benefits of the initiatives. This is one of the least explored areas in the anti-corruption literature.

9.6.2 Contributions to policy and practice

This research has significant implications for sectoral policy and regulatory reform to enhance integrity in timber production and trade in Nepal. It has explored how different categories of actors engage in various forms of corruption at different stages of the timber trade chain. The research has also identified the legal-institutional, managerial and procedural gaps that are providing opportunities for corruption. In the context of limited knowledge of these issues, these case study-based insights can help to inform policy and regulatory reform in the timber sector of Nepal and other developing countries with similar contexts. The findings are also useful for monitoring timber production and trade processes.

In particular, this research has four main implications for forest policies. First, it suggests a policy reform that delinks engagement of the same actors in successive stages of timber trade chains, and eliminates multiple jurisdictions for log tendering. For example, the responsibility for forest management planning, at least at the district level, if not at the CF level, could be assigned to the Department of Forest Research and Survey; and an authority, independent of the Department of Forests, could be established for log tendering purposes, as recently proposed by the MFSC through a draft bill for the Establishment and Management of Nepal Forest Product Authority[70]. Second, the findings suggest reasserting sustainable forest management based on silvicultural principles; this not only increases various social, economic

[70] The draft bill, however, proposes to mandate the Authority to carry out both harvesting and sales of forest products, that may continue the current pattern of collusive corruption, in which illegally harvested logs are legalised during the processes of log sales and pre-transportation formalities. http://mfsc.gov.np/downloadfile/ban%20Pradhikarn%20Bill,%202071-5-20-Final_1435639172.pdf (Accessed: 10/04/2016)

and ecological benefits, but also reduces corruption. Third, the research suggests community forestry policy reform to reduce government controls and enhance accountability, with clearly defined responsibilities and authorities for each category of actor involved in CF governance. In particular, it is important to establish accountability of CFUGs and linkages of forest agencies to the local elected authorities. Fourth, the research suggests that it is necessary to address officials' 'rational' rationalisations of corrupt practices, by means such as appropriate incentive structures, to increase the efficiency of officials and also reduce corruption.

Similarly, the research has implications for anti-corruption policies and practices. The lack of systematic general and sector-specific knowledge of the factors affecting corruption has compromised anti-corruption policies in Nepal. This research contributes to filling this gap through providing 1) the local-level understanding of the various facets of corruption in timber production and trade, including actors' perceptions and rationalisations; 2) the macro-level insight of the political, economic and social-cultural factors as the underlying drivers of corruption; and 3) the analysis of the strengths and weaknesses of the existing anti-corruption legal-institutional arrangements. Since the research has mapped out corruption-prone activities along the timber trade chain, this work facilitates anti-corruption practices, including education, advocacy and independent monitoring.

In specific terms, the research has two main policy implications for anti-corruption reform. First, it suggests that the failure of anti-corruption in Nepal may have its roots, at least in part, in its design – because of the mischaracterisation of corruption as a principal-agent problem, whereas it is largely a collective action problem. This demands a fundamental shift in policies, from technical fixes for increased deterrence to 'big push' approaches for changing the beliefs of individuals. Second, the research suggests that many conventional anti-corruption measures applied in the timber sector have led to negative social, economic and ecological outcomes, and have also been counter-productive in controlling corruption; therefore, these need to be revisited. This also suggests that evaluation of anti-corruption measures, such as through cost-benefit analysis, may be necessary before they are put into practice.

Methodologically, this study suggests that the value chain is a useful organising structure for the study of corruption in timber production and trade, and presumably other similar extractive resource sectors. Adopting a value chain approach has demonstrated that corrupt practices at different stages of timber value chain were not independent transactions, but were interlinked between successive stages. This result emphasises that it is important to analyse corruption as an aggregate of corrupt practices along a value chain, rather than as

individual transactions in successive stages. A value chain approach, which is based on the links between successive stages of the chain, facilitates such analysis.

9.7 Further research

Two areas for further investigation emerge clearly from this research. First, the research reveals that both corruption and anti-corruption in timber production and trade from Nepal's Tarai have had negative impacts on society. While corruption tends to increase timber production through harvesting beyond the production potential of the forests, anti-corruption tends to restrict harvesting so as to constrain timber production to below the production potential; thus, paradoxically, both have negative impacts on the sustainable management of forests and the benefits that flow from such management. Similarly, while corruption reduces government and community revenues through redirecting these to individuals, anti-corruption reduces revenues through restricting the harvesting of timber. Conservative approaches to anti-corruption have also led to an irregular and unpredictable supply of timber in the market, ultimately contributing to corruption and illegal logging (Kanel et al. 2012; Paudel et al. 2014). These discrete findings on the impacts of corruption and anti-corruption are, however, too limited to adequately inform the detailed design of anti-corruption measures. Therefore, future research might usefully focus on assessments of net social benefits of various anti-corruption measures. Such assessments have significant implications for anti-corruption policies, particularly because zero-corruption targets may be inefficient (Aidt et al. 2008; Leff 1964). For example, Olken (2005) conducted cost-benefit analyses of the two alternative anti-corruption strategies, and found that one had significantly higher net social benefits, while the net social benefits of the other were negligible as the cost associated with anti-corruption was nearly comparable to the benefits derived from reduced corruption.

Second, corruption and associated illegal activities undermine the principles of social justice, and thus create environmental injustice with adverse impacts on the livelihoods of the poor and marginalised. Scholars have identified a number of ways in which corruption compromises distributive environmental justice, such as a disproportionate distribution of resources among the poor and the rich/elite (Iversen et al. 2006; Robbins 2000); loss of government revenue (Cerutti et al. 2012; Contreras-Hermosilla 2002; Mayers et al. 2006) and thus poorer allocation of resources for development activities, including poverty alleviation; and resource depletion and thereby deterioration of the livelihoods of the poor (Yasmi et al. 2010). Similarly, corruption causes procedural injustice through excluding poor and disadvantaged groups from decision making processes (Iversen et al. 2006; World Bank 2008) and hindering governance reform (Cerutti et al. 2012; Kolstad and Søreide 2009; Smith et al. 2003). Corruption also weakens retributive justice as it permeates the judicial systems, creating impunity for

criminals, and also favouring high-level criminals who control criminal syndicates over the poor individuals who work for them on the frontline (Dongol 2011). Political justice for the marginalised, who have long been excluded from decision making, is jeopardised through corruption as it offers ground for elites to capture resource-governing institutions (Iversen et al. 2006). As discussed earlier in this section, anti-corruption initiatives may also lead to negative social, economic and environmental outcomes. This research has identified some broader impacts of corruption and anti-corruption in timber production and trade in Nepal's Tarai, and further research is suggested to examine whether those impacts have differential implications for different social groups, such as the rich and poor.

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Annex 1: Actor categories and codes used for each interviewee

SN	Actor categories and position	Code
Government forest officials		
1	Assistant Forest Officer	F-A-1
2	Assistant Forest Officer	F-A-2
3	Administrative Assistant	F-A-3
4	Accountant	F-A-4
5	Assistant Forest Officer	F-A-5
6	District Forest Officer	F-A-6
7	Assistant Forest Officer	F-A-7
8	Forester	F-A-8
9	Forest Guard	F-A-9
10	Head of Office, TCN Branch Office	F-A-10
11	Assistant Forest Officer	F-A-11
12	Assistant Forest Officer	F-A-12
13	Assistant Forest Officer	F-A-13
14	Forest Guard	F-A-14
15	Forester	F-A-15
16	Assistant Forest Officer	F-A-16
17	Ranger	F-A-17
18	Administrative Assistant	F-A-18
19	Ranger	F-A-19
20	Assistant Forest Officer	F-B-1
21	Under Secretary (Technical)	F-B-2
22	Assistant Forest Officer	F-B-3
23	Assistant Forest Officer/Trade Union leader	F-B-4
24	Ranger	F-B-5
25	District Forest Officer	F-B-6
26	Administrative Assistant	F-B-7
27	Assistant Forest Officer	F-B-8
28	Ranger	F-B-9
29	Forest Guard	F-B-10
30	Administrative Assistant	F-B-11
31	TCN field staff	F-B-12
32	Ranger	F-B-13
33	TCN field staff	F-B-14
34	Assistant Forest Officer	F-B-15
35	Ranger	F-B-16
36	Forest Guard	F-B-17
37	Assistant Forest Officer	F-B-18
38	District Forest Officer	F-O-1
39	District Forest Officer	F-O-2
40	Ranger	F-O-3
41	Assistant Forest Officer	F-O-4
42	District Forest Officer	F-O-5
43	Assistant Forest Officer	F-O-6
44	Under Secretary (Technical)	F-O-7
45	Head of Office, TCN Sale Depot	F-O-8
46	Assistant Forest Officer	F-O-9
47	Assistant Forest Officer	F-O-10
48	Assistant Forest Officer/ Trade Union leader	F-O-11

49	Assistant Forest Officer/Trade Union leader	F-O-12
50	Assistant Forest Officer/Trade Union leader	F-O-13
51	District Forest Officer	F-O-14
52	Secretary/Joint Secretary	F-O-15
53	Secretary/Joint Secretary (retired)	F-O-16
54	Secretary/Joint Secretary	F-O-17
55	Under Secretary (Technical)	F-O-18
56	Secretary/Joint Secretary	F-O-19
57	Assistant Forest Officer	F-O-20
58	Secretary/Joint Secretary	F-O-21
59	Under Secretary	F-O-22
60	Under Secretary	F-O-23
61	Section Officer	F-O-24
62	Secretary/Joint Secretary	F-O-25
63	Under Secretary (Technical)	F-O-26
64	Under Secretary (Technical)	F-O-27
65	Assistant Forest Officer	F-O-28
66	Under Secretary (Technical)	F-O-29
67	District Forest Officer	F-O-30
68	District Forest Officer	F-O-31
Timber traders		
69	Timber contractor/FPEA Chairperson	T-A-1
70	Timber contractor/sawmill owner/FPEA Secretary	T-A-2
71	Timber contractor	T-A-3
72	Timber contractor/Village Committee Chair, NC	T-A-4
73	Timber contractor	T-A-5
74	Timber contractor	T-A-6
75	Timber contractor/District Committee Member, UCPN (M)	T-A-7
76	Timber contractor	T-A-8
77	Timber contractor/Sawmill owner	T-B-1
78	Timber contractor/sawmill owner/ State Committee member, UCPN (M)	T-B-2
79	Timber contractor/Brick Factory Owner	T-B-3
80	Timber contractor/sawmill owner/ FPEA Chairperson	T-B-4
81	Timber contractor/sawmill owner	T-B-5
82	Timber contractor	T-B-6
83	Timber contractor/District Committee member, NC	T-B-7
84	Timber contractor/industry owner	T-B-8
85	Timber contractor/sawmill owner	T-B-9
86	Timber contractor/sawmill owner	T-B-10
87	Timber contractor	T-B-11
88	Timber contractor/sawmill owner	T-B-12
89	Official of a timber-based industry	T-B-13
90	Sawmill owner/FenFIT leader	T-O-1
91	Timber contractor/sawmill owner	T-O-2
92	Timber contractor/sawmill owner	T-O-3
93	Timber contractor/sawmill owner	T-O-4
94	Timber contractor/sawmill owner	T-O-5
95	Timber contractor/sawmill owner	T-O-6
96	Timber contractor/sawmill owner	T-O-7
Community Forest office holders and other relevant actors		
97	CFUG Chairperson	C-A-1
98	CFUG Chairperson	C-A-2
99	CFUG Chairperson	C-A-3

100	CFUG Chairperson	C-A-4
101	CFUG Secretary	C-A-5
102	CFUG Chairperson	C-B-1
103	CFUG Chairperson	C-B-2
104	CFUG Secretary	C-B-3
105	CFUG Secretary	C-B-4
106	CFUG Chairperson	C-B-5
107	CFUG Secretary	C-B-6
108	Central Committee Member, FECOFUN	C-B-7
109	District Committee Chairperson, FECOFUN	C-B-8
110	District Committee Member, FECOFUN/Consultant	C-B-9
111	District Committee Member, FECOFUN	C-B-10
112	District Chairperson, Nepalese Federation of Forest Resource User Group (NEFUG)	C-B-11
113	CFUG Chairperson	C-B-12
114	CFUG Chairperson	C-B-13
115	Central leader, FECOFUN	C-O-1
116	Central leader, FECOFUN	C-O-2
117	Senior Official, FECOFUN (Central office)	C-O-3
	Politicians	
118	District Committee Member, CPN (UML)	P-A-1
119	Village Committee Chairperson, UCPN (M)	P-A-2
120	State Committee Member, CPN-M	P-B-1
121	Central Committee Member, CPN-M	P-B-2
122	State Committee Member, UCPN (M)	P-B-3
123	District Committee Member, CPN (UML)	P-B-4
124	Regional Committee Chairperson, NC	P-B-5
	Other government officials	
125	Government Attorney (retired)	G-A-1
126	Chief District Officer	G-A-2
127	Head of Office, National Investigation Department, District Office	G-A-3
128	Government Attorney	G-A-4
129	Senior Officer, National Vigilance Centre	G-O-1
130	Under Secretary, CIAA	G-O-2
131	Under Secretary, CIAA	G-O-3
132	Tax Officer	G-O-4
Journalists		
133	District Reporter, Kantipur Publications	J-A-1
134	District Reporter, Kantipur Publications	J-B-1
135	Reporter, local newspaper	J-B-2
136	Central Reporter, Naya Patrika National Daily Newspaper	J-O-1
Other non-government actors		
137	Lawyer	N-A-1
138	Local youth	N-A-2
139	Farmer	N-A-3
140	Chairperson, local NGO	N-B-1
141	Senior official, Transparency International Nepal (NGO)	N-O-1
142	Senior official, Pro-Public (NGO)	N-O-2
143	Senior official, Forest Action (NGO)	N-O-3

Note: The middle letter of the code denotes the location of actors, such as A = study district A, B = study district B, and O = Other than study districts.

Annex 2: The guiding questions for interviews and group discussions

1. Background information of the participant: social, political, economic status, length of timber-related job/business?
2. At what stages of timber trade chain have you been involved in the case of GFs, CFs and PFs?
3. Have you noticed any change in the pattern of timber production and trade since you entered this job/business, such as in terms of formal and informal processes?
4. Are there any corrupt practices and illegal forest activities involved in timber production and trade? What types, at what stages of trade chains, and how often?
5. Based on the last two years, what are the usual rates of informal payment at different stages of timber trade chains? How about in the last timber transaction you were involved in? Have you ever found any case of timber trade that has been accomplished without any informal transaction?
6. What type of forest officials do you regard as honest and corrupt? What percentage of the officials you have encountered were honest?
7. What actors are involved in timber governance, and timber-related corruption and illegalities?
8. How is the informal money paid/collected and distributed among actors?
9. What are the differences between corrupt practices, including rates of informal payment, in the case of GFs (DFO/TCN), CFs and PFs?
10. What are the corrupt practices associated with subsidised timber from CFs, TCN and DFPSB?
11. Overall, how do you compare timber-related corruption in community forests and government-managed forests?
12. What do you think are the institutional and legal factors that are facilitating corruption in timber production and trade?
13. How do some officials, contractors and CF office holders earn more than others?

14. Why do you think are people (actors of different categories) motivated for engaging in corruption?

15. How are relationships among various corrupt actors established and maintained?

16. How do you evaluate state and non-state responses to corruption in this sector? What are the strengths and challenges of the present anti-corruption measures? What do you recommend to strengthen anti-corruption?

17. What anti-corruption measures have been adopted locally? How effective are these measures?

18. How do you evaluate the present political, economic and social context in terms of their roles in increasing or reducing corruption? How?

Annex 3: An example of data collection, analysis and triangulation

Informal payments during pre-harvesting and harvesting stages of the trade chain of timber from a community forest (district A)

Data gathered from interview with T-A-8, a timber contractor (originated from interview notes)					
When?		**Whom?**	**For what?**	**How much (NRs)?**	
				Total (for 750 cft)	**Per cft (calculated)**
Pre-harvesting stage	Tree marking permit	AFO	Recommendation	3000	4.00
		DFO	Issuance of permit	4000	5.34
	Tree marking	RP	Fieldwork and report signing	2000 +1000	4.00
	Harvesting permit	FPEA	Signing monitoring report and recommendation	2000	2.67
		FECOFUN		2000	2.67
		AFO		3000	4.00
		DFO	Signing monitoring report and issuance	4000	5.34
	Informal cost in kind	CFUG, RP, AFO, DFO	Food, drinks, transportation	3000	4.00
Total informal payments during pre-harvesting stage				**24000**	**32.02**
Harvesting stage	Log report preparation	RP	Fieldwork and report signing	2000+1000	4.00
	Sawing permit	RP	Recommendation	10000	13.34
		AFO	Recommendation	14000	18.67
		DFO	Issuance of permit	14000	18.67
	Permission for log tender	RP	Recommendation	2000	2.67
		AFO	Recommendation	2000	2.67
		DFO	Approval	2000	2.67
	Informal cost in kind	CFUG, RP, AFO, DFO	Food, drinks, transportation	3000	4.00
Total informal payments during harvesting stage				**50000**	**66.69**

Triangulation

<u>Interviews with other individuals</u>

- T-A-4 (Business partner of T-A-8) was present during only a few incidences of payments in this case; however, based on experience from other timber transactions, he believed that the data presented by T-A-8 was true.
- T-A-1 (FPEA chairperson) accepted that he did not go into the field, and took NRs. 2000 while signing monitoring report at home.
- F-A-9 (Forest guard, RP) accepted that he took TADA @ NRs. 1000 per day for fieldwork.
- F-A=11 (Officer-in-charge, RP) accepted that he took NRs. 1000 each for signing tree marking and log report.
- F-A-7 (Officer-in-charge, AFO) and F-A-5 (Assistant Forest Officer, DFO) accepted, without referring to this particular case, that officials charged TADA @NRs. 500-1000 per day for fieldwork, and that the Range Post, AFO and DFO charged few thousand rupees (depending on the quantity and quality of timber) at each recommendation and approval process.

Excerpts from a focus group discussion with contractors (district A)

- "Offering tea-snacks or *daurpani* for officials has become a culture".
- "Every time we encounter with officials for recommendation and approval letters, we have to pay few thousands, depending on the quantity and quality of timber"

Excerpts from a focus group discussion with officials (afos and rangers from district A)

- "We do not get TADA from office, so we take it from CFUGs or contractors".
- "We are short of budget for office accessories like stationery and fuel, so we take some money from contractors during the recommendation and approval process".

Observation

- Personal diary of T-A-8, in which he had kept notes of expenses during the timber transaction.
- Informal interaction of officials, contractors and CFUG office bearers, including *darupani* party.

Review of documents

Formal requirements were identified from review of legal documents.