



Improving the Constituency Development Program

Practices from Three Districts: Sunsari, Kaski and Sindupalchowk

Kathmandu, Nepal

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Acronyms and Abbreviation

CADP	Constituency Area Development Program
CAISP	Constituency Area Infrastructure Special Program
CDP	Constituency Development Program
CIAA	Commission for the Investigation of Abuse of Authority
DAG	Disadvantaged Group
DDC	District Development Committee
FGD	Focus Group Discussion
IPC	Integrated Planning Committee
KII	Key Informant Interview
LBRMG	Local Body Resource Mobilization Guideline
LSGA	Local Self Governance Act
MoF	Ministry of Finance
MP	Members of Parliament
NC	Nepali Congress
NPC	National Planning Commission
PDMC	Program Direction and Management Committee
UC	User Committee
UCPM	United Communist Party of Nepal (Maoist)
UML	United Marxist Leninist
VDC	Village Development Committee

INTRODUCTION

This report assesses the process of implementation of infrastructure projects under the Constituency Development Program (CDP), primarily, and it reviews the selection and oversight of such projects. It is based on the observation of 27 infrastructure projects of this program, in nine electoral constituencies of three districts: Sunsari, Kaski and Sindhupalchok.

The purpose of this observation is the assessment of CDP projects through the perspective of the theory of change in decentralization with some contextual background, and to offer some pertinent recommendations for the improvement of CDP financing, specifically to be more efficient and more equitable. Moreover, the observation addresses the realm of social accountability of such an important program, which affects peoples' lives directly, and has gained a prominent space in development investment.

The concept of the CDP in Nepal was created in mid-1980s as a new development approach; engaging Member of Parliaments (MPs) in the development of their constituencies. Through the CDP, the role of MPs was confirmed in local level development along with their legislative responsibility. The methodology of CDP implementation differs from country to country, however it has direct association with the decentralization process.

The history of CDPs began in India and gained prominence in Kenya in 2003. The success of a CDP in Kenya attracted other African as well as Asian and American countries to adopt the scheme. CDPs have increasingly become a central strategy for various developing countries for local level development. More than 22 countries, besides Nepal, have adopted this scheme as a local level development tool including South Sudan, Philippines, Honduras, Pakistan, Jamaica, Solomon Islands, Tanzania, Malawi, Namibia, Zambia, Uganda, Ghana, Malaysia, and India (Tshangana 2010).

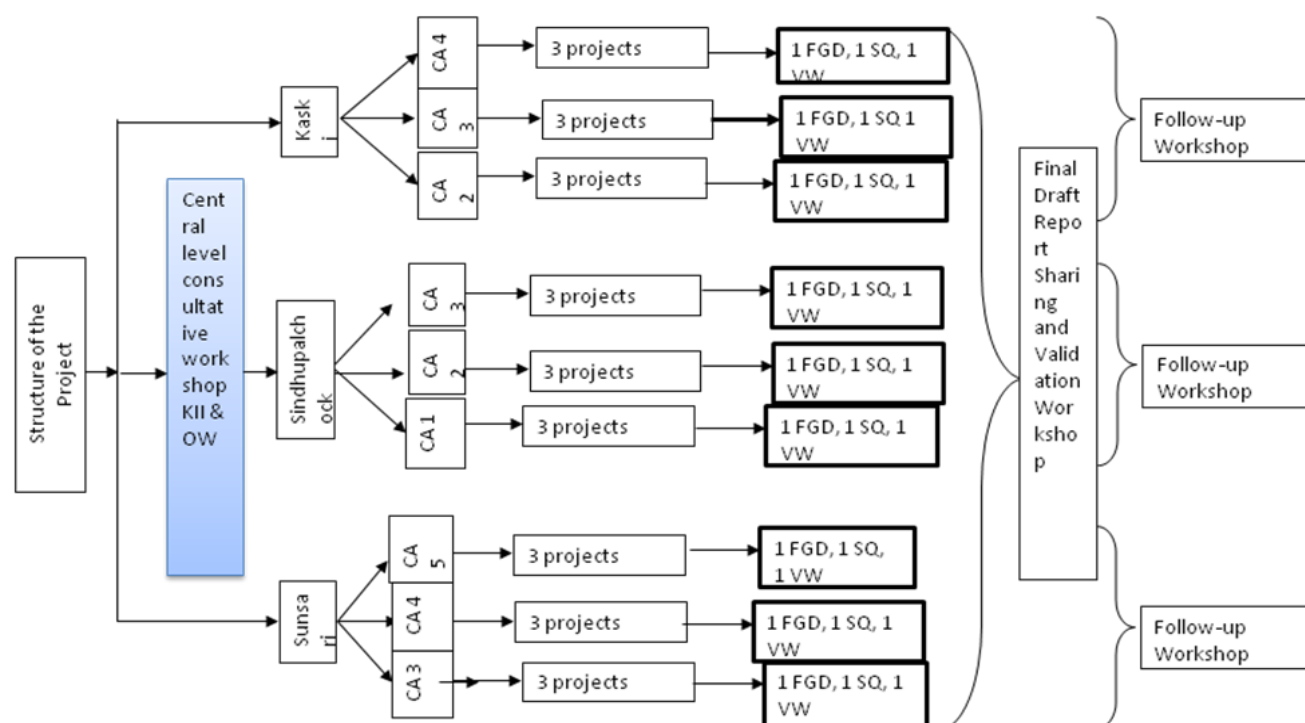
This observation report covers six main elements of the CDP. The first part discusses the theoretical underpinnings of the CDP (i.e. local development, separation of powers and role of MPs). The second part describes the project selection mechanism designed for selecting projects to be implemented on the constituency level. The third part focuses on the project implementation mechanism, and discusses our assessment of the efficacy of the User Committees and the contractors (as a grassroots level implementer). The fourth part addresses the responsiveness and accountability of CDP project selection and the implementation mechanism. This mechanism is assessed, taking into account the degree of its inclusiveness, fairness comprehensiveness, participation, and intactness. The fifth part covers the managerial mechanism of CDP induced projects, where the level of a project implementer's efficacy, and the interventions required for effective management has been analyzed. The sixth part presents the practicality of a monitoring and supervision mechanism under the CDP Project.

Finally the report presents the conclusions and recommendations of the project. From the perspective of community engagement in CDP induced projects, the cases of projects implemented in the studied districts provide a mixed experience. Most of the CDP projects were implemented through User Committees (UCs) aiming to increase people's participation in local infrastructure development. The emergence of UCs is the result of two major principles: first, involving the community in development work, and second, strengthening democracy, and governance while increasing ownership at local level.

METHODOLOGY

Conceptual Framework

This report is grounded on in-depth qualitative field research and quantitative analysis. Qualitative findings were achieved via desk review, Key Informant Interviews (KII), Focus Group Discussions (FGD), and validation workshops. Similarly, questionnaires were used to gather quantitative data. The flowchart presented below reflects the process of implementation and the tools which were used at national, district and community levels.



Note: CA-Constituency Area, FGD-Focus Group Discussion, KII-Key Informants Interview, SQ-Structured Questionnaire, VW-Validation Workshop

LEVEL	TOOLS USED	STAKEHOLDERS
National Level	Desk Review	Review policy and practices at the international and national levels
	Consultation Workshops	Members of Parliament, High level Bureaucrats, Experts and others,
	Key Informants Interviews (KII)	Government Officials and Governance Experts
	Final Draft Report Sharing and Central Level Validation Workshops	Members of Parliament, High level Bureaucrats, Experts and others,
District Level	Constituency level sharing and validation workshops	Members of Parliament, Local level government officials, Local political leaders, UC members, civil society
	Key Informants Interviews (KII)	Local level government officials, Local political leaders, civil society
Community Level	Focus Group Discussions (FGD)	User Committees
	Structured questionnaires	User Committees

Background on CDP

The theories of *decentralization*¹ and *separation of powers*² are usually used to analyze the performance of the CDP. On one side, MPs get involved in local level development activities along with the decentralized mechanism of local government. Certain roles are devolved to MPs to engage in development initiatives. On the other, MPs, with the primary role of legislator, are involved in an executive role, which breaches the mutually independent roles of legislative and executive powers established by the principal of separation of powers. As Ongoya et al (2005) opine;

"Involving the Member of Parliament who are at the national level, in the control and management of the CDP, which targets and is for the benefit at the local level is a violation of the..... ideal of devolution. (Ongoya)"

Nevertheless, some experts opine that involvement of MP in executive activities is obvious in in parliamentary system (Murray, 2011).

The use of CDPs started in Nepal through a budget speech in FY 1994/95 as a form of MP Development Fund, known as Constituency Development Program (CDAP), first specifically for directly elected MPs but later the fund was expanded to incorporate to all categories of MPs³. Later, amidst a debate on CDAP's relevancy and rationality, the government initiated the Constituency Area Infrastructure Special Program (CAISP) from the fiscal year 2014/15 (*see fig 2*) for each constituency area keeping the earlier initiated CDAP in parallel. Moreover the amount of the CDP has also been increased year by year. Separately, Rs.10 million was appropriated for infrastructure related projects selected in each constituency and to ensure people's participation, increase accessibility, facilitate service delivery and enhance cost effectiveness. The budget plan for Fiscal Year 2015/16 increased by 50 percentage points each constituency's fund to implement the infrastructure projects and Rs. 500,000 in addition to the Rs. 1.5 million being provided to all members of the parliament under CADP.

The Government of Nepal has enacted two separate directives⁴ to implement and regulate the "Constituency Area Development Program (CADP) and "Constituency Area Infrastructure Special Program (CAISP)". A separate 'Program Direction and Management Committee' is provisioned under CAISP to select and oversee the projects.

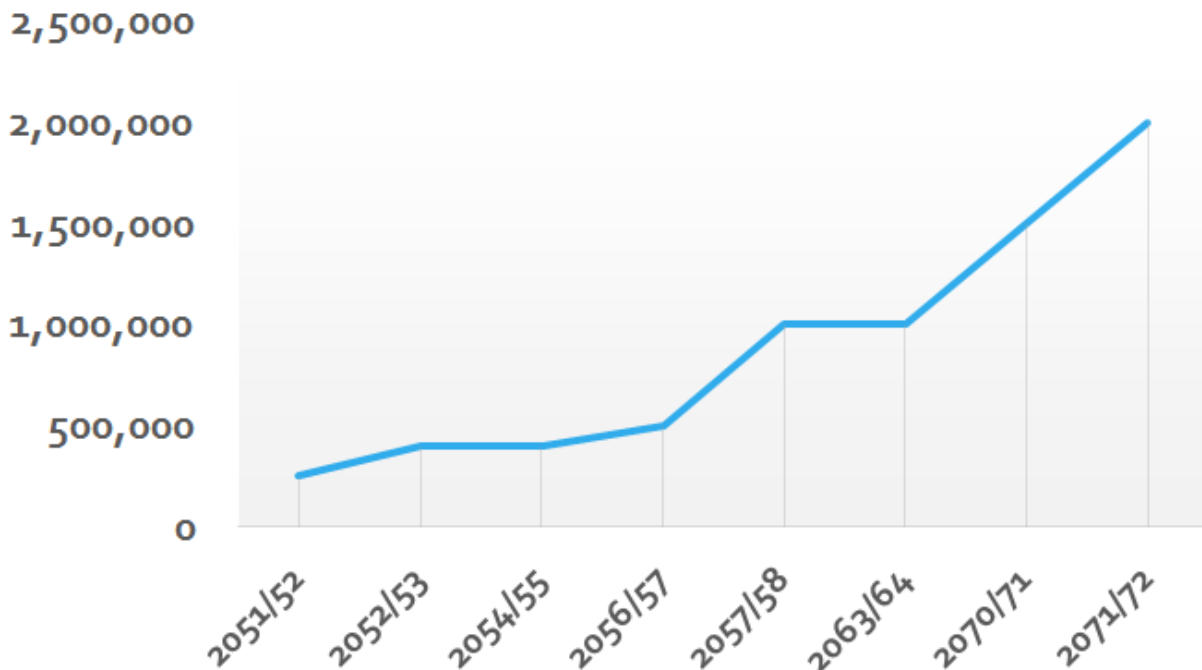
¹ As per the UNDP definition, decentralization refers to the restructuring or reorganization of authority so that there is a system of co-responsibility between institutions of governance at the central, regional and local levels according to the principle of subsidiarity, thus increasing the overall quality and effectiveness of the system of governance, while increasing the authority and capacities of sub-national levels.

² Power Separation, in effective democratic governance refers to a system where Executive, Legislative and Judicial organs are the main parts of a government, which is considered to act as an independent mechanism without the interference of the others. The power separation mechanism should work in such a manner that the three organs could neither influence each other nor the same person could be a member of more than one organ, rather *their independent action should create a system of checks and balance between them....*

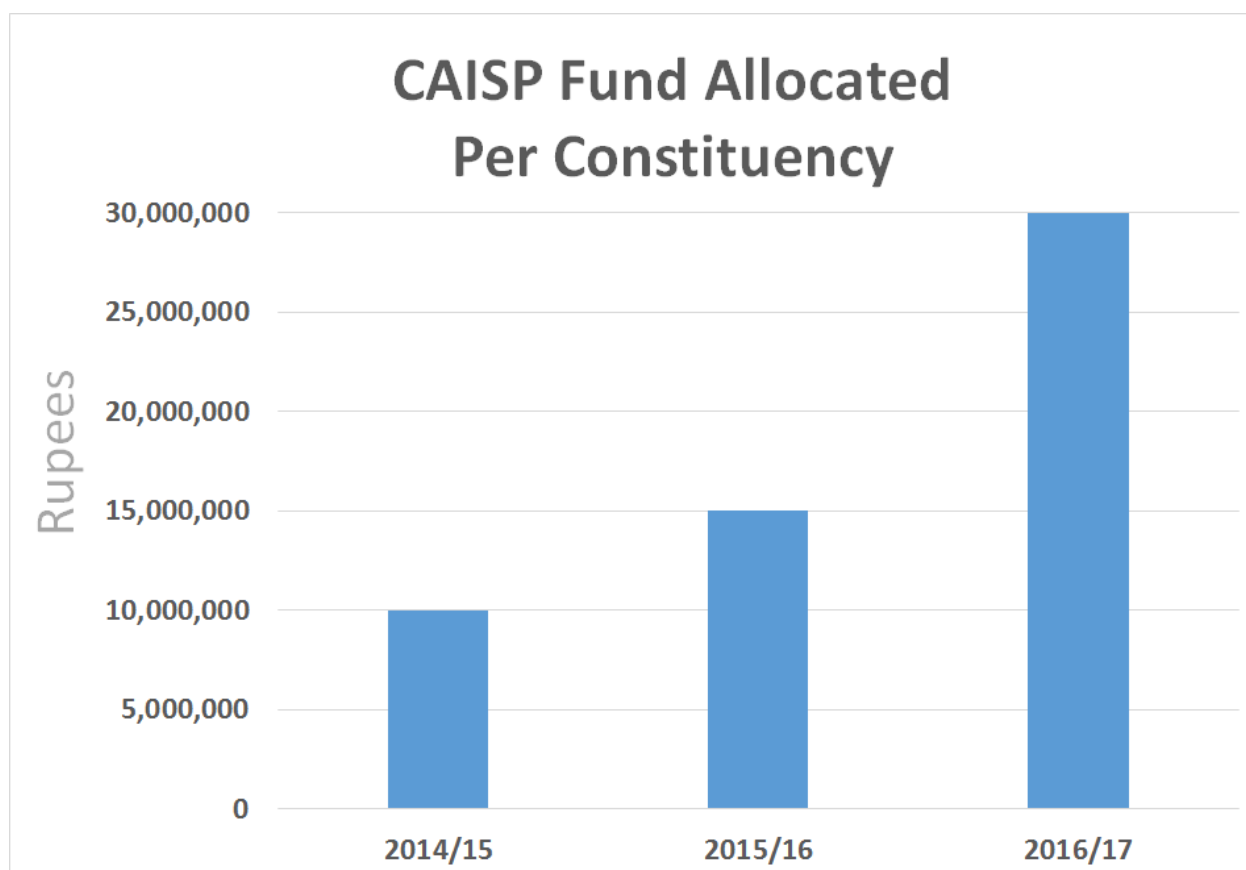
³ Members of Parliament are from First Past The Post 240..., Proportional Representation, Nominated

⁴ Constituency Area Development Program (Operational Procedure) Regulation, 2058 and "Constituency Area Infrastructure Special Program (Operational Procedure) Regulation, 2071

CADP - Budget Allocation



The size of CDP has been increased rapidly since its announcement. Legal provisions are also set forth to implement the programme. Despite this, the questions of inefficiency, ineffectiveness, lack of transparency, nepotism to particular settlements based on vote/power politics, established syndicates, breaches of the jurisdiction of local bodies, and work in non-prioritized areas are common in public perception about the CDP. People are also skeptical of the CDP fueling disparities based on political interest, improper utilization of funds, and a sense of corruption. The existing capacity of oversight agencies and mechanisms are not believed strong enough to regulate the projects implemented under the fund. The CDP has faced both the challenges of development and governance, whether funds were directed to real development issues by following the local governance practices or not.



Most developmental activities encounter the phenomenon of elite-capture in numerous projects unless they are designated for the focus group of the development programme. The question of making parliamentarians accountable to the public in relation to the utilization of CDP funds while MPs are given the role of being parliamentarians and CA members has generated different arguments. The argument that the CDP is prone to corruption, political manipulation and not following good governance practices is widespread⁵. The challenges to the CDP can be categorized as both a) the accountability of the parliamentarian in using funds and; b) compliance monitoring. The accountability mechanism is not properly and fully functional, and no public discussions or dialogues based on issues are held. The bridging interventions between the parliamentarian and public are not identified nor implemented properly. In the midst of such sticky conditions, the government has introduced the CDP aiming to engage MPs in community development.

⁵<http://www.ekantipur.com/en/related-news/constituency-development-fund-56078.html>,
<http://trn.gorkhapatraonline.com/index.php/op-ed/11064-funds-for-constituency-development-not-necessary-at-all-uttam-maharjan.html>,
<http://trn.gorkhapatraonline.com/index.php/op-ed/11032-demand-for-cdf-increase-raises-eyebrows-narayan-upadhyay.html>

Introduction to the Findings

Based on the theoretical background of decentralization, and separation of powers, the CDP emerged as a new developmental phenomenon in developing countries like Nepal. As stated in the previous sections, it has become a center of attention politically. However, arguments against CDP have also been raised. In the midst of such discussions, this research work has been carried out to assess the practical implication of the CDP in Nepal. The findings of the assessment are presented below.

Local Development, Separation of Powers and Role of MPs in CDP Implementation

Nepal embarked on a decentralizing move with the commitment of deepening democracy and intensifying services at the local level with the enactment of the Local Self Governance Act (LSGA) in 1999. The LSGA mandated the devolution of power and responsibility to local bodies to manage and operate basic and extra infrastructure services at the local level. It not only created space for political exercise, but also decentralized the development process to its target groups. It energized communities to get involved in the development process with the maximum peoples' participation. However, the periodic local elections have not been held for the last decade. The contingency arrangements have been made to make the local bodies functional previously; local bodies were not able to address the aspirations of citizens which was widely criticized in the political and non-political arenas.

The temporary arrangement to fill the gap in elected political representation has created several issues in the functioning of local government. The political authority for local government has been given to local government administrative personnel along with their own duties, which has made their work cumbersome. District Development Committees are overburdened due to multiple roles, and fewer human resources are available, which has opened room for the misappropriation of funds. As an attempt to address the challenges resulting from the political vacuum, the central government set up the All Party Mechanism (APM) at a local level to fill the gap caused by the absence of elected political representation. However, the APM was widely questioned about its accountability and responsiveness. Such ad hoc attempts at government have gradually made local government baseless, as the participatory planning process has gradually changed to a power based planning process. However, CDP is accused of ignoring the 14 step planning process⁶ and breaching the norms of separation of powers at central as well as local level". (View of Center level Expert on KII, 2015). Some respondents' argue that engaging MPs in the CDP is crucial in the absence of elected local body representatives, as the presence of political representation is important to expedite the infrastructure development at local level (views of political leaders at center level during KII, 2015). However the CDP should only be continued until the local government election, as otherwise it will add fuel to the fire (Views of governance expert during KII, 2015).

⁶ 14 steps planning process refers to participatory approach of identifying and selecting projects from the settlement level. Steps begin through the settlement level, ward council, village council, and DDC council.

Another cause of regional disparity has also been created. Districts of hills have less constituency areas and are where maximum resources are actually needed, but, through the CDP, the budget is heavily distributed to the accessible constituency areas, which creates an unfair distribution of resources (View of expert during KII, 2015).

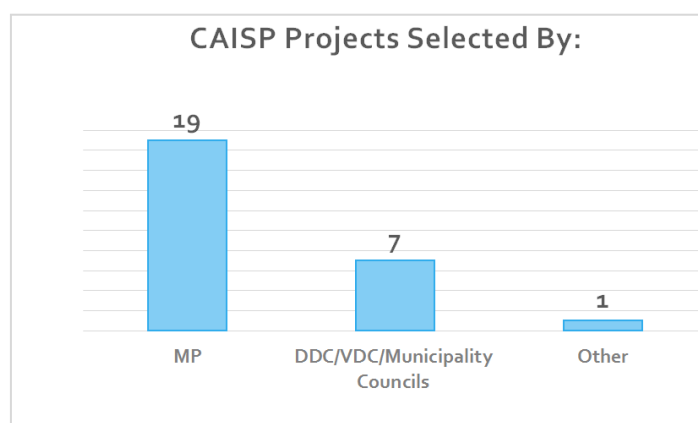
The aforementioned negative views of experts and political representatives have raised several questions regarding the worthwhileness of the CDP. From the political point of view it seems crucial to connect MPs with people in developmental need whereas from the point of view of experts and government officials the CDP should be an ad hoc program. Its continuation may worsen local developmental practices further. With these KIIs, this project has observed the relationship between the CDP and local governments. The following parts of this section will show the strengths, weaknesses, opportunities and threats of the CDP's implementation in Nepal.

I. Project Selection Mechanism

Constituency Area Infrastructure Special Program (CAISP) directives 2014/15 create the Program Direction and Management Committees (PDMC), to be formed in each constituency area for the selection, implementation and management of the projects. The committee is headed by the directly elected MPs⁷ along with other MPs from proportional representation and nominated, who have allocated a minimum of 40% of the amount in concerned the Constituency Area, the Local Development Officer of the concerned DDC, the Executive Officer of the Local Municipality, the District Technical Officer, and other concerned officials as the members of the committee.

Project Selection Process

The general practice of project selection is based on the 14 steps planning process. The selection of projects is completed in the early fiscal year for the subsequent year. In the case of CAISP, project can be selected by 15 January of the current fiscal year. It is directed that the project shall be oriented to improve the wellbeing of the people and address the socio-economic problems of the constituency area though generating opportunities at a local level. Similarly the directive has provided that the projects being selected should be related to local infrastructure development and should have diversity in nature. The diverse sectors include river, stream, landslide control, irrigation, water/sanitation, physical infrastructure and so on. However, project having a public nature, projects approved by VDC, Municipality, and DDC councils as an infrastructure project, and projects that can generate maximum employment opportunities should be prioritized in the selection process.



⁷ MP elected from first Past the Post electoral system as per the Interim Constitution of Nepal, 2063, Article 63Section (3), Sub section (a)

Unlike as provided in the directive, the project selection and prioritization process differs in practice. Firstly, the directive gives priority to projects that come up from VDC, Municipality and DDC councils in the selection process; however, our observations show that most of the projects being implemented in fiscal year 2014/15 were selected through the MP's influence (See figure above). During our field study, out of 27 projects assessed, 18 were selected through the direct influence of the MP of the particular constituency area. Seven projects selected were approved by councils, and the rest of the projects were selected through the direct influence of community⁸. MPs and respective local representatives had higher influence in the selection process projects being implemented.

Besides the MP's influence, the variety of selected projects also raised questions regarding whether those projects could really address the needs of the particular community. Most of the projects selected are related to either road or building construction as will be illustrated in this study. However, there was not a clear answer regarding the reason for selecting these projects. Few projects implemented in fiscal year 2014/15 were innovative, addressing needs such as renewable energy, rural electrification, lake protection etc.

"The MP wants to work as manager of the project, forgetting his real duty. The Local Self Governance Act has provided a 14-step planning process to collect the people's need from settlement level and formula based financing; this could identify real need of the society. CAISP totally ignored the 14 step process and imposed unnecessary power to MP in selection and execution process of project." (Local Governance Expert, during KII, 2016 January).

Selection based on DAG Categories

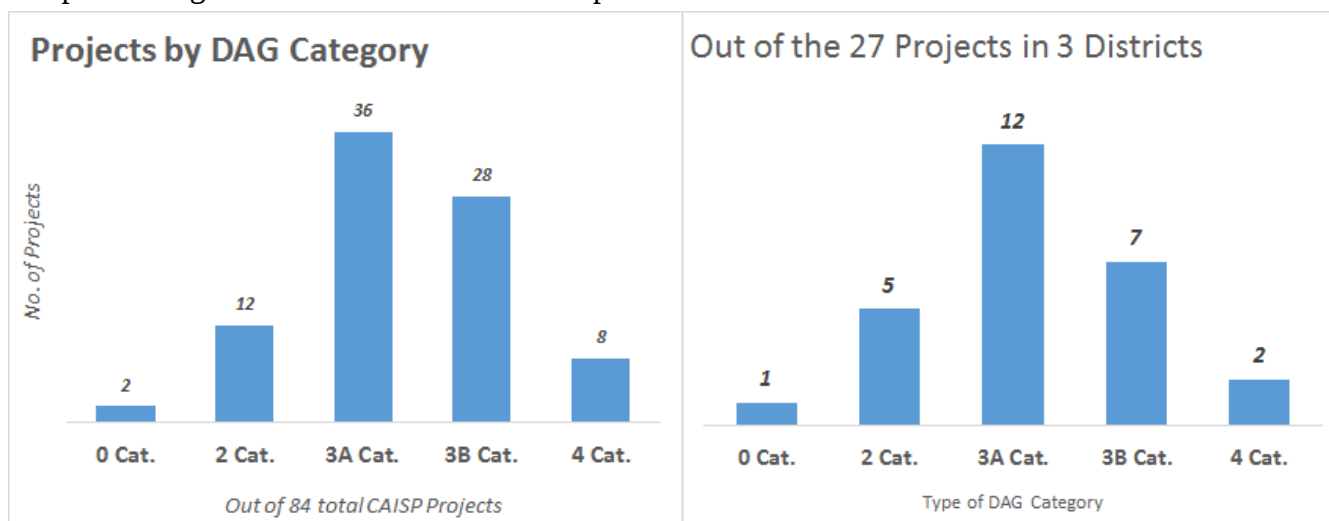
One of the expectations of the CDP is that it can address basic needs of the people as the community can directly access the MP to share their aspirations. Counter to this goal, it is widely believed to be promoting disparity. Experts show concern *"over the possible development disparity if the government distributes identical amount to each constituency as demanded by lawmakers."* In this connection, the CDP can accelerate the uneven distribution of resources. Thus, some suggest for the distribution of CDP funds as per the human development index which can promote equality in distributing funds.

If the CDP was distributed taking into account the HDI rating, constituencies of the Tarai region, Eastern Hills, Mid-Western Hills, Far Western Hills and Mountain region are likely to get more

⁸ Communities influence in projects selection can be defined in the couple of ways: Firstly, elite captured User Committees and influential contractor directly influence the MP and DDC to select the project for the particular area. Secondly, rent seeking mentality of low level local government bureaucrats and political carder also plays a role to influence the selection process.

resources in comparison to the constituencies of the Central Hills and Western Hills due to their low HDI index (UNDP 2014). Issue of fair distribution of CDP funds is also a major concern in other developing countries. For example, Kenya⁹ has initiated a formula-based allocation of CDP funds since 2004.

Kenya has prioritized the rural sector while selecting and implementing projects, applying a formula based approach to address the rural poor first. Besides Kenya and Tanzania, other CDP implementing countries do not have such experience.

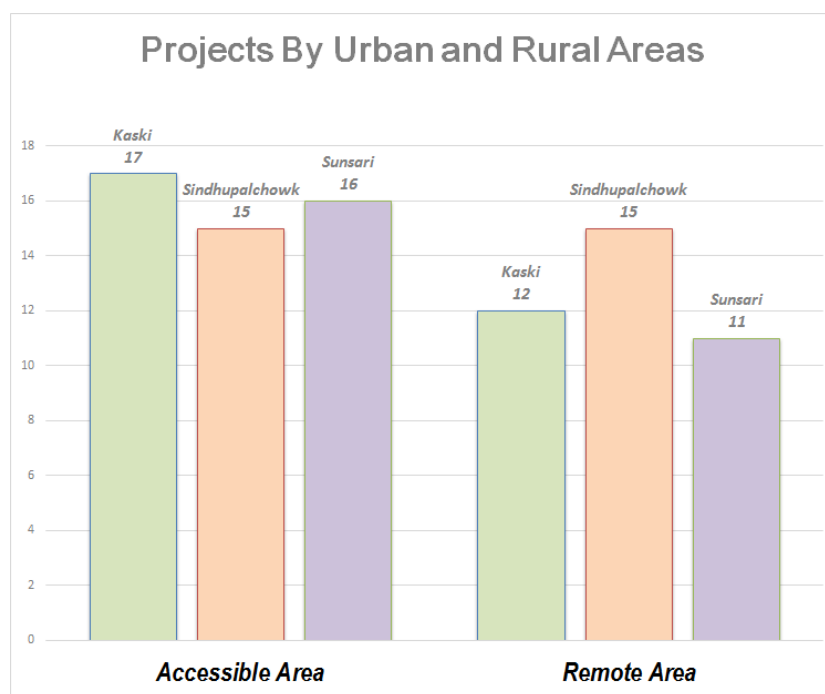


In Nepal, there is not a specific provision (mechanism/ formula) mentioned in the directive for selecting a project. The directive loosely states that projects that are approved by the VDC, DDC and Municipality councils can be prioritized in the process of selection. However, it is not strict provision that must be followed. Thus, to see the degree of fairness while selecting CDP projects at the constituency level of three assessed districts, DAG mapping¹⁰ prepared by the DDCs has been used for comparison.

The figures above show that the most of the projects being selected fall in the 3A category, followed by 3B indicating that MPs and project direction and management committees are consciously selecting projects for relatively backward community. However, few projects fall in category 4, the most backward communities, showing the limits of this distribution.

⁹ According to CDP act of Kenya, 75 % of the CDP fund is distributed equally to all 210 constituencies, whilst, 25 % percent of the fund is distributed taking into account the weighted value of the constituency's contribution to national poverty. The weighting factor applied to the constituency contribution to poverty is the ratio of urban-rural poor population derived from the 1999 population and housing census. This weight favors rural area by a factor of 0.23 to urban areas. The net available CDP fund the total CDP allocation after netting out 3% for an administrative budget and 5% for a so called constituency emergency budget.

¹⁰ DAG mapping refers to Disadvantage Group mapping. Status of disadvantaged group is categorized based on seven different indicators i.e. I. HHs with food sufficiency less than 3 months II. Concentration of marginalized HHs III. Condition of primary schools IV. Condition of health posts V. Participation of women, Dalit & Janjati in planning, execution & decision-making VI. Prevalence of gender discrimination VII. Prevalence of vulnerable HHs. As per DAG mapping, 3A refers to not bad, 3B - bad, 4 - very bad, 2 - good, 0 - very good



The DAG category assesses the community based on the various socio-economic indicators; the MP, on the other hand, tries to distribute the projects by identifying the needs of the community. In this connection, the above figures show the extent of the MPs influence in prioritizing the backward areas for the development of local infrastructure. In the case of project districts, MPs were found to incline towards backward areas while selecting and implementing projects. However, fewer numbers of projects falling in category 4 of DAG indicates that people in the most backward communities are still beyond the access of services. The findings show that, though MPs are conscious in prioritizing remote areas while selecting projects, the number of projects implemented in accessible areas is higher, except in Sindhupalchowk which indicates the CDP is yet to reach the poorer communities.

Status of CDP Financed Projects

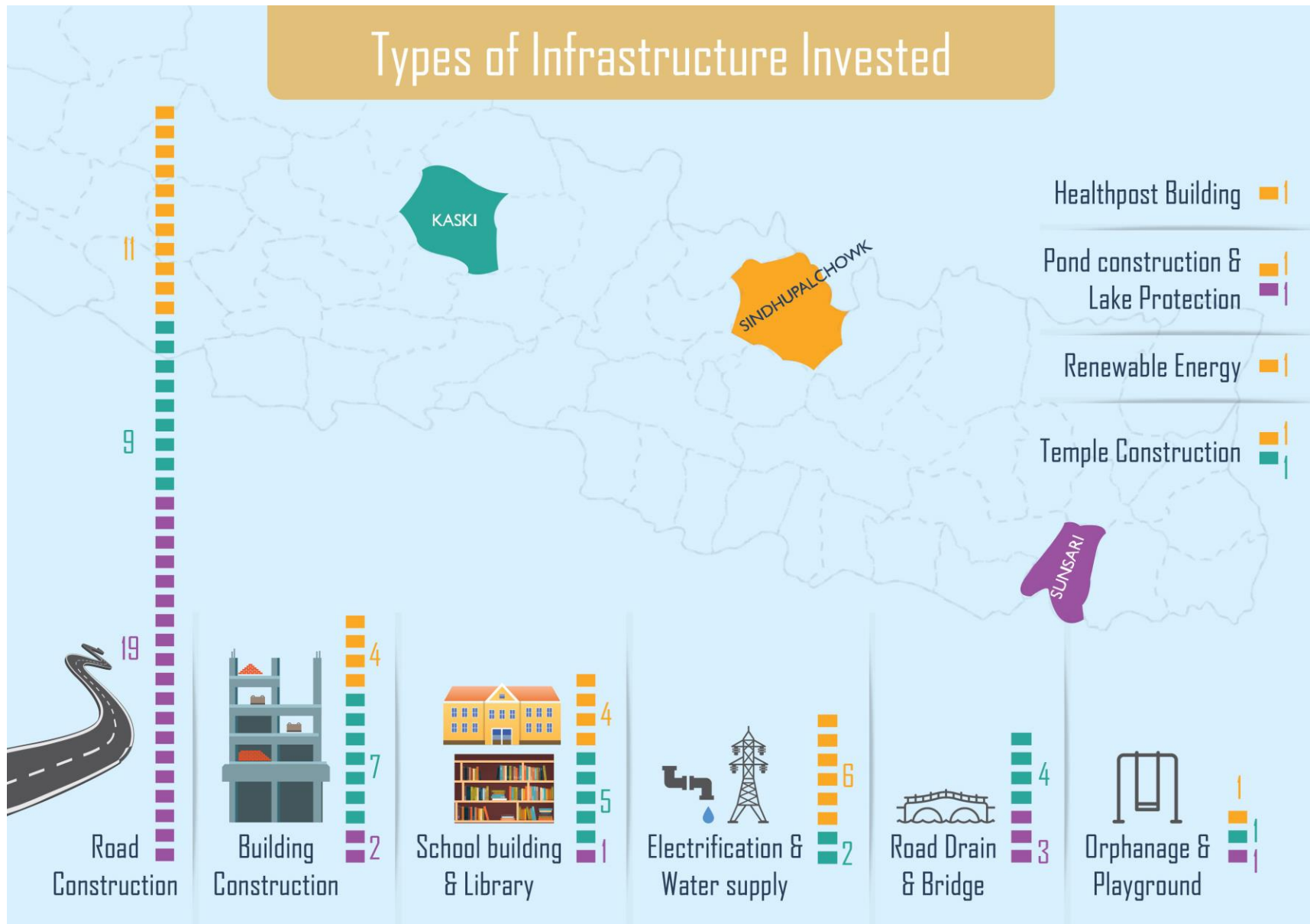
Out of 86 total projects in three district (Kaski, Sindhupalchowk, and Sunsari), the majority of projects (more than 40) are related to road construction and maintenance, followed by building construction (i.e. more than 20 community and school building etc). The rest of the projects are related to playground construction, library construction, lake protection, renewable energy and temple protection, however these projects are fewer in number. The project being implemented clearly indicates that, the concerned stakeholders of the CDP (i.e. DDCs, MPs, local political parties/leaders) are not capable enough to identify innovative projects that could generate maximum utility in the community during the project selection process.

This indicates two factors. First, local political leaders associated with MPs and the local community are not properly aware of the real needs of the community. They regard roads and buildings as the only infrastructure needing to be developed. Second, *CDP has become the*

means to jeopardize the local level investment through creating room for project duplication. District Development Committee has already enough plans and programs to be executed. At this, Overburdened local government is forcefully undertaking the CDP mechanism without any specific plan of investment for CDP that has agglomerated of budget in identical project. (Local governance experts, KII, 2015 December)

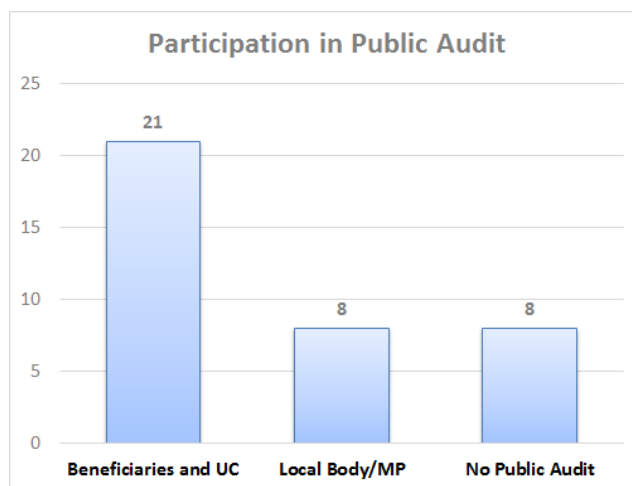
Regarding the project intervened area, out of 27 projects we assessed, 16 projects were related to roads, followed by 7 building construction projects, 2 water and electricity projects, 1 agriculture project and 1 was related to religion. The general logic of MPs in selecting mainly road related projects was that *roads are the key infrastructure facility to gear up other basic and extra infrastructure facilities (i.e. food, clothing, shelter, health, and schooling). Thus priority has been given to roads in the selection process (Common Views of MPs).* However, *the result of selecting the maximum number of road projects is to create rooms for the misappropriation of funds in the name of improvement and maintenance of roads. funds (View of Civil Society, Sunsari during KII, January 2016).*

Types of Infrastructure Invested



Intervention for MPs

Political intervention in the CDP is obvious, as MPs are directly involved in the project selection, implementation and M&E processes. Theoretically the MP and his/her political representative should be in touch with the communities and user committee from the beginning of project selection. Another, underlying goal of the CDP is to increase MP- community and inter-party relationships. It is assumed that there will be cooperation among political parties and people about the better use of funds and local developmental needs. However, reality is different than the presumptions according to our findings. The field observation shows that, political presence was not significant in the community. They are much more interested in project selection process rather than helping user committees to accomplish projects smoothly. Neither the DDCs nor MPs seems serious in the project implementation process. The data presented in the figure also shows that, out of 27 projects observed, local bodies and MPs participated in the public audit of only 8 projects which shows the level of seriousness of local bodies¹¹ and MPs ensure accountability



and responsiveness of the project being executed.

The opinions of political leaders, and MPs expressed during KIIs and workshops shows that their understanding about development does not suffice to address the community //needs of the, Prioritizing identical type of projects ignoring the CAISP directive can be taken as evidence.

Intervention for DDC

The District Development Committees are (DDC) are the authorized local bodies to operate the CDP. DDCs participate in the selection and implementation of the projects under the CDP. The usual trend is of project implementation at local level during the last trimester of the every fiscal year irrespective to the volume and level of project. Thus, the project implementer is always obliged to accomplish the project with a short time span which has created challenges in maintaining the quality of the projects. In regard to monitoring and evaluation of the projects financed under the CDP, the DDCs have not been given the proper resources f Insufficient human resources, a lack of a cohort tracking mechanism for project implementation and

¹¹ Local Body refers to District Development Committee, Municipality and Village Development Committee

supervision are some of the major interventions to be addressed which were noticed during the observation.

II. Project Implementation Mechanism

User committees and contractors are the key actors in implementing CDP projects. Thus their capacity, honesty, and fairness determines the effectiveness of project implementation. A capacity assessment has been made based on the contribution of the user committee and the contractor in implementing project,

User Committees vs Contractors in CDP projects

One of the major issues raised in the CAISP directive is the use of user committees and contractors for the implementation of the project at grassroots level. Though the Directive has mentioned that *Infrastructure related plans that can draw maximum public participation and those that will implemented and managed by the User Committee can be implemented (CAISP directive Subsection 8 sub rule (c), 2014*, it is not clear whether CDP projects can be implemented through contractors.

Contrary to this, the reality of CDP implementation is different and against the spirit of directive. Out of 27 projects assessed, 3 projects in Sunsari were found contracted out, which thus *indicates that the power of the MP and his carder matters in the selection and implementation process of CDP. With no elected local government in place, the government officials may not stand against the elected lawmakers when they seek budget through DDC for their pet projects (views of Development Expert, on KII, December 2015).*

In addition, contracting projects has created wider gaps between the community and the project implementation process. The KIIs with local political leaders and civil society members and focus group discussion with local people of Sunsari constituency area 5 indicate this, where three projects (two road projects and one culvert construction) implemented by contractors were chosen to observe the extent of difference in implementing projects by contractors.

Based on the interviews and discussions, what can be said is that contracting projects has created indefinite loopholes for the misappropriation of funds and escalated fiduciary risk. Local government has the mandate of improving planning, programming budgeting, funds flow, implementation, internal accountability, auditing, and monitoring & supervision to increase the efficacy of the projects executed. It is charged with the role of maintaining fiscal discipline and ensuring value for money¹². However, the contracting process of the CDP projects does not seem to be strictly following the local governments' mandate. The projects observed neither involve local people in execution process, nor the contractor follow public auditing to let community know about the financial transactions.

¹² Value-for-money is ensured when local bodies are able to provide cost-effective services to local citizens in an accountable manner. Value-for-money also requires the provision of inclusive and responsive services to local people. The principles of efficiency, effectiveness and equity are the fundamental objectives of sound public financial management.

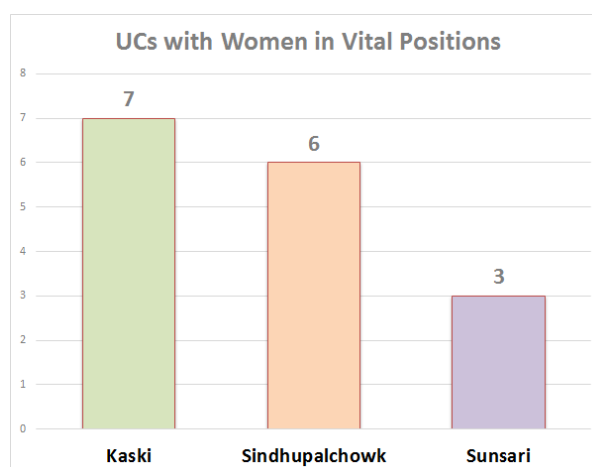
MP never came here to consult with opposition political leaders, nor did he inform community about the projects. We even do not know who the contractor of these projects is and where he improved road. There is always an unseen nexus between government engineers and contractor, thus, we don't know the progress of project.

Though the opposition leaders blamed the MP and his associate carder for not being transparent in making project activities open, they also do not seem curious to know the value –for –money of the projects. Focus Group Discussions with political parties in Sunsari show that politics is not development friendly. They do not have development culture. Blaming opposition is the common culture of political leaders which has also resulted ineffective utilization of CDP funds. From the selection to implementation phase, political parties never sit to discuss maximizing the benefit of the project on behalf of community.

Besides, despite the willingness and ability to execute CDP induced projects, marginalized communities are often ignored (underestimated) and blamed for not having sufficient capacity to execute projects. During discussion, the marginalized Khatwe¹³ community opined that *"due to unnecessary desire of elite people to lead user committee, they couldn't formulate it thus obliged to contract out the project. None (neither DDC nor elite class of community) believe our capability in implementing project. We even do not know when, what and why the particular projects is selected and executed"*. Two factors seem clear for not believing (blaming) marginalized communities: one, the elite community wants to agglomerate resource within their community, next, building unhealthy relationship with the DDC, the contractor wants to create an environment for misappropriation of funds.

Perception of User Committee (UC) and Adherence of Directive:

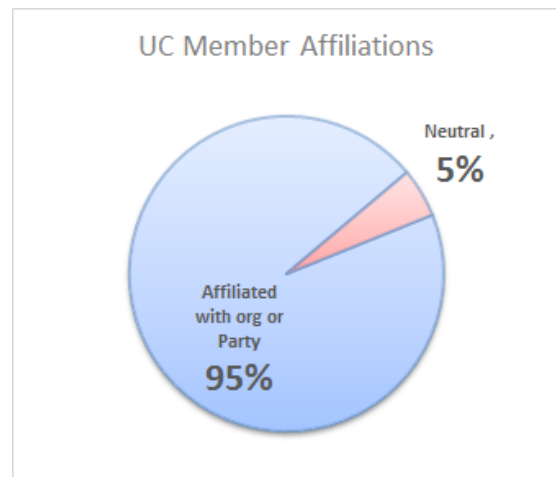
Out of 27 sampled CDP financed projects, 24 projects were found implemented by User Committees at a grass root level, thus, perception and compliance of UCs in following the UC-directive is very important. Most of the UCs formulated are influenced by the political party of particular MP in their, thus raising doubts regarding bias in distributing CDP induced projects on account of nepotism and favoritism. Similarly most of the UCs have positioned a women as a treasurer which only creates room for manipulating the budget by the User Committee head, as women's placement as a treasure is only of nominal type and doesn't contribute in making any financial decisions on their own. Thus, mobilization of user committees has been widely criticized as promoting pork barreling politics, as well as for massive misappropriation of resources. Regarding the adherence to the directive, both the CAISP and UC directives are overlooked while implementing projects. The UC directive has provisioned 33% women representation in User Committees, however, in the surveyed districts women's representation is only 28% (See fig 6). Similarly, the mandatory



¹³ Khatwe refers to the marginalized Dalit community of Tarai region.

provision of utilizing local resources while implementing projects is also widely violated, as most of the UC understands that, *using local resources, labor, and involving people voluntarily in developmental work seems impossible. People's participation sounds good in documentation, but in practice no one wants to actively participate in communal work. Youth are gradually migrating to foreign countries, urban centers and accessible areas for better employment opportunities, and those who stay in community have a commercial mindset. So, instead of getting involved physically, they are inclined to use equipment (capital intensive technology) for developmental works.*

"Power Budget"¹⁴ is also another reason for not adhering to the UC directive despite the fact that UCs, being formed under local body, should follow the directive prepared for them. A distinct project selection mechanism has been set in each constituency apart from DDC where MPs deploy a political representative to select project and facilitates for implementation. The representative of MPs play a key role in formulating User Committees at large, thus, User Committees are generally inclined to the constituency's MP (See fig 7). As a result, UCs being formed are not neutral unlike provisioned in the directive.



There is yet another side of CDP project financing. MPs are politically motivated. They always want to keep their voters under their influence in order to be reelected. Accordingly the CDP has become "windfall gains"¹⁵ for them to increase their supporters through the misappropriation of funds. Some studies of developing countries have revealed that MP's constituency services through CDP is often associated with increasing personal vote as an incumbency advantage (Bruce, Ferejohn and Fiorina, 1987).

The case of Nepal is not different from other CDP implementing countries. MPs and his/her representatives are politically motivated. CDP functionary in three districts and corresponding 9 constituencies is under the control of the particular MP at large. As argued by the governance expert of Kaski, *"MPs and his party carders are highly motivated for vote bank politics. Through CDP, they are encouraging their interest, ignoring the participatory planning process. They are highly motivated by nepotism and favoritism. Some MP's representatives are either his/her relative or right hand. Moreover UCs being formed are not capable enough to run the project effectively as less concern has been put in their capability due to political motivation."*

Managerial Mechanism of CDP implementation

The degree of effectiveness in project implementation depends on the level of managerial capacity of the User Committee. Thus, UCs should have basic knowhow regarding the administrative and managerial function while implementing projects; especially in procurement

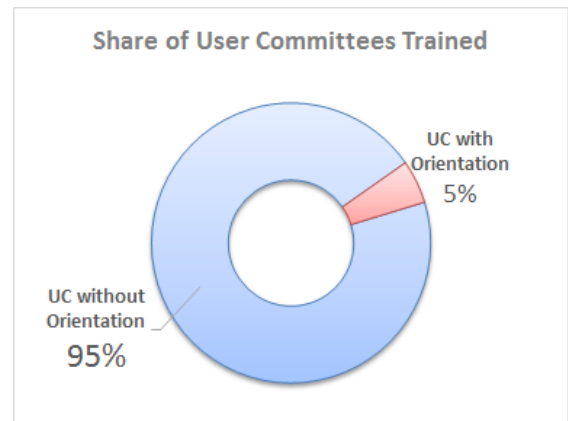
¹⁴ Power Budget refers ..

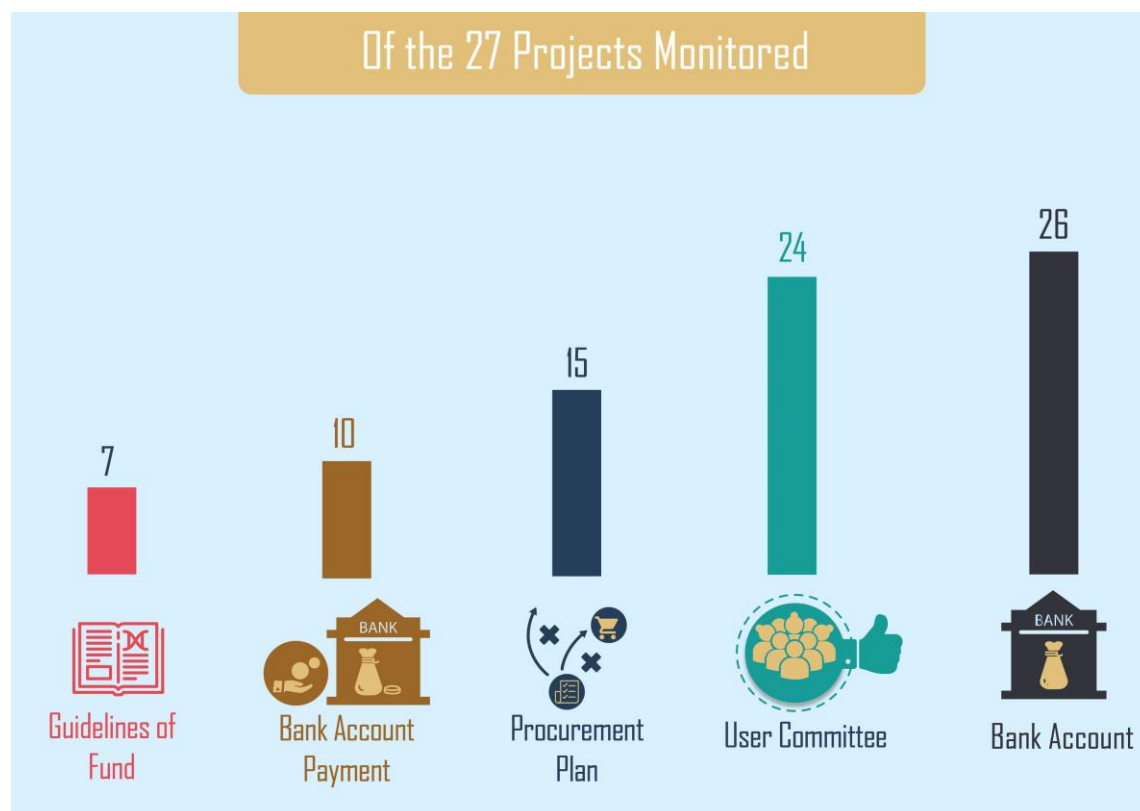
¹⁵ Windfall gain refers to unexpected gains, or lottery.

practices, account keeping, financial management and reporting. However, their capability in administering projects has been criticized on several grounds. *The formation of UCs has become procedural. Neither local bodies (DDC) nor MP is serious in forming UC following the directive strictly, rather UCs are formed as per their vested interest. Therefore the gap between supply and demand sides has become wider with neither of them accountable to each other. Local bodies are do not seem to be serious in increasing the managerial and administrative capability of UCs. Apart from this, UCs of remote areas do not have easy access to the DDC and the MP to learn about project management skills which has further worsened the project implementation process. (View of Local Governance Expert during KII, 2015).*

In fact, the capacity of UCs also depends on their locality. UCs from accessible areas (urban sector) are relatively capable of handling the administrative as well as managerial function of project implementation. They can keep intact relationships with MPs and DDCs and can smoothly operate projects, making the implementation process smooth. Unlike this, UCs from remote areas (10 UCs out of 24) neither have proper ideas about the financial management, nor are able to consult with the MP, DDC and technician properly. They even do not feel at ease

consulting with the local government regarding problems they face. This fact indicates that due to the political motivation, UCs do not feel necessary to have training as they consider themselves well versed powerful in the political backup.





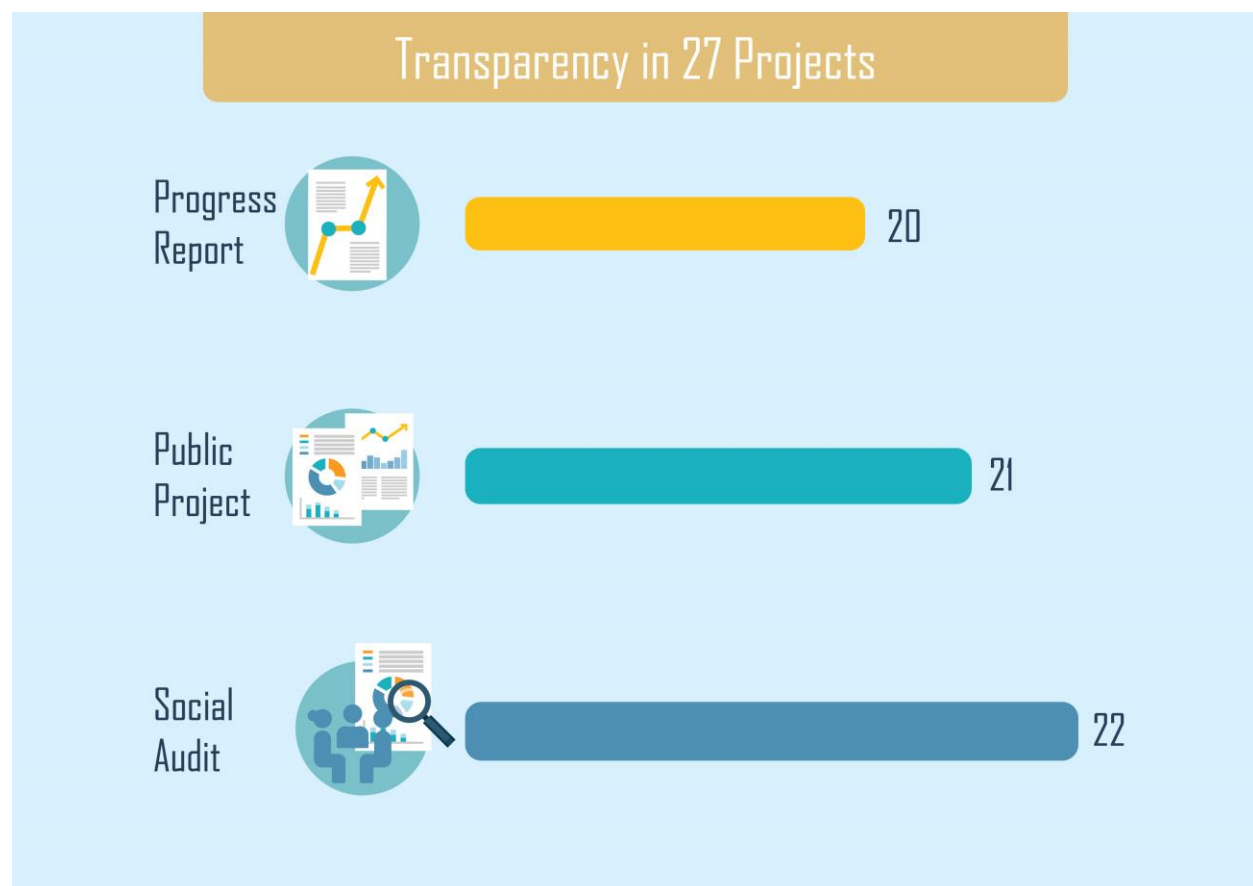
UCs hardly get orientation prior to project implementation. As shown in the figure above, almost 95 percent UCs do not get orientation training from their DDCs about the managerial functioning of the project. During focus group discussions, User Committees raised concerns about training them for account keeping and financial management.

The administrative and managerial capacity of UCs was observed based on their ability in increasing participation, keeping financial recording and practices of procurement. There are several factors in implementing projects which has played role in decreasing UC's capacity.

- Passiveness of Beneficiaries:** In a majority of cases, beneficiaries were found neglecting the functionality of User Committees. The public hardly attends the public audit, and even if they attend, they stood as a passive listener, which directly decreases the working efficiency of UCs. In the figure, out of 24, 18 UCs informed the public about all financial activities of the projects. However, the process of public audit was only procedural, didn't have significant meaning in enhancing the capacity of UCs.
- Political Dominance and Weak Capacity of UCs:** Though User Committees are responsible for implementing CDP projects, they do not get a chance to take part in identifying needs, and formulate plans. Accordingly local political parties overshadow the needs of the community and select projects based on political will this has decreased the managerial effectiveness of UCs as they are obliged to work as a rubber stamp.

- **Procurement practices:** From the perspective of procurement practices, most of the UCs have problems in following good procurement practices as they do not have proper knowledge of them.

Any procurement practices should be guided by principles of transparency, competitiveness, accountability, efficiency, legality and integrity which supports "best value for money" in public procurement¹⁶. The Government of Nepal has prescribed a Procurement Act and a "Local Body Resource Mobilization Regulation (LBRMR)" to direct procurement activities to follow the stated principles. Financial transactions have to be made based on the provisions mentioned in the regulations. However, User Committees in practice do not follow the procurement regulations. Out of 27 UCs assessed, 3 UCs followed LBRMR fully, 11 followed partially, 10 didn't follow any procurement practices. Similarly, 12 UCs had their own procurement plan, and rest of 12 didn't have any procurement plan. Likewise, 17 UCs directly purchased the goods required for the projects, more 5 UCs used quotation and 2 UCs used bidding for purchasing goods. *Which shows that majority of the UCs are still practicing directing purchasing system, against the spirit of LBRMR.*

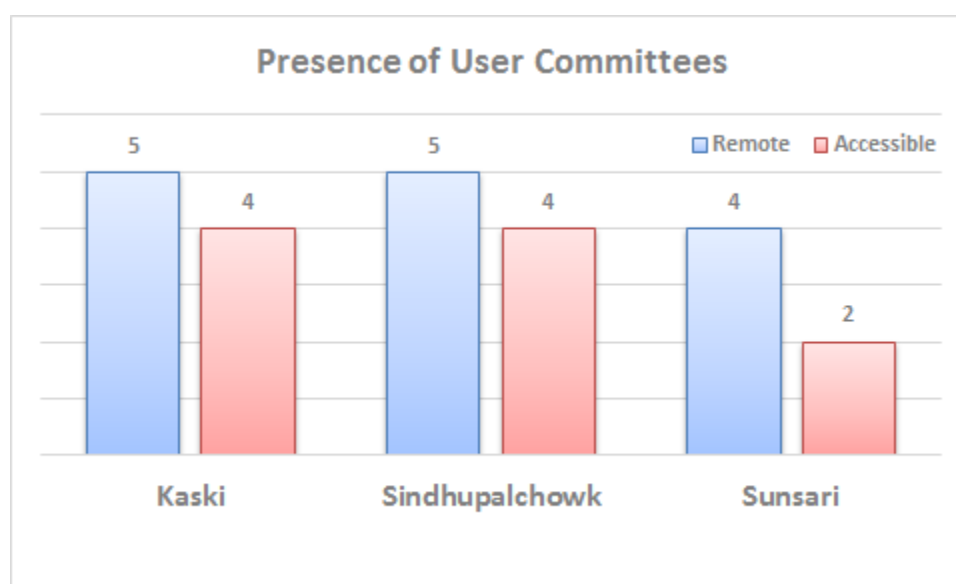


¹⁶ HM Treasury. 2000. Government Accounting 2000. <http://www.Governmentaccounting.gov.uk>.

Level of Intervention for User Committees

Having analyzed the information collected from our field assessment, a couple of intervening factors have arisen: first, issue of administering and managerial capacity of User Committees in the course of implementing a project, second, the level of political willingness from the perspective of the MP in making the CDP effective and far reaching, and third, the readiness of DDCs as effective facilitators. Thus certain interventions are required to make the CDP more effective

As stated, User Committees are grassroots level project implementing bodies. They need to be focused on making projects successful follow the directives prescribed for them. Our field observation shows that UCs located in remote areas are incomparably weaker than the UCs of accessible areas in maintaining financial and administrative activities. They neither have financial knowhow or the leadership capacity required to supervise the projects. Similarly, they do not have proper ideas about public auditing, inclusive participation and decision making process, and thus bear high chances of elite capture. During our field observations, 5 UCs from Kaski and Shidhupalchowk each, and 4 from Sunsari were selected from remote areas, whereas the rest of the others were from accessible areas. Unlike the UCs in remote areas, UCs of accessible areas have relatively better communication with their DDC, local political parties, and their MP. They have their own system for keeping financial activities. The observation further shows that operating UCs having diverse capacity under an identical directive has created



problem in their functioning.

The next intervention is to make UCs able to maintain the financial mechanism of the projects, including procurement and account keeping. The field observation shows that out of 24 user committees observed, 18 use minutes to keep a financial record whereas only six have a ledger book to keep minutes indicating the fact that a majority of UCs need training on account keeping. Besides, as women are placed in the treasurer position, training women in account keeping can add value and improve women's participation in the decision making process.

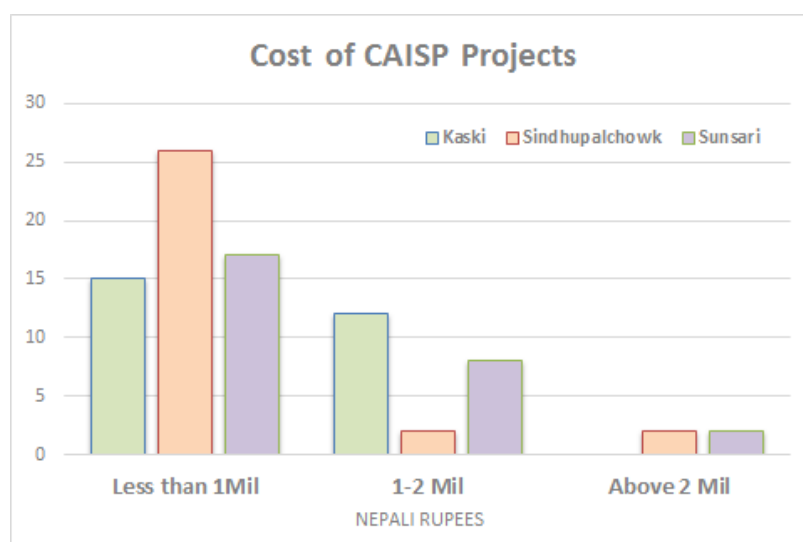
Moreover, this can intensify the mechanism of checks and balance within the User Committee as well.

Effect on project implementation

A combination of MPs' vote bank perspective, the political influence in project selection and implementation coupled with crunch of technical human resource at DDCs has created multiple challenges in fair, equitable and effective distribution of CDP fund which has further intensified misappropriation, and duplication in the due course of project implementation; weakening the overall goal of the governance process. In the view of critics, MPs are not honest in the compliance of directives while disbursing funds. They hardly consult with the DDCs when allocating resources.

"Rather, they distributed money to institutions that are directly affiliated to their political parties. Further, in many cases it was found that the money was spent on many small projects instead of a few large ones. This has meant that the funds spent through the CDP have not been able to bring about any substantive development. The directives also require the money to be spent on infrastructure development and employment generation in the constituencies concerned. But lawmakers failed to meet the criteria while selecting the projects. In some cases, the spending is suspicious as the development projects mentioned in the DDC reports are not clear. For instance, location of the 'road construction' and 'infrastructure development', among other projects, where the expenditures were made has not been specified." (Views and opinions collected from newspapers, Kathmandu Post).

The field assessment also provides evidence to support the views and opinions of critics. Most of projects being implemented in the three districts observed fall in accessible areas where there is higher density, which indicates that MPs are focusing on vote bank rather than the needs of the community.

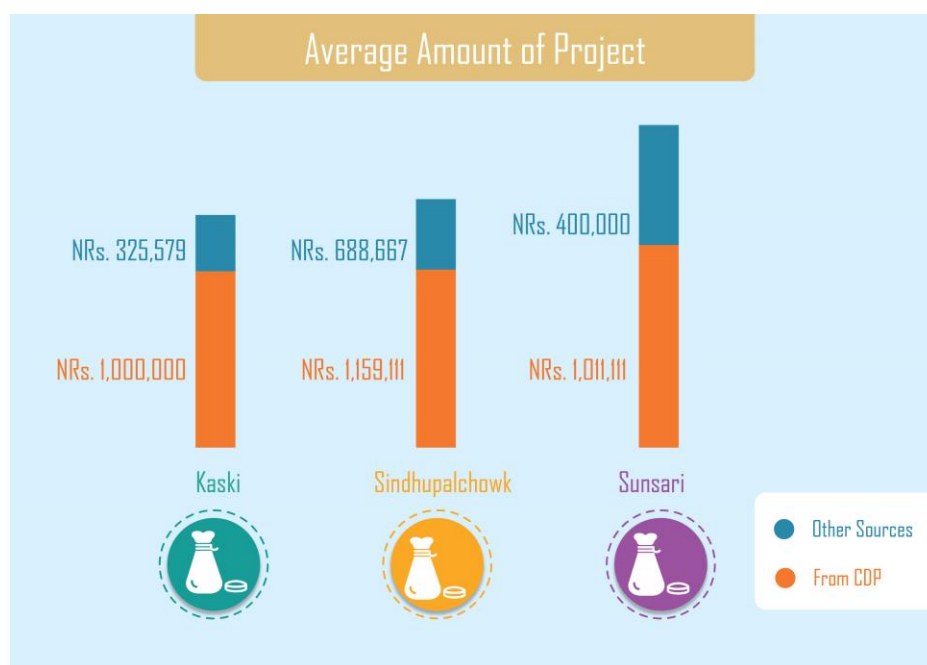


Most of the projects being implemented are below 1 million, indicating that MPs are obliged to disburse funds in small sized projects (the average cost of the project does not exceed Rs. 1.2 million in the nine constituencies observed) rather than investing in big projects despite the fact that they are legally eligible in selecting megaprojects for CDP due to excessive pressure of the users.

III. Monitoring and Supervision Mechanism

Monitoring is the frequent and regular observation of the activities¹⁷ aiming to calculate cost incurred, duration spent in the project, scope of the project and quality of output.¹⁸ In the case of the CDP, it is a way of tracking whether the project selection and implementation have been done according to the accepted criteria. It should be based on the theory of change¹⁹ to observe the efficacy of CDP projects in addressing publicly stated goals. Monitoring should establish a check and balance mechanism to observe whether project implementation process is in progressively moving in the right direction.

The CAISP directive has established the Monitoring and Supervision mechanism to oversee the



¹⁷ Mulwa, F. W., & Nguluu, S. N. (2003). Participatory Monitoring and Evaluation: A Strategy for Organization Strengthening. Nairobi and Eldoret: Zapf Chancery and Premise-Olivex Publishers

¹⁸ Kenya Human Rights Commission. (2010). Social and Public Accountability Network (SPN, 2010) – Harmonization of Decentralized Fund in Kenya, Towards Alignment, Citizen Engagement and Accountability. Government Press. Nairobi

¹⁹ ‘Theory of change’ is an outcomes-based approach which applies critical thinking to the design, implementation and Supervision of initiatives and programmes intended to support change in their contexts. http://r4d.dfid.gov.uk/pdf/outputs/mis_spc/DFID_ToC_Review_VogelV7.pdf

efficacy of the CDP projects under the chair of the local MP. The directive has made an MP a chair of monitoring and supervision mechanism who are from the proportional representation or nominated and who have allocated more than 50% of the amount in their concerned constituency area. The CAISP Directive has granted a special role to the MP both as a head of the management committee and as a head of the Monitoring and Supervision committee, and as a result has created debate on several grounds.

Loopholes in Monitoring and Supervision

The monitoring and Supervision mechanism has several loopholes. District level experts and civil society members opine that, *"The unseen nexus between political carder, User Committees and DDC has increased the room for misappropriation. The projects (especially road and building) are always constructed below estimation. DDC used to provide financial clearance without having in-depth inspection. The trend of providing "PC"²⁰ to junior and senior staffs of DDC (especially technical staffs) is a usual practice to influence technical clearance of the projects"*. MPs are hardly present in the M&S, and public auditing to observe efficacy, transparency, accountability and responsiveness of the projects implementation mechanism. DDCs usually deploys new technicians as an ad hoc basis in the name of M&S. *However, the ad hoc technicians never submit reports*. Thus monitoring mechanism under CDP is not seemed to be effective as it has created multiple loopholes which have weakened quality of the projects implemented.

Dual role of MP

One of the major issues raised by the CAISP directive is that it has granted unlimited power to the MP in selecting and monitoring the projects being executed. The critics see challenges of fiduciary risk while implementing CDP financed projects as MPs seem reluctant to follow the CDP directive²¹. Political influence is rampant in project selection process leading to unnecessary flow of supply driven project. MPs often regard CDP finance as a pocket money thus it is not working as a catalyst to gear the pace of community development rather it has intensified the question of the public ownership in project implementation. Through the CDP, MPs are breaking the laws enacted by them as the concept CDP is against the jurisdiction of local government. Thus question arises here is *"is it justifiable to evaluate self executed project?"*

Some experts and bureaucrats argue that strong monitoring and Supervision mechanism need to be setup to minimize fiduciary risk. They further urge in establishing punishment and grievance handling mechanism for wrongdoers.

²⁰ PC is local term used in place of commission. As per the civil society representative, it is obligatory for the User Committee to provide certain percentage commission to technicians.

²¹ Constituency Area Infrastructure Special Program Directive (2014), Constituency Area Development Program Directive (2001)

IV. Citizen Space in the CDP

Involvement of the Community in the CDP

The CDP is designed to address the people's urgent needs through MPs' direct engagement with the community. *It is distributive policy tool designed to meet the development needs of the citizens*²². The emergence of CDPs in developing countries has multiple connotations. It has often used as a means for a direct approach to community. In Kenya the then President Mwai Kibaki first initiated a CDP in 2002 and devolved power to the community through the CDP aiming to fight poverty²³. The history of other countries with CDPs is in other countries is not different from the Kenyan example. CDPs are believed to be an easier way to cater developmental needs for individual communities, as MPs, who are the elected representatives, are directly involved in the community's development.

Principally, the CDP should address the real needs, livelihood and socio-economic status of the community. It should have power to engage people in development activities. The MP's relationship with community should be further widened. It should not be biased in terms of political affiliation in distributing opportunities.

The CDP has been initiated with the view that it is straightforward way to trickle down the financial resource to the community of particular constituency. The government mechanism of developing countries is said to have weak capacity to effectively channel resources. Administrative mechanisms are process oriented and often delay delivering services to the public. Thus, mobilizing MPs is justifiable in the sense that it could make the local development approach smoother, increase people's participation and ownership, make MPs responsible and accountable to the community, and reduce corruption.

Providing equal opportunity to the beneficiaries or communities is the major task of government welfare. However, irrespective of the stated objectives, the experiences of countries which have implemented CDPs show the opposite picture. The majority of the CDP implementing countries (India, Pakistan, Zambia, Malawi, Uganda, and South Sudan) provide equal resource to each MP, creating a regressive allocation system, as all constituencies get equal funds irrespective of their socio-economic status. Some counties (Kenya and Tanzania) provides CDP funds on the basis of equity, thus priority is given to poorer areas- a progressive way of mobilizing CDP funds (Zel, 2010).

The possibility of redirecting funds according to the political interests of MPs and their corresponding parties are the major challenge of the CDP mechanism which undermines the development needs of the constituency area. Studies show that CDPs could not address neediest beneficiaries of the community (NACCSC, 2008).

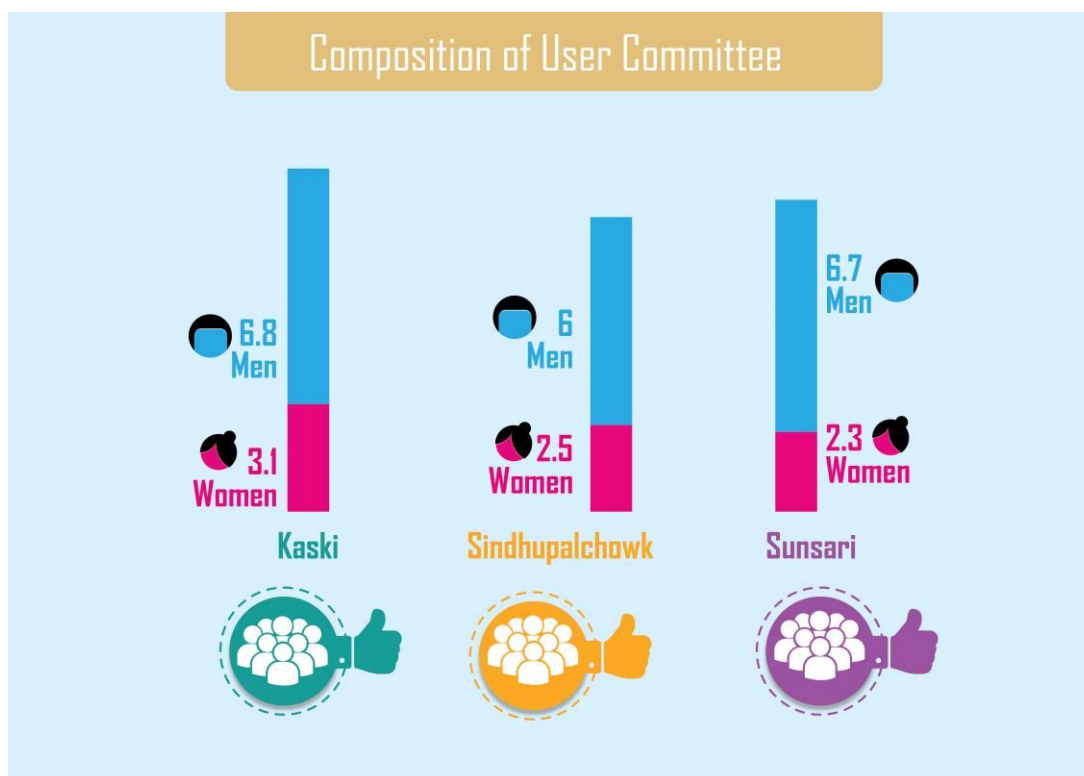
In Nepal, the CIASP directive has prioritized User Committees as the grassroots level implementer aiming to ensure people's participation. However, our field observation does not show an inspiring picture of meaningful engagement of people during project implementation.

²² http://www.cid.suny.edu/publications1/CDP_Directive_s_CPA-SUNY_June2011.pdf, 5/6/16, Pg 3

²³ www.iig.ox.ac.uk/.../iig-briefi, 5/6/16, pg 2

Composition of User Committees

Involvement of UCs in CDP financed projects is important as the CDP itself demands maximum civic participation, and the concept of UCs to engage people in the community's development. It was believed that implementation of CDP projects would obviously engage people for local infrastructure development. However, in terms of meaningful participation, people's engagement in UC implemented projects²⁴ was not as expected.

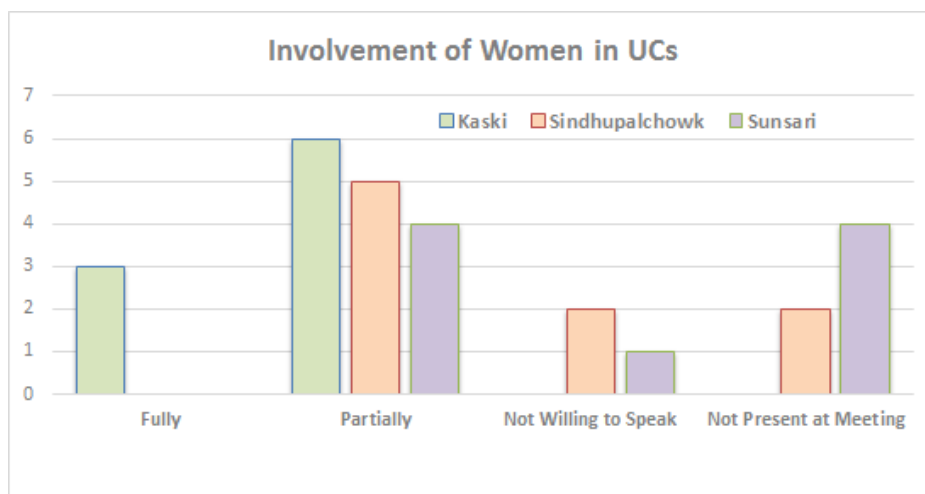


Engaging User Committees in project implementation has some special importance. It aims to increase the involvement of minorities in the development process, barring the involvement of teachers, active political representatives and bureaucrats (opinion makers) to be a member of UCs (Provision, 2 UC directive). However, in the case of CDP projects, almost all (24) UCs we observed did not follow this provision. During FGDs, *the participants argued that barring teachers, active political representatives and bureaucrats from being members of UCs is not an appropriate way, as socially and economically backward communities do not have the capacity to handles project themselves, thus prohibiting the opinion makers from UCs is just to create a space for the misappropriation or under utilization of the available resources (common views of FGD, January 2016).* Involvement of opinion makers in UCs, however underestimates the participation of minorities in the decision making process.

²⁴ Out of 27 projects observed, 24 were implemented by UC and rest of other were implemented by contractor.

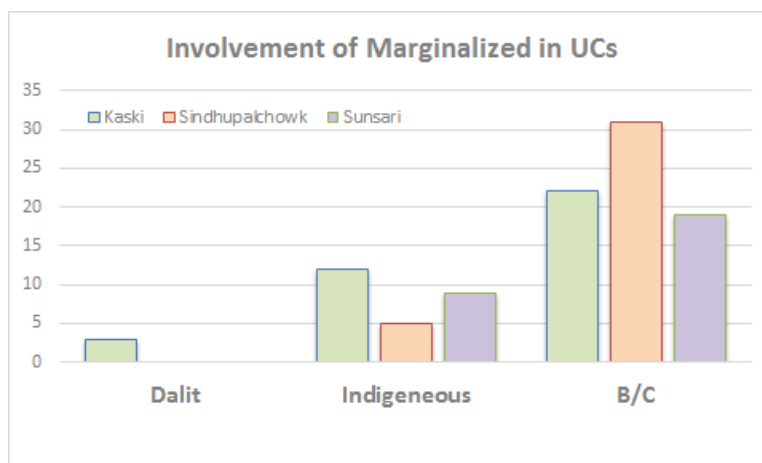
The Involvement of Women, Dalit and Indigenous in the Decision Making Process

Both the UC and the CAISP directive emphasize effective and inclusive participation of women, dalit and indigenous people in the decision making process in project implementation. The field assessment shows a certain level of participation, however, meaningful participation is still questionable. As in the figure below, besides Kaski, women's participation in decision making process in the two other surveyed districts, Sindhupalchowk and Sunsari, was partial. The reluctance of women to participate and put their views in UC meetings was observed to be even larger.



The UC directive requires a minimum of 33% women's involvement in the committees. However women's average involvement in UCs is still low (29%) in all three districts, which shows that women are not still enthusiastic in being involved, and their position seemed aimed only at complying with the provisions of Directive . *"Despite the encouragement of male counterpart, women themselves does not want to participate in development process blaming their household work for not letting them to go outside for commuinty development"*.

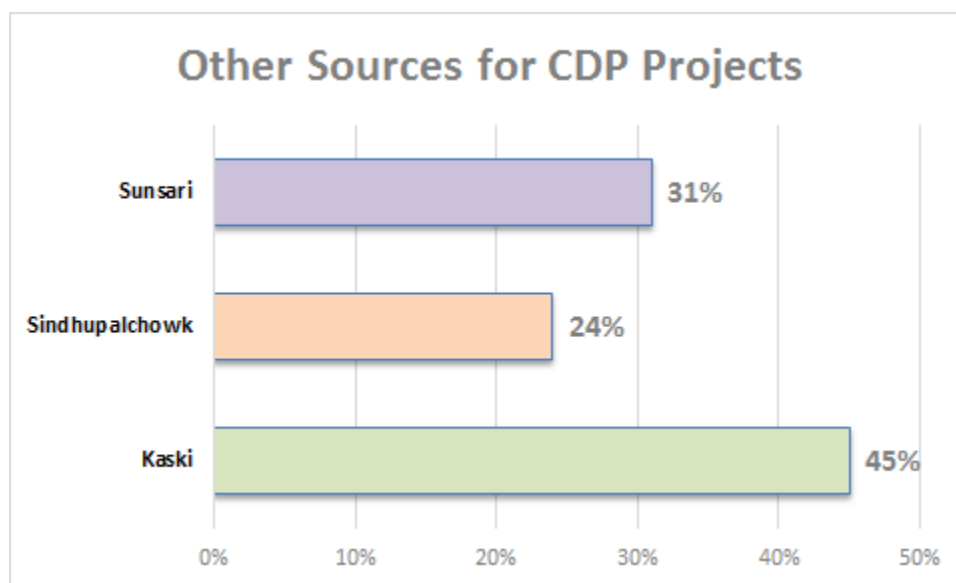
Moreover, the involvement of dalit and indigenous people in decision making process is also rated low in comparision to Brahmin/Chhetri.



The level of people's participation in project selection, prioritization and implementation determines the degree of MP's, and CDP committees's desire of need-based development. Perceptions of User Committees, users, civil society members gathered during FGDs, KIIs and structured questionnaires depicts that people's participation was not considered fully during selection and implementation of the projects. The MP and his/her party carder played vital roles in selection of projects and forming User Committees to concentrate the funds under their control. Thus, they merely adhere to directives while selecting and administering projects. In this connection, MP's desire is seemingly not clear and pro-poor.

Cost Participatin of the Community in CDP Projects

Cost partnership is one of the major provisions of the UC directive for the community's engagement in project implementation. The directive creates a cost and labor sharing partnership (UC Directive, provision 9) to increasing people's ownership of projects implementned. The basic objective of the cost and labor sharing partnership is that the community becomes more accountable and responsible for infrastructure projects, which ensure their sustainability. In the surveyed distircts, the conditions of the cost and labor sharing partnership seem inspiring as out of total CDP funds, people have contributed more than 20% for the particular project (*see fig 13*). However the percentage of contributions varies district wise; contribution is almost 45 percent in Kaski, followed by Sunsari (31%) and Sindhupalchowk (24%). The reason for variation of cost partnetship could be due to the economic conditions of the community of the particular district.



Bibliography

- Bruce, Cain, John Ferejohn and Morris Fiorina. 1987. "The Personal Vote: Constituency Service and Electoral Independence ."
- Ebel, Robert and Serdar Yilmaz. 2002. "On the Measurement and Impact of Fiscal Decentralization."
- Ersin, Kalaycioglu. 2000 "Politics of Fiscal Decentralization. Intergovernmental Fiscal Relations & Local Financial Management Program."
- Finance, Ministry of. 1994. "The Text of The Budget Speech Delivered By The Honourable Finance Minister Bharat Mohan Adhikari ." www.mof.gov.np.
- Kara, Lindaman and Kurt Thurmaier. 2002."Beyond Efficiency and Economy: An Examination of Basic Needs and Fiscal Decentralization ."
- Keefer, Philip and Stuti Khemani. 2009. "When Do Legislators Pass on "Pork"? The Determinants of Legislator Utilization of a Constituency Development Fund in India."
- Kibebe, Leonard and Priscillah Mwirigi. 2014. "Selected Factors Influencing Effective Implementation of Constituency Development Fund (CDF) Projects in Kimilili Constituency, Bungoma County, Kenya." *International Journal of Science and Research (IJSR)* 3.1: 5.
- MoF. "The Text of The Budget Speech Delivered By The Honourable Finance Minister Bharat Mohan Adhikari." Ministry of Finance . Kathmandu, 1994.
- MOF. "www.mof.gov.np." Ministry of Finance. 2015.
- MoFALD. "Constituency Area Development Program (Operational Procedure) Regulation." Ministry of Federal Affairs and Local Development. Kathmandu, Nepal, 2001.
- . "Constituency Area Infrastructure Special Program (Operational Procedure) Regulation." Ministry of Federal Affairs and Local Development. Kathmandu, Nepal, 2014.
- Murray, Christina. 2011. "Constituency Development Fund: Are They Constitutional? ."
- National Anti-Corruption Campaign Steering Committee. 2008. "The Constituency Development Fund: An Examination of Legal, Structural Management and Corruption Issues in Kenya." Accessed 13 November 2015 www.naccsc.go.ek/index.php?option=com_jdownloads&itemid=86&task=finish&cid=6&ca. .

Oates, Wallace. 1972. "Fiscal Federalism ."

Odhiambo, Walter and Henry Bwisa. 2014. "Role of Participatory Management in the Sustainability of Constituency Development Fund Projects: A Case Study of Maragua Constituency." *International Journal of Academic Research in Business and Social Science*.

Ongoya, Z.E. 2005. "A Critical Appriasal of the Constituency Development Fund Act." [www.kenyalaw.org/Downloads Other/ CDF%20Fund%20-%20Ongoya.pdf](http://www.kenyalaw.org/Downloads%20Other/CDF%20Fund%20-%20Ongoya.pdf).

Tshangana, Alison Hickey. 2010. "Constituency Development Funds: Scoping Paper." Accessed 11 October 2015 <http://internationalbudget.org/wp-content/uploads/Constituency-Development-Funds-Scoping-Paper.pdf>.

Zel, Albert Van. 2010. "What is Wrong with the Constituency Development Fund ." Accessed 15 November 2015. [http://internationalbudget.org/publications/brief10/..](http://internationalbudget.org/publications/brief10/)

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