

Nepal's 2072 Federal Constitution

WHAT ARE THE IMPLICATIONS FOR GOVERNANCE OF THE AGRICULTURAL SECTOR?

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OVERVIEW

In September 2015, Nepal's Constituent Assembly passed a new constitution aimed at transforming Nepal from a unitary country into a federal republic with three levels of government: the federation, the province, and the local level. This institutional shift will have wide-ranging social, political, and economic implications for the country. However, this brief focuses specifically on the implications of these federal reforms for the agricultural sector and the Ministry of Agriculture (MoAD). Agriculture is the backbone of the Nepali economy, providing a livelihood for approximately two-thirds of the population, contributing one-third of the country's GDP, and constituting over half of its exports. With greater authority and autonomy granted to more subnational units of government, ensuring that the agricultural sector is guided by coordinated planning, retains sufficient human capacity, and receives adequate fiscal resources will be of paramount importance during the transition to a federal republic. Consequently, this brief addresses how the sector can be restructured to meet the constitutional provisions while simultaneously ensuring that MoAD delivers on its agricultural objectives, especially those outlined in its Agricultural Development Strategy (ADS).

Currently, the agricultural sector in Nepal is devolved in theory but not in practice, with appointed, rather than elected, local government bodies exercising relatively little authority over many aspects of budgeting and employment. The 2072 Constitution, by contrast, has two clear implications for the governance of the agricultural sector. First, authority and autonomy for various agricultural and livestock activities will be devolved from the MoAD in Kathmandu to the seven anticipated provincial governments and to newly constituted local bodies. Secondly, those new local bodies will be overseen by elected rather than appointed executives who will be able to determine their own policy priorities. However, exactly how authority will be devolved and over which domains remains unresolved, as "agriculture" is listed as a concurrent function across all tiers of government in the Constitution.

Table 1— Key Concepts for Effective Devolved Governance

Objectives	Implications
Authority	Clear delineation of responsibilities across tiers within a legal framework
Autonomy	Adequate control over fiscal and human resources to fulfill responsibilities
Accountability	Flows of information and mechanisms for rewards/sanctions both vertically (between citizens and governments and between tiers of government) and horizontally (across ministries and actors engaging in complimentary activities)
Incentives	Human resource and expenditure policies that encourage good performance and efficient service delivery
Coordination	Institutional mechanisms and other options for ensuring horizontal and vertical coordination

Source: Authors' compilation.

Governance of the agricultural sector will require attention to key objectives outlined in Table 1. These objectives are essential for effective devolution, which is the most extensive form of decentralization and the anticipated goal of Nepal's transition to a federal country. Under devolution, the central government transfers authority over decision-making and administration to autonomous, elected local governments. This authority over specific governance functions needs to be backed by a strong and clear legal framework and complemented with de facto autonomy that enables lower tiers of government discretion over the use of fiscal resources, the ability to

fire and hire employees, and the ability to issue rewards or sanctions for employee performance. Most importantly, devolution requires attention to accountability, which means that citizens can hold sub-national governments responsible for performance in the areas for which they have been accorded authority. However, even when accountability exists, subnational governments must be able to provide incentives for the civil servants that are responsible for implementing governance functions, especially in more remote areas. Finally, greater devolution requires higher levels of coordination, including horizontally between ministries at each tier of government, horizontally across local governments, and vertically between local governments and central government. Greater accountability and incentives can ease coordination challenges by making coordination in the interests of both subnational governments as well as civil servants employed at the subnational level.

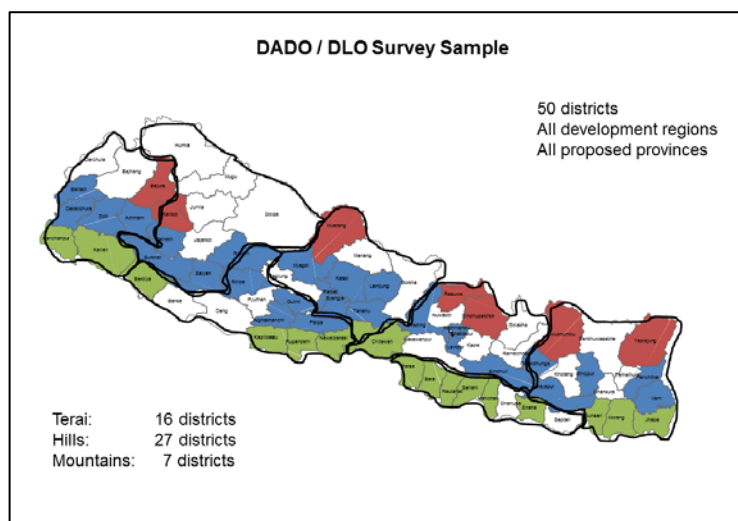
The remainder of this brief outlines major concerns and possible policy options for addressing these five objectives within the agricultural sector. In doing so, the brief focuses less on a functional analysis of the sector but more on a holistic perspective that draws linkages from the current fiscal, administrative, and policy contexts to potential changes, challenges, and opportunities within the sector in a federal Nepal.

RESEARCH METHODOLOGY

When considering major concerns for agricultural governance under a federal Nepal, priority was accorded to those issues voiced by MoAD, the Ministry of Livestock Development (MoLD), civil society, and donors about the restructuring process. Their perspectives were collected through more than two dozen semi-structured interviews conducted between January-March 2016. Such issues included the implications of restructuring for MoAD staff and agricultural policy planning, the status of the Nepal Agricultural Research Council (NARC), the role of agricultural extension, and the status of food regulatory responsibilities. This was then complemented with a survey of 50 District Agricultural Development Officers (DADOs) and 50 District Livestock Officers (DLOs) conducted with the support of MoAD and MoLD between June-August of 2016. In order to gain a wide and representative perspective, the DADOs and DLOs were drawn from 50 randomly-selected districts from across all five of the current development regions, all seven provinces proposed in the Constitution, and all agro-ecological zones (see Figure 1).

Since Nepal is embarking on a pathway that has already been well-trodden by a number of other countries, comparative lessons were drawn from India, Indonesia, Kenya, Malaysia, and South Africa to highlight institutional innovations that could be adopted or, alternatively, pitfalls to avoid in this process. These case studies encompass either federal countries or unitary but highly decentralized countries. The motivations for greater devolution in these countries were either the end of colonial rule (India, Malaysia), transitions to democracy (Indonesia, South Africa), or political violence (Kenya). Collectively, these cases offer useful insights regarding how to manage the transition to a devolved context and particularly how to address potential trade-offs between five key objectives discussed earlier (i.e. authority, autonomy, accountability, incentives, and coordination).

Figure 1— DADO / DLO Survey Sample



Source: Authors' compilation.

Notes: The lines provide a rough indication of the provincial boundaries as set forth in the 2072 Constitution. Boundaries were still under consideration as of the writing of this report. The district and provincial boundaries used in this report are indicative only, and not a representation of official boundaries.

HOW WILL FEDERALISM AFFECT NEPAL'S AGRICULTURAL GOVERNANCE?

Nepal's 2072 Constitution stipulates a devolved, federal republic based on the creation of seven provinces that will replace the current five development regions. While the current 75 districts will remain, they will be the administrative unit for parliamentary constituencies rather than the unit for local government administration (See Schedule 4 of the Constitution). Instead, local level government will be represented by approximately 1,000 village or municipal development councils.

Moreover, the Constitution authorizes different tiers of government to assume control over different policy areas. However, it is not yet entirely clear what the enumerated powers mean for agricultural policy. According to Schedule 5 of the Constitution, only a few functions are reserved exclusively for the federal government, including major irrigations projects, national ecology and forestry management, land use policy, water use policy, and quarantine. Enumerated powers for provinces within the agricultural sector include provincial-level environmental and forest management and agriculture and livestock development (Schedule 6). Scientific research is listed as a concurrent power of provinces and federal government (Schedule 7). Local level governments are given exclusive power over farming and livestock, agriculture production management, livestock health, local roads, local irrigation projects, and management and control of agricultural extension (Schedule 8). However, agriculture as a whole is also listed as a concurrent function of federal, provincial, and local governments (Schedule 9), leaving relatively open which tier of government may ultimately gain authority over different aspects of agricultural policy. Typically, when there are concurrent functions, the principle of subsidiarity prevails, which means that the lowest government tier that is capable of performing the function should be given the mandate to do so.

Table 2: Constitutional Changes and Implications for Agriculture

Characteristic	Prior to 2072 Constitution	After 2072 Constitution*	Potential challenges for agriculture
Units of government	<ul style="list-style-type: none"> National, development regions (5), districts (75), VDCs (3915) and municipalities (58) 	<ul style="list-style-type: none"> National government, federal provinces (7), districts (75), local bodies (amalgam of current VDCs and municipalities) 	<ul style="list-style-type: none"> Human resource and financial capacity at the local body level may be insufficient
Administration of local bodies	<ul style="list-style-type: none"> Appointments by MoFALD of officials to administer local bodies 	<ul style="list-style-type: none"> Elections at the national, provincial, and local (VDC and municipality) levels District boundaries will be retained for parliamentary constituencies 	<ul style="list-style-type: none"> Potential disconnect between national agricultural priorities and those of locally-elected governments
Responsibility for agricultural functions	<ul style="list-style-type: none"> Agricultural policy development at national level and implementation at sub-national level Agricultural and livestock extension deconcentrated to DDCs through DADOs and DLOs 	<ul style="list-style-type: none"> Agricultural policy development and implementation at <i>both</i> national and sub-national levels Agricultural and livestock extension devolved to subnational government 	<ul style="list-style-type: none"> Different tiers of government have authority over different elements of agriculture, requiring high levels of horizontal and vertical coordination
Agricultural expenditures	<ul style="list-style-type: none"> Line ministries transfer resources to district staff via the DDC DDCs are given a block grant for agricultural spending 	<ul style="list-style-type: none"> Local government has greater autonomy over budgeting for, and spending on, agricultural priorities 	<ul style="list-style-type: none"> Agriculture may not be prioritized by local governments or communities, requiring attention to budgeting mechanisms
Staffing	<ul style="list-style-type: none"> Civil service staff at the national, provincial, and district level recruited through the National Public Service Commission 	<ul style="list-style-type: none"> Civil service staff at the provincial and local levels will be recruited through a Provincial Public Service Commission; Federal civil servants will continue to be recruited by the National Public Service Commission 	<ul style="list-style-type: none"> Difficult to find staff to move to remote rural areas without incentives Extension staff are responsible to local government but hired through the Provincial Public Service Commission, creating a disconnect between authority and accountability

Source: Authors' compilation.

Notes: * These are proposed changes that have not yet necessarily been implemented.

POLICY RECOMMENDATIONS

Based on the semi-structured interviews, DADO and DLO surveys, and comparative case study findings, a number of policy considerations are discussed here related to the five objectives outlined earlier, namely, authority, autonomy, accountability, incentives, and coordination.

Authority

When and where it has latitude, MoAD should **advocate for a staged transition of authority, based on a clear roadmap, with the opportunity for refinements along the way.** Authority for functions at the subnational level should therefore be transferred very gradually, avoiding the temptation to invert the balance in staff and responsibilities too quickly in order to show progress at reform. Taking this approach, however, requires clear public communication to assure newly-elected subnational leaders that an incremental approach is for efficiency purposes rather than a means of undermining the authority of local governments. Kenya's transition experience with devolution is instructive in this regard. Political expediency resulted in transferring too much authority simultaneously, and the National Treasury was unable to transfer funding in a timely manner for county governments to implement agricultural programs as anticipated. By contrast, one of the most important elements in Indonesia's shift from a highly centralized to a highly decentralized state was that the decentralization laws were reviewed after a period of 10 years, and the government remained flexible about making changes as needed.

With regards to specific areas of authority, **MoAD should oversee development of food quality control standards at the federal level while implementing quarantine and inspection functions at both the federal and provincial levels.** The new provincial ministries of agriculture should include a quarantine and pest control department when relevant, with inspections overseen at both the federal and provincial level. This is the model followed in India. Like Malaysia, standards for food safety and quarantine should be determined at the federal level and labs overseen by the federal government to ensure cohesion in testing and to consolidate scarce human and financial resources. In the long-term, Nepal's plan to establish a Food Quality Control Authority may remove these federal functions from MoAD and transfer them to an autonomous body.

Research, science, and technology are concurrent functions of the federation and the provincial governments in the new Constitution. The current thinking of the Nepal Agricultural Research Council (NARC) involves management of basic research and standards at the central level with verification experiments at the local level for region-specific crops. In implementing this approach, Nepal needs to avoid replicating more subnational institutions than can be adequately funded and capably staffed. A useful model is offered by Malaysia, a federal country with many diverse agro-ecological zones. Rather than establishing a research institute for every different agro-ecological zone present in every different state, and risk over-loading an already over-stretched agricultural research system, the Malaysian Agricultural Research and Development Institute (MARDI) just focuses on targeting agro-ecological zones. Similarly, **NARC could consider establishing "centers of excellence" for every agro-ecological zone rather than a research institute for all three agro-ecological zones in every new province.**

Autonomy

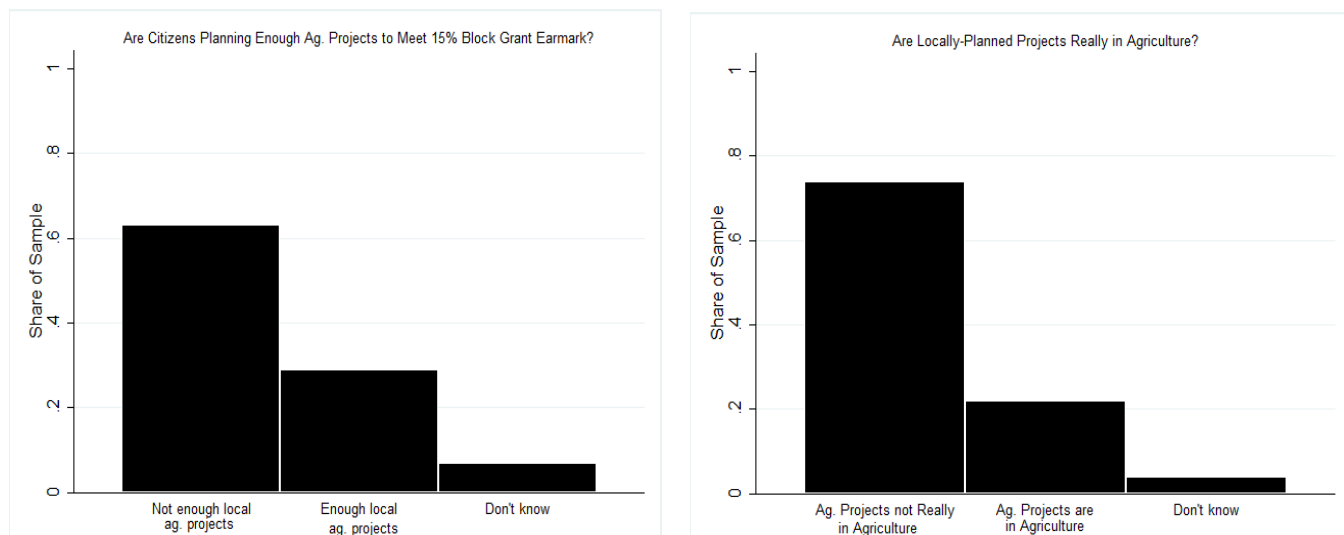
A common challenge observed across the country cases is that federalism or devolution can result in subnational governments receiving functional authority without autonomy, or their autonomy results in unintended consequences for development policy more broadly and agriculture in particular. These are also very serious concerns in the Nepali context. As such, one key guiding for MoAD is to **avoid imposing a uniform organizational structure on provincial departments of agriculture.** As per Nepal's Constitution, provinces will be responsible for agricultural development in their respective boundaries. While certain functions will need to be addressed, such as extension, research, and quarantine, provinces generally should have autonomy to structure Provincial Departments of Agriculture to suit local needs. In India, for example, State Departments of Agriculture do not replicate the structure of the Department of Agriculture at the federal level, which has 26 separate divisions. Likewise, in South Africa, Provincial Departments of Agriculture are structured to reflect the particular agro-ecology and rural development issues (e.g. land reform) of the specific province while nonetheless all retaining a sub-unit focused on communication and coordination with the federal ministry.

Autonomy is a specific concern for NARC under the federal transition process. Currently, the MoAD minister chairs the NARC executive council, which leads to high leadership turnover due to ministerial volatility. Instead, NARC could follow the example of South Africa, where the chair of the research council is a university professor. In terms of personnel, NARC should retain control over its own recruitment. While this is currently the case, the Constitution stipulates that any entity receiving more than 50 percent of government

funding will need to recruit through the Public Service Commission (PSC). This will severely curtail NARC’s ability to find high-quality specialists in agricultural and livestock science. Since dependence on government funding is one reason for this stipulation, diversification of funding sources is essential. One alternative is that the PSC establishes a specialized recruitment exam focused specifically on agricultural science, like in India. In other words, **NARC’s autonomy could be enhanced by making alterations to its governance structure, reconsidering federal requirements for recruitment, and diversifying financial sources.**

More broadly, **MoAD will need to stay vigilant of how greater fiscal autonomy for local governments in the wake of federalism may affect the prioritization of agriculture by local governments.** Currently, district development committees (DDCs) receive a block grant from the central government whereby 15 percent is earmarked for agriculture. However, Figure 3 shows that 63 percent of the surveyed DADOs report that not enough agricultural projects are planned locally to meet the earmark (see left panel). Moreover, of those that say that they do meet the earmarked amount, 74 percent admit that most of the planned projects are not necessarily agriculture per se but rather for roads and other infrastructure (see right panel).

Figure 2: Lack of Local Demand for Agricultural Projects



Source: DADO survey administered by IIDS and IFPRI.

Accountability

Greater autonomy for provincial and local governments combined with the re-introduction of local elections should enable greater vertical accountability, between citizens and their local governments, for both good and bad performance. Yet, with a dispersion of autonomous actors responsible for agricultural policy and services, lines of accountability across different government entities can be easily muddled. To address this challenge, one option includes **piloting service delivery units and performance contracts within MoAD to improve accountability based on identifying a few critical service delivery objectives from the Agricultural Development Strategy (ADS).** In countries such as Indonesia, Malaysia, and South Africa, service delivery units and performance contracts have been successful in setting national-level development priorities and developing metrics by which to measure agricultural service delivery within priority areas. A key part of the success has been creating metrics for successful service delivery beyond just “budget received” and “budget executed” and receiving frequent updates on these priority metrics so that bottlenecks can be addressed in real time. For each priority policy, a “responsible” ministry, department, or level of government can be identified that is held accountable for policy successes and failures.

Another priority for MoAD is to **address the existing disconnect between accountability and authority for agricultural extension elaborated in the new Constitution.** While Nepal’s Constitution stipulates that agricultural extension will be a responsibility of local government, extension workers will be recruited as civil servants under a provincial-level PSC. This reflects the current arrangement in India where a majority of extension workers are employees of state departments of agriculture or of the federal Indian Council of Agricultural Research (ICAR) structure. Even if Indian voters tried to hold local governments accountable for poor quality extension services, local governments lack the authority to hire and fire agricultural sector employees or to make significant changes in how extension services are conducted. It is difficult to imagine that the same outcome would not occur in Nepal under the new constitutional provisions.

Consequently, it would be useful to consider *ex-ante* a modality by which local governments will be able to convey extension agent performance to the provincial departments of agriculture in a meaningful way that would result in either sanctions or rewards for the agent accordingly by the provincial government.

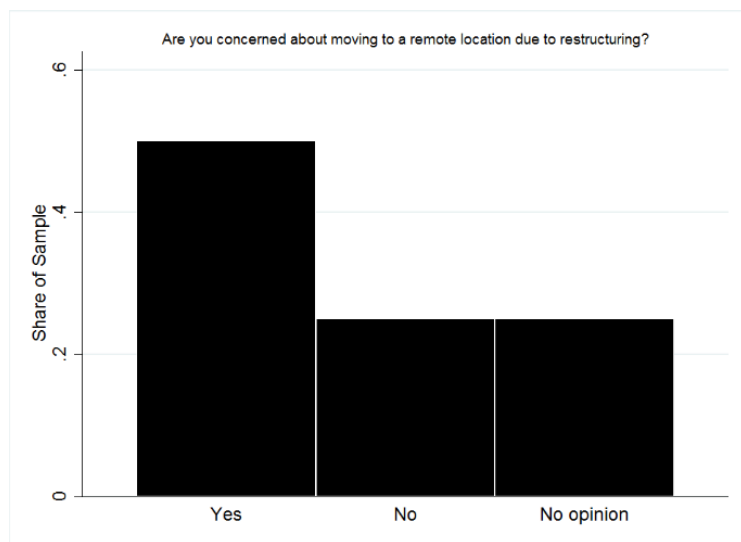
Incentives

Any type of public sector reform generates a large degree of uncertainty among civil servants, especially if very little information on the process is communicated to them in advance. Unfortunately, as much as 20 percent of surveyed DADOs and DLOs were not aware that MoAD would need to be restructured in the wake of federal reforms, and the share was as high as 40 percent in the mountainous agro-ecological zones. Implementing federalism can be especially unsettling because civil servants may still enjoy the benefits and status associated with working with the federal administration as compared to working with provinces or remote local governments.

Given these concerns, **MoAD should sequence the transfer of staff to prioritize local needs and existing civil servants before hiring additional staff to address remaining capacity constraints.** This prescription is derived from a number of cautionary tales of over-bloated civil services at the subnational level as a result of reforms. For instance, in Kenya, new counties have not yet absorbed the more than 4000 agricultural extension staff but have simultaneously recruited new staff. Likewise, in South Africa, the retention by provinces of supernumeraries from the apartheid era has meant that a disproportionate share of resources are spent on salaries rather than extension services.

A critical part of sequencing should involve according attention to **incentive packages to retain staff in remote locations** since DADOs and DLOs will become civil servants of provinces or local governments. Such incentives can include additional pay or extra educational and training opportunities. Another type of incentive was instrumental in the case of Indonesia when it transferred around 2.4 million civil servants from the center to local government units in wake of its decentralization reforms. Central government civil servants working in regions were given the option to either stay in the region in which they were currently employed or to return to their home districts, and relatively few chose to move, accepting their change in status from central government to local government employees. On the one hand, Figure 3 shows that almost half of the DADO/DLO sample reported that they are concerned about being re-located to a remote location during the restructuring process. On the other hand, around one-third of DADOs / DLOs either have no preference where they serve or would like to continue on in their current district. This suggests that a policy similar to that of Indonesia has some promise in Nepal to help in staff retention. It is also highly encouraging that one-quarter of DADOs and DLOs already report that they aspire to work in provincial-level line ministry offices, as opposed to federal-level ones, this early in the transition process.

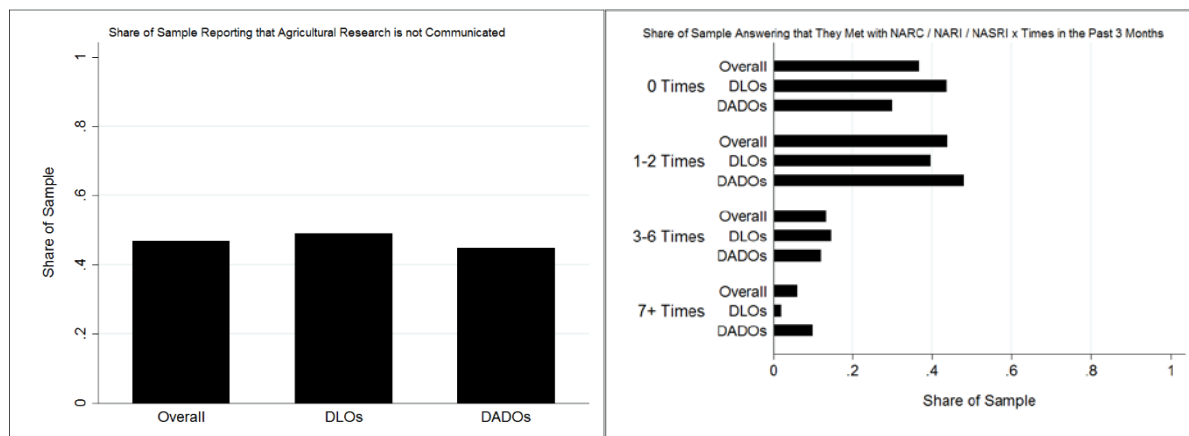
Figure 3: Concern about Moving to Remote Areas



Source: DADO / DLO Survey administered by IIDS and IFPRI.

Since the Constitution stipulates that research will occur at the federal and provincial levels while extension is devolved to the local level, it will be important that the restructuring process does not exacerbate already weak linkages between the research and extension communities in Nepal. Indeed, Figure 4 highlights that 46 percent of the DADO/DLO survey sample reported that lack of communication about existing agricultural research is a problem in their district. MoAD may be able to **incentivize staff to form closer linkages between research and extension through institutional mechanisms and/or mandated job requirements**. Institutional mechanisms are exhibited in India’s Krishi Vigyan Kendras (KVK) model of using frontline researchers in the field. Similarly, Indonesia’s Agricultural Institutes for Agricultural Technology (AIATs) are a useful model whereby federal research institutes pass on research findings to Indonesia’s regional research institutes. AIATs, in turn, are responsible for testing and adapting technologies to suit local conditions and training agricultural extension workers through regular trainings and workshops. Both Malaysia and South Africa provide examples of the mandated requirements whereby extension workers need to spend a share of their time learning about new technologies at regular intervals in order to retain their qualifications as extension officers.

Figure 4: Lack of Communication between Research and Extension



Source: Authors’ compilation from DADO / DLO Survey.

Notes: Exact question wording is as follows: Are any of the following challenges for agricultural research in your district? Agricultural research that is being conducted is not communicated well to me (Yes / No / Don’t Know). For second graph, question wording is: Please indicate how often you met with NARC, NARI, or NASRI during the past 3 months? (Never, 1-2 times, 3-6 times, 7+ times).

More competitive incentive packages should be particularly considered for NARC to retain high quality public agricultural research staff in the wake of restructuring. The uncertainty of public sector reforms, coupled by more competitive opportunities in the private or university settings, can dampen the morale of agricultural research staff and lead to staff attrition. This was one of the main lessons from South Africa’s experience with restructuring in the wake of federal reforms during the 1990s when more than 300 full time equivalent researchers defected from the Agricultural Research Council to university jobs over less than a decade. To the extent possible given that NARC staff will be now hired under the provincial PSC, consideration is needed of more promotional opportunities, rewarding good performance and publications, and tackling disproportionate differences in pay-scales with other research institutions.

Coordination

Greater autonomy for subnational governments, both provinces and local government, will create challenges for policy coordination that will affect agricultural policy formulation and implementation, agricultural research and extension oversight, and food safety regulation. One option is to **establish a service delivery unit or a vertical coordination unit within MoAD at the federal level**. A coordinating committee similar to the “MinMECs” model from South Africa could be adopted. MinMECs are when national ministers meet with the Ministerial Executive Councils of South Africa’s nine provinces (i.e. provincial cabinets) and with the South African Local Governance Association (SALGA). These MinMECs are critical for ensuring coherence *within* sectors across all levels. Horizontally, there are also Premiers’ Forums that focus on cooperation specifically across the provinces while the District Intergovernmental Forums and Intermunicipality Forums do the same at the local levels. In addition to augmenting accountability, service delivery units and performance contracts offer another useful model for facilitating both vertical and horizontal coordination, with the caveat that they derive their effectiveness in part from political leadership above the line ministry, usually from the office of the Prime Minister or President.

Even though extension will be primarily a local level function, it is important to ensure coordination across tiers so that extension workers have equivalent training across the country. To do so, **MoAD's Directorate of Agricultural Extension could prioritize standards, policies, and accreditation for extension workers at the federal level while Provincial Departments of Agriculture focus on training extension workers, facilitate information sharing among them, and coordinating district extension plans.** The Indian model of using district-level extension plans to create a state-level extension plan, which in turn becomes the basis for training extension workers, would be a viable option in the case of Nepal.

In addition, coordination will be essential in the area of food safety regulations. In the short-term, **a federal secretariat within MoAD should oversee coordination of food safety regulations across the new provinces until an autonomous food security authority can be established.** In countries such as South Africa, the lack of coordination in norms and standards across provinces on food safety has been a major challenge. Nepal will face a similar challenge as provinces establish their own policies on food regulation and have differential access to food imports and exports. To avoid confusion and endangering public health, a coordination mechanism is paramount. In the absence of a Food Quality Control or Food Safety Authority, which may be established in the long-term, MoAD could establish a similar mechanism to that of Kenya's National Food Safety Coordination Committee (NFSCC). Like the NFSCC, this could increase awareness about the impact of food safety and quality, coordinate all food safety activities in the country, and initiate the revision and harmonization of all the relevant Acts of Parliament. Such a committee could be established after existing revisions of Nepal's food safety policy are adopted into law.

Finally, in the area of research, **NARC should be empowered to establish strong coordinating mechanisms across provinces to ensure policy coherence, oversight, and dissemination of research findings across provinces that share similar agro-ecological zones.** This is especially true if the "centers of excellence" approach is adopted. Similar to the All India Coordinated Research Projects led by ICAR in India, NARC should also ensure that resources are directed to important commodities at the provincial level.

CONCLUSIONS

Nepal is considerably smaller than most countries that have adopted a federal structure, both in terms of population and in terms of land area, and this implies that the transition from a unitary to a federal country will need to be carefully managed to ensure that agricultural and other development services are not compromised during the process. Nevertheless, the transition also offers a unique opportunity to improve the enabling environment for agricultural policy planning and implementation as long as all critical stakeholders are kept informed and engaged throughout the process.

Nepal's strong history with local governance and decentralization will facilitate its adaptation to the new federal structure. Experience for more than decade with planning local agricultural development projects has given citizens experience with articulating demands for local agricultural development priorities. Thus, the experience of both the government and the citizens of Nepal with participatory planning will make the transition into a federal system with more demand-based agricultural services easier than if these institutional frameworks and processes had not existed.

FURTHER READINGS

Government of Nepal. 2015. The Constitution of Nepal.

Kyle, Jordan and Danielle Resnick. 2016. [“Nepal’s 2072 Federal Constitution: Implications for the Governance of the Agricultural Sector.”](#) IFPRI Discussion Paper No.1589. Washington, DC: International Food Policy Research Institute.

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