



Research Article

Analysis of Good Governance in Land Acquisition and Compensation for Road Development in Nepal

Samsul Haque Ansari^{1,*} , Subash Ghimire² 

¹Survey Department, Government of Nepal, Kathmandu, Nepal

²Department of Civil and Geomatics Engineering, School of Engineering, Kathmandu University, Dhulikhel, Nepal

Abstract

This study delves into the intricate landscape of good governance within the realm of land acquisition and compensation processes for road development projects in Nepal, a pertinent issue given the global trend of forced displacement due to infrastructure development. Land acquisition, a process empowering public authorities to acquire land for public projects, often intersects with governance principles. Governance, characterized by participatory decision-making and accountability, ensures equitable distribution of benefits from land and resources. In the context of land acquisition, good governance upholds principles such as transparency, efficiency, and the rule of law. However, challenges persist in actualizing these principles, as evidenced by discrepancies between compensation rates and market values, opaque procedures, and delays in compensation disbursement. Drawing on empirical data from the Kathmandu Terai, Madhesh Fast Track Road Project (KTFTRP), this study reveals shortcomings in governance, including limited participation, lack of transparency, and inefficiency in compensation processes. Findings underscore the need for reforms to align land acquisition practices with principles of good governance, ensuring fair compensation, transparency, and efficiency. This study contributes to the discourse on governance reform and sustainable infrastructure development, offering insights for policymakers and practitioners in Nepal and beyond.

Keywords

Land Acquisition, Compensation, Good Land Governance, Transparency

1. Introduction

Nearly 10 million people have been forcibly displaced every year worldwide due to infrastructure development projects such as roads and dams. For these people, development has lost their homes, livelihoods, and health [1]. In India, more than 20 million people were forcefully displaced by development projects between 1950 and 1980. Out of these, 15 million people ended up worse off than before acquisition [2].

Land acquisition is a process in which a public authority, in

return for compensation, needs a person, household, or community to surrender rights to land that it occupies [3]. In such cases, to acquire the land when and where needed, the government uses its power of compulsory acquisition. This power compels owners to sell their land so that it can be used for public purposes such as roads and parks [4]. Compensation is the money or payment in kind to which the people affected are entitled to replace the lost asset, resource, or income [5]. Governance means the process of deci-

*Corresponding author: ansarisamsulhaque786@gmail.com (Samsul Haque Ansari)

Received: 21 April 2024; **Accepted:** 8 May 2024; **Published:** 24 May 2024



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sion-making and the process by which this decision is implemented [6]. “Governance is concerned with the processes by which citizens participate in decision-making, how the government is accountable to its citizens, and how society obliges its members to observe its rules and laws” [7]. However, FAO has defined land governance as “Land governance concerns the rules, processes, and structures through which decisions are made about access to and its use, how the decisions are implemented and enforced, and the way that competing interests in land are managed.” In good governance, profits from land and natural resources are reliably achieved, and profits are equitably distributed. When good governance is achieved, decision-making is more transparent and participatory, the rule of law is applied equally to all, and most disputes are resolved before they degenerate into conflict [7, 8]. Good governance in land administration protects the rights of property for individuals, and enterprises along with the state by introducing principles such as transparency, accountability, rule of law, equity, participation, and effectiveness into land-related public-sector management [9]. According to [4], the main principles of good governance on compulsory land acquisition should include the rule of law, participation, transparency, efficiency, and effectiveness. The government should guarantee that the planning and process for land acquisition are transparent and participatory [10]. “Transparent recruitment of staff, transparent service standards, and costs of services will contribute to higher efficiency, accountability, fairness, and confidence in agency integrity” [9]. Good governance needs fair legal frameworks enforced impartially. It also involves full protection of human rights, particularly those of minorities [6]. The government should fix a fair valuation and quick compensation by national law. Evictions and relocation should not result in affected people being left homeless or helpless due to the violation of human rights. For efficient service; service procedures should be short and simple. The fewer number of steps in service gives less opportunity for informal payments. Hence, the procedure for payment of compensation should be short and simple. The effectiveness of land administration depends on capacity building, financial provision, socio-political will, commitment, and political stability [9].

The rate of compensation for land acquisition should be at full replacement cost [5, 11-13]. Replacement costs for lost land or assets are equal to market costs plus transaction costs if the market shows reliable information about the prices of lost land and assets [3, 5, 14]. However, in practice, the rate of compensation for land acquisition by the state is much lower than the market price of land acquired [4, 5, 11]. Inadequacy or lack of compensation is the main cause of opposition and delays in land acquisition by affected landowners [15]. Not

only this, some of the infrastructure development projects are rejected in the operation phase due to struggles caused by landowners with lower cash compensation than the market price of land such as the new airport project for Mexico City in 2002. In this project, landowners rejected an offer of 700% increased value in cash-based compensation by the government authority [1, 15].

This process of compulsory land acquisition carries tension for affected families whose land is acquired. Unfair procedures of this land acquisition, such as delayed payment of compensation and inequitable compensation, can reduce tenure security, and harm public faith and confidence in government and rule of law. When this process is done poorly it may leave affected people homeless, farmless, and jobless with a feeling that they suffered serious injustice. Appeals against unfair procedures may delay the project and increase project costs that exceed previously estimated costs [4]. The land acquisition for facilities and infrastructure requires a legal resettlement policy according to the project. However, only a few countries have clear laws, procedures, policies, and institutes that can operate land acquisition efficiently [11, 12].

2. Objectives of the Study

The main objective of this study is to analyze good governance in compensation for land acquisition in road development. The sub-objectives are: To review the trends and practices of private land acquisition and compensation for road development and analyze current land acquisition and compensation for road development in reference to good land governance.

3. Material and Methods

The desk and case study have been carried out for this research. The literature such as journal papers, conference proceedings, reports, etc. are reviewed and shown in the reference section. The case study selected for this research was the Kathmandu Terai, Madhesh Fast Track Road Project (KTFRP). The study area was VDC Chatiwan, which lies in Makwanpur district through which this road passes. It's map has been presented in figure 1. This section of road through VDC Chatiwan has been selected as all types of land, agricultural, residential, garden, and houses have been acquired along the strip of road. Also, owners with land and houses acquired wholly and partially along KTFRP road live in this village. This road project has been chosen as it is a project of special importance for Nepal in terms of its size and costs.

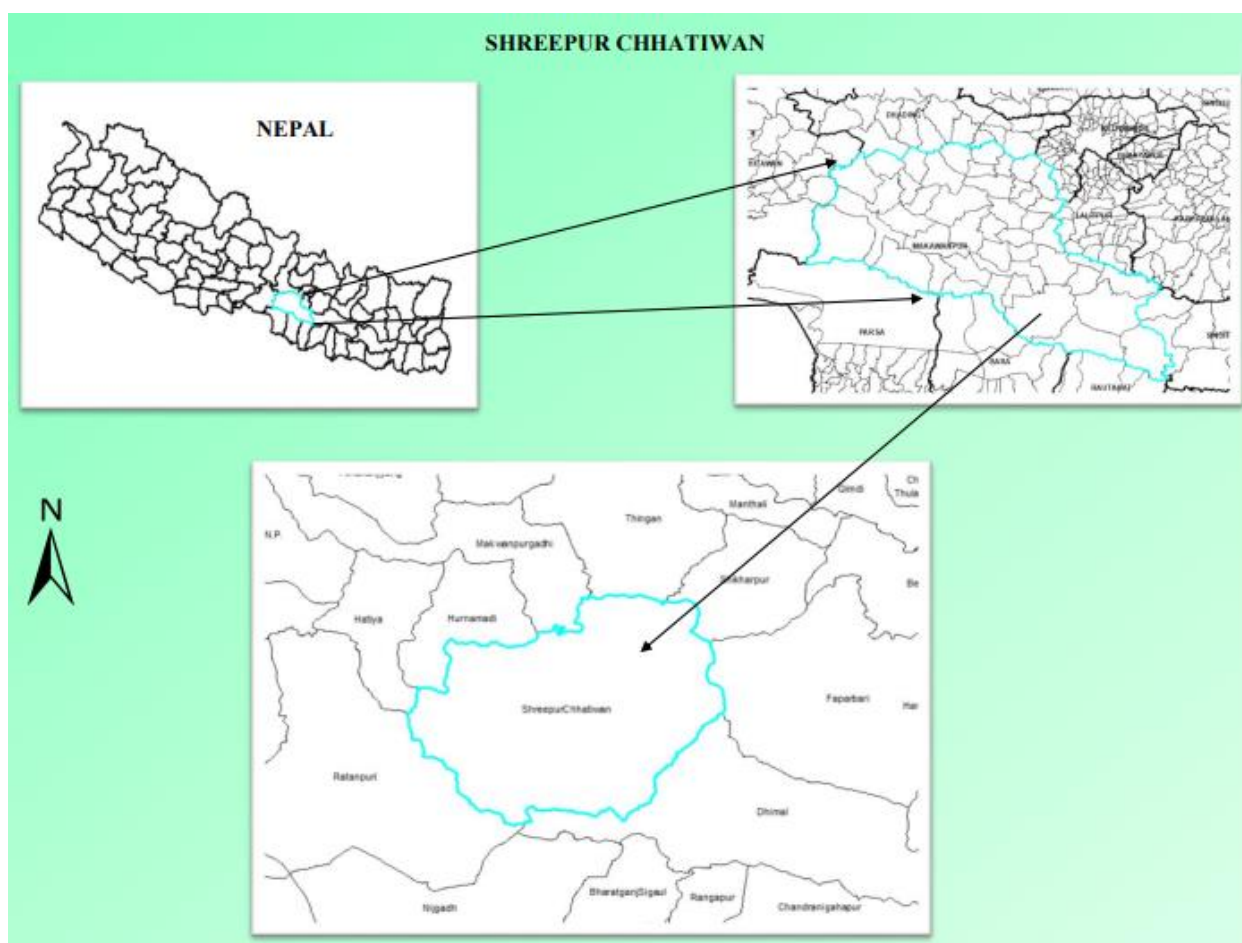


Figure 1. Shows map of Study Area.

Till now planning, designing, field demarcation and compensation for land acquired along roads for most of the villages except some VDC's near Kathmandu is nearly complete. Therefore, land acquisition procedure, compensation, and people's expectations about compensation can be assessed easily. Both primary and secondary type data were collected for this research during field visits. primary data was collected

through questionnaires with land owners, interviews with experts, news reporters, and officials involved. Table 1 shows the numbers of respondents for primary data collection. In desk search secondary data like literature, and official reports, legal documents about land acquisition, and compensation were gathered to provide context to the study.

Table 1. Showing number of respondents selected for primary data collection.

| Respondents | Households | Government Officials | Experts / Academia | Community Leaders / Civil Society |
|-------------|------------|----------------------|--------------------|-----------------------------------|
| Numbers | 50 | 8 | 4 | 3 |

4. Results and Analysis

The results and analysis are discussed in the following subsections.

4.1. Participation

When asked whether they know about the participation of land-owners or their representation in the process of valuation for compensation for land acquisition, 74% of respondents

answered yes, 12% no, and 14% were not sure (figure 2). This showed that there was participation of affected landowners in the valuation of land and other assets during the working operation of land acquisition. In the focus group discussion, it has been observed that no public participation is arranged and

people's views are considered during the planning and management phase. Local people came to know about this project of road for the first time when the alignment of the road was being fixed in the ground.

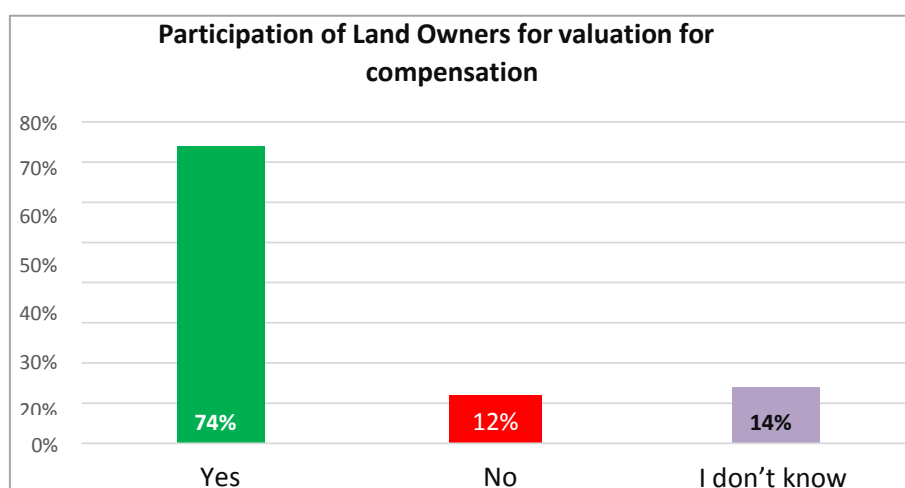


Figure 2. Shows land owners view on participation for valuation.

4.2. Transparency

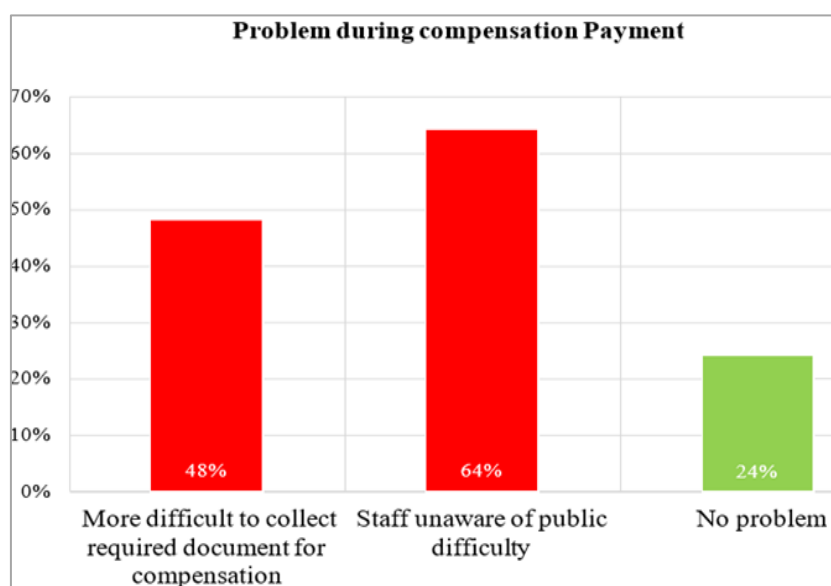


Figure 3. Shows people's views on problems faced during compensation payment.

On asking, which type of problem did you face during the procedure of compensation? 48% reported that it was more difficult to collect documents for compensation, 64% claimed that staff were unaware of public difficulty and only 24% reported that there was no problem in the process (figure 3). No information desk was established on the project site. This shows that during the operational phase, the official steps

were less transparent. During focus group discussions it has been observed that the local land owners knew about the road project during the implementation stage when staff were fixing road alignment in the ground. This shows that there is no access to information with proper media about the importance of the project during the planning and management phase of the project. No information desk has been established at the

local level to explain the rules and regulations of land acquisition and compensation for the project. The document collection and payment of compensation is carried out in the district administration office but no staff has been appointed for this work in the office and staff working for this also have to see other works in the office. The staff that were involved in the payment of compensation seemed very irresponsible toward public difficulty and their duty. In an interview with a local newspaper journalist (Sandesh Dainik), it was known that many times issues of difficulties for compensation and corruption in the process have arisen.

4.3. Rule of Law

When asked to whom access to information was easier, it was found that 92% of the respondents answered that access to information about projects and land acquisition was easier for community leaders, and experts' groups only, 8% of the respondents agreed that it was easier for all people (figure 4).

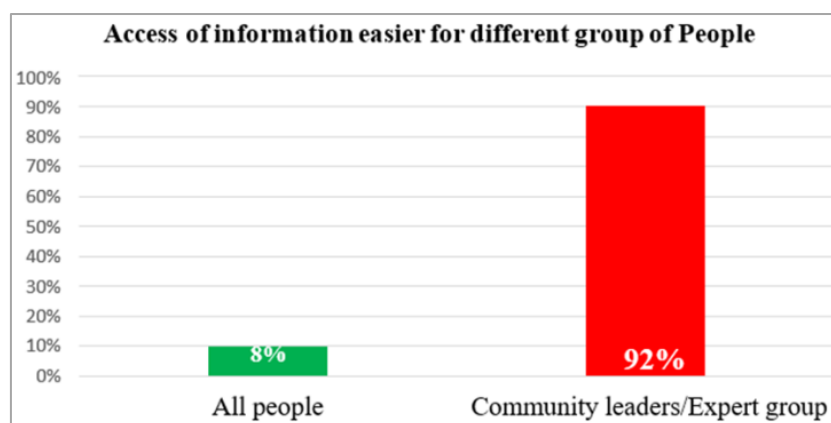


Figure 4. Shows people's views on problems faced during compensation payment.

4.4. Efficiency and Effectiveness

Regarding efficiency in the process of land acquisition, it is necessary to know whether a simple and short procedure of land acquisition and compensation has been adopted for affected landowners by the acquiring agency or not. When asked how complex and time-consuming were official steps for the compensation for land-owners, 90% of respondents commented that it was very complex and time-consuming, 8% of respondents answered it was easier for landowners and 2% said that they didn't know (figure 5). In the focus group discussion and field observation, it has been known that the procedure of compensation is very lengthy, complex, and incomplete. Four years before compensation for land acquired has been paid but till now no valuation for houses and trees to be acquired has been done. The whole process of land acquisition

Also, during the focus group discussion, it was known that no payment of compensation for houses and other assets like trees has been made while compensation for land was given four years ago. No valuation for compensation for houses has been carried out till now and they have to live in their houses till valuation. An earthquake with high strength has damaged most of the houses and they cannot repair these houses as these lie along the main route and one day they have left this house. In these circumstances, there is avoidance of their human right by acquiring authority for these local peoples. Based on interviews with experts, the acquiring authority should treat equally for all levels of people based on existing laws and regulations. On asked about the main reason for the avoidance of human rights the officials at different levels did not respond. But officials like the Chief district officer and that of the project office of KTFTRP argued that authority has also included owners with no titles to land for payment of compensation.

sition was to be completed in the year 2009 and the track should be constructed in the year 2016 (source: Kantipur News Daily). But till now land acquisition is running slowly. Regarding the effectiveness of the project as the land acquisition is delayed the amount for compensation will also be increased and hence it will increase the budget for the completion of land acquisition and this is an unnecessary expense of financial resources. From an interview with an official of KTFTRP, it is known that during the procedure of land acquisition, no single office or ministry was involved in this project. Different tasks are performed in different government offices in these offices the employees have a lot of other work to be done, so the work for this land acquisition may not be considered to be performed in the estimated time. Sometimes the project work is delayed yearly in such offices. Also, there is a lack of coordination. This shows that the process of land acquisition is not efficient and effective.

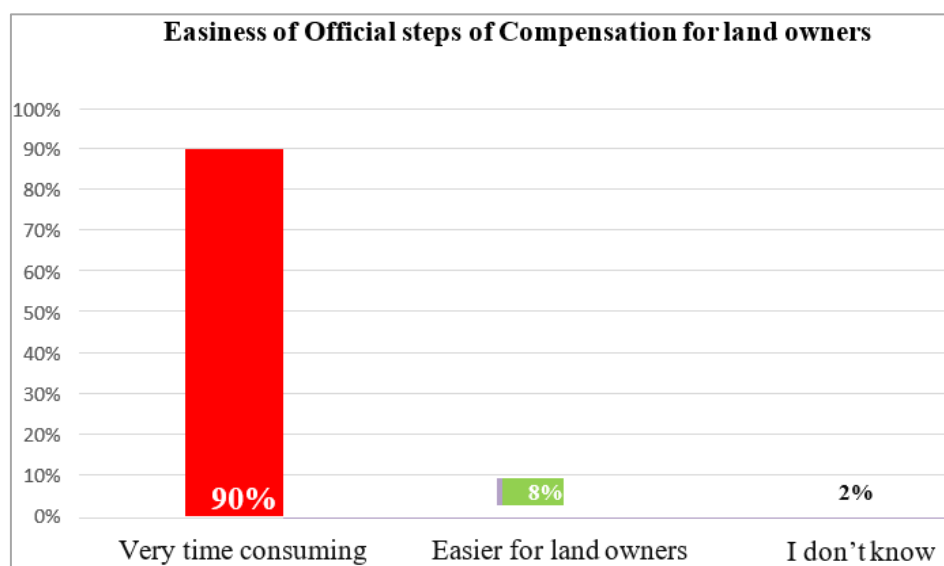


Figure 5. Shows how complex and time-consuming were official steps for the compensation for land-owners.

4.5. Valuation for Compensation

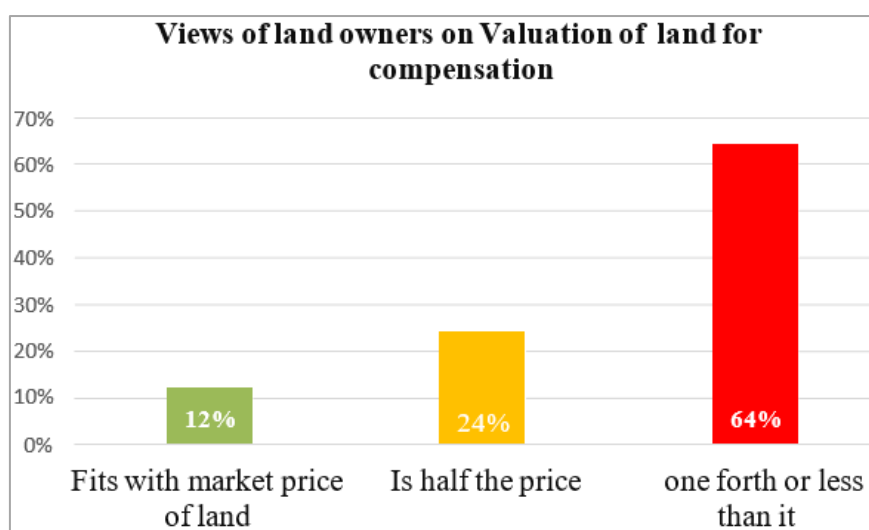


Figure 6. Shows people's opinions on how much the compensation provided fits with the market price of their land.

It is the most important part of the process of land acquisition. The valuation should be fixed at full replacement cost but was the valuation of land fixed by the compensation fixing committee fair or not, it's a prime important question. When respondents were asked about their opinion of how much the compensation provided fitted with the market price of their land, 64% of respondents said it was one-fourth or less, 24% said it was half and only 12% of them said it fitted with the market price of land (figure 6). Hence, the compensation paid was not the full replacement cost of the land acquired, but it was much lower than it and hence it will make the livelihood of affected people worse than before the land acquisition. In interviews with experts, they expressed that there is a lack of

scientific valuation for land and property. The same land and property have a low valuation for registration purposes, some higher valuation for banking purposes and the actual market price for buying and selling purposes is higher than all other values. Hence there should be scientific valuation that suits all purposes. They also explained that the valuation should be done in negotiation with affected landowners. In an interview with the Chief District Officer, it is known that in practice negotiation with civil society and party members as representatives of affected land owners has been involved during valuation for compensation.

5. Conclusions

The study found that the land acquisition process in the Kathmandu Terai, Madhesh Fast Track Road Project (KTFTRP) faced several challenges, including inadequate compensation for landowners, lack of transparency, rule of law, efficiency, and effectiveness in the compensation process, for affected communities. Time-consuming and complex legal procedures, access to information easier for community leaders and expert groups only and staff unaware of public difficulty made the process of compensation the act of the curse for affected owners. No information desk was established for land acquisition and payment of compensation at the project site. Access to information about projects and land acquisition was easier for community leaders and expert groups, but not for all people. The efficiency and effectiveness of the process were weak, as affected owners felt that it was very complex and time-consuming. Also, due to delayed land acquisition construction costs will be increased and an unnecessary expanse of financial resources has to be made. This ultimately decreased the effectiveness of the procedure. The valuation for compensation should be fixed at full replacement cost, but in practice, it was less than one-fourth the market price of land.

Abbreviations

| | |
|--------|---|
| KTFTRP | Kathmandu Terai, Madhesh Fast Track Road Project |
| VDC | Village Development Committee |
| CDO | Chief District Officer |
| FAO | Food and Agriculture Organization of the United Nations |

Author Contributions

Samsul Haque Ansari: Conceptualization, Data curation, Formal Analysis, Funding acquisition, Investigation, Methodology, Project administration, Resources, Writing – original draft

Subash Ghimire: Supervision, Writing – review & editing

Data Availability Statement

The data is available from the corresponding author upon reasonable request.

Conflicts of Interest

The authors declare no conflicts of interest.

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Biography



Samsul Haque Ansari has been working as a survey officer in survey department of Nepal. He has been working in this field of surveying and mapping since 1996. He has completed his master's degree in land administration in Kathmandu University Nepal and has completed bachelor of science with physics and math at from Tribhuvan University. His current job is to verify maps and survey documents prepared by surveyors. He is also owner of a you tube channel Ansari Science <https://www.youtube.com/@ANSARISCIENCE> where he discusses different aspects and issues of surveying and mapping and also teaches courses for basic surveyors to bachelor level students.