

# Potential for Conflict

Community Forestry and  
Decentralisation Legislation in Nepal



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# **POTENTIAL FOR CONFLICT**

## **COMMUNITY FORESTRY AND DECENTRALISATION LEGISLATION IN NEPAL**

Narayan Belbase  
and  
Dhrubesh Chandra Regmi

February 2002  
International Centre for Integrated Mountain Development (ICIMOD)  
Kathmandu, Nepal

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**Published by**

International Centre for Integrated Mountain Development  
G.P.O. Box 3226  
Kathmandu, Nepal

**ISBN 92 9115 460 1****Editorial Team**

A.B. Murray Shrestha (Editor)  
Rosemary Thapa (Consultant Editor)  
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**Printed and bound in Nepal by**

Quality Printers Pvt. Ltd  
Kathmandu

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# Preface

The way in which Nepal's forests and other natural resources are managed is profoundly important for the well being of the people, given that a large portion of the population depend on the forests in their day-to-day life. It is now well recognised, that to ensure sustainable forest management the people most closely concerned — the forest users – must be actively involved and able to take decisions, carry out tasks, and also benefit. There has been progressive legislation in Nepal over the past decade designed to achieve this, in particular the Forest Act of 1993 with its focus on community forestry and handing over forest to user groups. However, 'decentralisation', the devolution of powers to local communities, is not just important for forestry, it is an approach being used for a whole range of management tasks in communities. The Local Self-Governance Act of 1998, which replaced three earlier local government acts, aimed to involve local people to the maximum extent in the development process. Under this act, local elected government bodies have powers and functions (and responsibilities) over eleven broad areas including such things agriculture, irrigation, soil erosion management – and 'forest and environment'.

The inclusion of local level authority over forests in different ways in there two acts opens up an area of contradiction and is a potential source of conflict. There are similar contradictions in the provisions of other acts like the Nepal Mines Act 1966 and the Soil and Watershed Conservation Act 1982, although these are possibly not as grave as the contradictions between the Forestry Act and the Local Self Governance Act.

ICIMOD, through its Natural Resources Division, has taken an active interest over the past years in the introduction of community forestry in various forms in countries across the Hindu Kush-Himaklayan region, and its contribution to enabling more sustainable use and management of natural resources. We have endeavoured to collect and disseminate information about different practices and to bring different groups together to exchange views and to develop partnerships that contribute to the success of community forestry. Community forestry has been particularly successful in Nepal, and we are concerned that this success should not be threatened by conflicts that simply arise form a lack of clarity in the legal provisions. For this reason, we are very happy to be able to publish this paper by two distinguished experts on environmental law, with a clear academically precise summary of the situation, and suggestions on the changes needed to ensure clarity in the provisions. It is a thought provoking document, and we hope it will stimulate discussion –and action – that will help facilitate the smooth working of the community forestry programme in Nepal.

Anupam Bhatia

# Executive Summary

Over the past decade, the Government of Nepal has passed progressive legislation regarding decentralisation and the devolution of powers to local communities. These include the Forest Act of 1993 and the Local Self Governance Act of 1998 (LSGA). The following paper analyses the provisions of these Acts regarding the management and development of forest resources. It also considers legal provisions pertaining to other natural resources. In addition, the difficulties inherent in each Act and overlapping provisions between them are examined.

Community forestry, through which forest resources are developed and managed with the active participation of local forest user groups (FUGs), forms a major part of the Forest Act. However, in giving certain powers over forests and the environment to village development committees (VDCs), the lowest tier of local government, the LSGA opens up an area of contradiction and possibly conflict between these two institutions. VDCs, as elected bodies, have a broader mandate than FUGs, and could potentially seek to manage their own community forests or have local FUGs under their own control.

The paper makes several recommendations on how to improve the community forestry programme, and suggests the development of a legal framework to reduce the adverse effects of contradictions in sectoral legislation. The authors emphasise the need for consultation and serious dialogue between FUGs and local, elected institutions to address the concerns of local government, at the same time as maintaining the autonomy, powers, and functions of the FUGs.

# Acknowledgements

The authors wish to express their gratitude to Dr. Pralhad Yonzon, Dr. K.R. Panday, Dr. K.K. Panday, Mr. Krishna B. Shrestha, Mr. Hari P. Neupane, Mr. Khagendra Sigdel, Mr. Nick Roche and Mr. Anupam Bhatia for the valuable suggestions so generously provided during the preparation of this paper.

# Acronyms and Abbreviations

BZMR	Buffer Zone Management Regulations
CBO	community based organisation
CF	community forest
CFUG	community forest user group
DC	district council
DDC	district development committee
DDCA	District Development Committee Act
DFO	district forest officer
DLSG	decentralisation and local self governance
DoF	Department of Forests
DSCWM	Department of Soil Conservation and Watershed Management
DWRC	district water resources committee
DWSO	district water supply office
FA	Forest Act
FUG	forest user group
HLDCC	High Level Decentralisation Coordination Committee
HMGN	His Majesty's Government of Nepal
LSGA	Local Self-Governance Act
MFSC	Ministry of Forest and Soil Conservation
MPFS	Master Plan for the Forestry Sector
NGO	non-governmental organisation
NPC	National Planning Commission
NPWCA	National Parks and Wildlife Conservation Act
SWCA	Soil and Watershed Conservation Act
UA	users association
UC	users committee
UG	user group
VC	village council
VDC	village development committee
VDCA	Village Development Committee Act
WCO	watershed conservation officer
WRA	Water Resources Act
WRR	Water Resources Regulations
WUA	water users association

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