

# one historical overview

Over the centuries, local hill farmers in Nepal have established their own systems for managing local forests. These systems involved locally accepted rules, through which a clearly defined group of beneficiaries regularised forest use and excluded outsiders (Shrestha 1996). Such rural communities often kept a patch of forest as 'rani ban' (queen's forest). The use of such forest was permitted only for a few months each year, and the rest of the time it was left undisturbed to regenerate. This may be the practice that has evolved into Nepal's current community forestry system.

The rani bans were strictly indigenous. Breaches of the villages' set codes of conduct were punishable, and other villages in the locality were likely to have honoured the designation of a forest as rani ban. Today, many communities in Nepal's hills still manage their forests successfully, irrespective of laws and ownership (Joshi 1997).

Before 1957, the state exercised little control over the forests, and with the virtual absence of state regulation and control, local villagers themselves controlled forest use. Because the future of the forests was never considered, the question of incentives to regulate forest consumption and invest in forest resources did not arise (Palit 1996). The local population collected what it needed from the forest without paying any fees, and in return bestowed a gift ('theke') on the village functionary (Mahat et al. 1986).

In 1957, His Majesty's Government of Nepal (HMGN) enacted the Private Forest Nationalisation Act to nationalise all forests in an effort to prevent their destruction. Misperceiving the basis for the problem of countrywide deforestation, this Act inadvertently transformed all forestry activities into a constabulary. Indigenous communities' forests were appropriated and their traditional rights taken away. Villagers reacted angrily to nationalisation, fearing it would curtail their customary rights of access and use. The Act offered no compensation for soon-to-be deprived landowners, so many purposely deforested their holdings to avoid nationalisation (Khadka and Gurung 1990). Communal responsibility for forest management disappeared. Forests were converted into open access areas as a common property resource, with the communities having no stake in forest preservation. At the time of nationalisation, however, the state was unable to protect and manage the country's forests as it lacked the necessary institutional capacity (Palit 1996).

The Forest Act of 1961 entrusted administration and control of the forests to the state. The Act defined forest categories and covered the description, registration, and demarcation of forests. It also defined the duties of the Department of Forests (DoF), listed forest offences, and

prescribed penalties (Mahat et al. 1986). The Act sought to restore governmental control over what was now seen as the national forest patrimony by transferring some state-owned forests to the local level, while formalising village panchayat usufruct<sup>1</sup> rights over others (Talbot and Khadka 1994).

By the mid-1970s, policy-makers realised that the participation of local people was essential for the effective management of local forests. In 1975, the government sponsored a forestry management conference in Kathmandu. Forest officers from across the country met with senior officials of the DoF and related ministries in a 3-day meeting that stretched to 23 days, an indication of the issue's importance. As a result of the conference, the involvement of non-government organisations (NGOs) working in the forestry sector greatly increased. (Talbot and Khadka 1994).

The meeting was followed by a series of legislative enactments that brought Nepal incrementally closer to its current emphasis on community forestry. The National Forestry Plan of 1976 explicitly recognised the important role local communities play in managing forest resources. The 1977 and 1978 amendments of the Forest Act of 1961 categorised Nepal's forests into national, panchayat, panchayat protected, religious, leasehold, and private forests. The amendments provided for vesting forest protection in the 'panchayat', the lowest level of the political body, in the form of panchayat forests and panchayat protected forests, but not for vesting such protection in a forest user group (Kanel 1993). The Panchayat Forest Rules of 1978, the Panchayat Protected Forest Rules of 1978, and the Leasehold Forestry Rule of 1978 made some effort to mitigate the negative effects of the Private Forest Nationalisation Act of 1957, especially the disincentive to manage resources in a sustainable manner.

Success was limited, however, and the area of forest that was handed over represented only a small fraction of the total forest area, more of which was further degraded or lost during these years. A major reason for the disappointing results was the impractical nature of the rules, which failed to create an environment for the full participation of all users. They did not provide a clear procedure for the transfer of authority for the protection, management, and utilisation of forests to the real users (DoF 1997). The local political body was too large a unit to develop a genuine capacity to supervise and manage local forests. This failure is amply demonstrated by the decrease in forest area from 6.5 million hectares (ha) in 1965 to 5.5 million ha in 1990 (Shrestha 1996).

## Master Plan for the Forestry Sector 1988

The forest sector policy of the government, first declared in the Sixth Five-Year Plan (1980-1985), emphasised community participation in the management, conservation, and use of forest resources. The Seventh Five-Year Plan (1985-1990) reiterated the need to 'hand over' government forests to the community. HMGN recognised the need to frame a policy that would provide a comprehensive framework for the systematic development of the entire forestry sector.

In 1986, the government initiated a formal review of forest policy that culminated in the Master Plan for the Forestry Sector 1988 (MPFS). The MPFS provided a policy background and planning strategy for forestry by setting medium- and long-term objectives into the next century (Palit 1996). The MPFS objectives are to meet people's basic needs for fuelwood, timber, fodder and other forest products on a sustained basis, and to promote people's

<sup>1</sup> The right to enjoy the use of and income from another's property; in the Himalayan region used to mean the benefits themselves (the income and produce)

participation in the development, management, and conservation of forestry resources (MPFS 1988). The third objective of the plan is to work towards community management of the country's forests.

The plan states that: "The principles of the decentralisation policy will be applied to the forestry sector by community forestry, which will have priority among other forest management strategies. Priority will be given to poorer communities, or to the poorer people in a community. If the availability of forestland exceeds the needs of the local communities, the excess will be allocated for forest management in the following priority sequence: people living below the poverty line, small farmers, and forest-based industries" (MPFS 1988).

The MPFS equally addresses the issue of women's participation by stipulating in its guidelines that one-third of any user committee's members should be women. The MPFS institutionalised the programme approach, introducing six major forestry sector programmes. Among the six, the Community and Private Forestry Programme is the largest (DoF 1997). Its policy supports the development and management of forest resources through the active participation of individuals and communities to meet their basic needs, and embarks on the phased handing over of all accessible hill forests to communities, to the extent that they are able and willing to manage them.

Following changes in the political system in 1990, the community forestry regulations were revised. As a result, it is now possible to hand over a particular forest to a user group (UG) for its management and use rather than to any political unit. The district forest officer (DFO) can form and hand over forests to UGs and provide technical assistance. The cost of developing community forests is partly subsidised by the government, although all tangible benefits derived from such development go to the UGs. Most development costs, however, are borne by the community.

## Decentralisation Initiatives

Almost simultaneous with the development of community forestry policy in Nepal was an initiative towards decentralisation. Nepal's decentralisation policy evolved through different stages from 1965, emerging as the Decentralisation Act in 1983. The Decentralisation Plan of 1965 had four fundamental goals and objectives (Shrestha, 1997):

- mobilisation of local resources for economic development,
- growth of local leadership,
- democratisation of the administration, and
- enhancement of efficiency and effectiveness in administration.

The Act sought to enhance the government's outreach capacity by making use of the panchayat system and by strengthening the institutional capacities of local beneficiaries. It also gave local people control over local forest management with the help of government foresters, who were to serve as advisors and consultants.

The Decentralisation Act of 1983 represented an important milestone in the government's campaign to surrender resource management to local communities. This mission was established in the preamble to the Act:

"... it is expedient to decentralise authority in order to enable the people to take decisions and make arrangements themselves in matters relating to their day-to-day needs."

The Decentralisation Act specifically promoted the UG concept as the most effective approach to the development and management of natural resources in local communities and set the tone of legislative development in Nepal, particularly with regard to the government's willingness to devolve authority to the local level. Political sceptics however, saw the Act (especially its first amendment) as the national government's attempt to secure power by increasing the access of local political elites to development largesse. This Act became virtually defunct after the restoration of multi-party democracy, the promulgation of the Constitution of the Kingdom of Nepal in 1990 and the enactment of local government related legislation, and was repealed after the Local Self-Governance Act 1998 was passed (LSGA Section 270[1]).

To give impetus to the government's decentralisation initiative, a High Level Decentralisation Coordination Committee (HLDC) was established in April 1996 under the chairpersonship of the prime minister. The committee's report, 'Decentralisation and Local Self-Governance' (DLSG), was made public. Its principal policies relating to decentralisation are as follow.

- To work towards participatory development and decision-making approaches at the local level
- To mobilise resources at the local level
- To institutionalise local self-governing institutions
- To make employees involved in local development responsible and accountable to the local people and local self-governing institutions
- To develop and use local technology and skill, mobilising user groups and NGOs
- To bring women and backward communities/ethnic groups into the mainstream of development
- To facilitate programmatic integration and coordination at the local level

The report also stated that contradictory provisions in the Forest Act and the Nepal Mines Act relating to the income of local government accruing from natural resources had led to various disputes. It recommended amending or repealing the provisions that are inconsistent with respect to use of driftwood (dahatar bahatar<sup>2</sup>), mines, stone, and sand within the area of local government. It also recommended repealing similar contradictory provisions in the Village Development Committee Act 1992 (VDCA) and the District Development Committee Act 1992 (DDCA) as well as in other legislation (HMG, HLDCC 1996). Although the LSGA has already repealed the VDCA and the DDCA, the LSGA itself contains similar provisions. It is also silent about the management and utilisation of the forest products from community forests.

The Ninth Plan (1997-2002) emphasised the appropriate management and utilisation of forest resources through maintaining a balance between the environment and development. It stipulated that in order to make forestry sector programmes employment and poverty alleviation oriented and to raise the productivity of the land, forest sector management will be modernised by adopting a liberal economic system to encourage the private sector. It clearly established many policies and work plans related to community forestry. The policy's essence is to fulfil the local people's subsistence needs through community forests and to enhance the DoF's capacity to hand over forests to local communities and to monitor their work.

<sup>2</sup> 'Dahatar bahatar' is officially translated as 'driftwood', it refers to wood of any sort that falls into flowing water and is transported naturally downstream.