



Nepal Madhyasthata Samuha

Community Forestry in Nepal - An Overview of Conflicts

K.B. Shrestha

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Community Forestry in Nepal - An Overview of Conflicts

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PREFACE

The *Nepal Madhyasthata Samuha* is an inter-institutional forum which aims to enhance understanding of the causes and impacts of conflicts about natural resources. The *Nepal Madhyasthata Samuha* was brought together in August 1994 by ICIMOD's Participatory Natural Resources' Management Programme. Members of the forum represent senior policy-makers; non-government organisations, both national and international; professionals from bilateral programmes; and individuals interested in conflict resolution.

Since its inception, the *Samuha* has collectively participated in two training programmes on conflict resolution, generated several case studies on conflicts in community forestry, and has been instrumental in organising a one-day national seminar and a four-day regional workshop on conflicts and their resolution.

This case study by K.B. Shrestha is one of several emerging over the last one year. In this study the author draws on his experience as a policy-makers and provides a historical context indicating how unique events in the evolution of community forestry in Nepal have given rise to conflicts. He outlines a framework within which the various stakeholders of community forestry operate, creating and hopefully resolving conflicts. In Shrestha's categorisation, conflicts may be within and between user groups and between user groups and the Department of Forests. Each type offers unique lessons and location-specific approaches to attempt resolution.

This case study will also be made available in Nepali.

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The Country

Nepal, a landlocked country between India in the south and the Tibetan region of China in the north, occupies an area of 14.7 million ha. The country can be roughly divided into three ecological regions: the *terai* (plains), the hills, and the high mountains, covering 17, 68, and 15 per cent of the total area respectively. The *terai*, along the border with India in the south, is a narrow lowland and a densely populated region predominated by farmland and industrial communities. To the north lies a chain of hills known as the Siwaliks. Running east to west, the Siwaliks host large well-developed villages and farmlands. Further north lie the hills and middle mountains where extensive farming is carried out on steep terraced hills and in fertile valleys, one of which is the Kathmandu Valley. Most of the population is concentrated in this region and depends on subsistence farming and forests for its livelihood. The high mountains lie to the extreme north.

For administrative purposes, the country is divided into five development regions and 75 districts. Each district has a district development committee (which is the lowest locally elected body) responsible for the overall development of the district. A district consists of many village development committees (average 50 per district).

Forestry administration is represented in each of the five regions by a Regional Forest Office and in each of the 75 districts, except Mustang district, by a District Forest Office. The District Forest Office has several range posts, the numbers depending upon the district.

The Forests

Forests occupy 37 per cent of Nepal's land mass, i.e., 5.5 million ha out of the total 14.7 million ha. Due to the wide range of climatic and topographic conditions, different types of forest, ranging from subtropical to alpine, are found. Timber from the commercially valuable hardwood forests of *Sal* (*Shorea robusta*) are continuously distributed throughout the length of the country. Almost pure forests of *Sal* are found in the lower hills and in the valleys. Besides having commercially valuable timber, the *Sal* also provides good fuelwood. Since it has a good regeneration capacity, the communities in these regions are interested in managing these forests as community forests. In the middle hills, the forests are fragmented and consist of mixed hardwoods of *Schima* and *Castanopsis* species at lower elevations and of Conifers at higher elevations. In this region, the hardwood forests are repeatedly cut because of their coppicing properties as well as to provide fuelwood, fodder, and small timber for the villagers. These forests have potential as community forests. Thus, most of the hill forests are being used by adjoining villages as *de facto* community forests. Rural households depend heavily on such forests for their livelihood.

The People

Nepal is as diverse ethnically as it is geographically, having no fewer than 28 ethnic groups. The population in hill villages is more or less homogeneous in character, i.e., each ethnic group tends to live in clusters in the same village. Each ethnic group has its own culture and traditions which are distinct from those of other groups. Hill people seldom migrate across the hills as there are no attractions in terms of opportunities for farming or jobs, and they tend to live throughout their lives in the same village, thereby preserving its homogeneous character. In contrast, the *terai* population is becoming heterogeneous, due largely to migration from the hills and the movement of people across the open border in the south. About 90 per cent of the population of 19 million live in rural areas and depend on agriculture. Fifty per cent of the population is estimated to be living below the poverty level. Because of the homogeneity of hill villages, the communities have their own social structure and traditions which make community forestry programmes easier to adopt than in the *terai*.

Community Forestry

For a long period in Nepali history, Nepal's forestry sector was administered under a feudal system. The *terai* forests were used by Rana rulers virtually as their private property. In many places in the hills, however, local farmers had established systems for managing the local forests on their own initiative. These systems involved locally accepted rules through which a clearly fixed group of beneficiaries regularised forest use and excluded outsiders. These local systems were recognised by the Rana government.

The Rana government was overthrown by a popular movement in 1950. Following the democratic revolution of 1950, to prevent the deposed feudal Rana rulers from continuing to use the *terai* forests as their own property, the post-revolutionary government nationalised all forests in 1957. The democratic government, however, was replaced by a one-party system, known as a partyless *Panchayat* system, in December 1961. As a result of the nationalisation of forests earlier, local people gradually lost all benefits and over time became apathetic towards the government because they had been deprived of their right to manage and benefit from the forests. Alienation of people from resource management brought about wanton destruction of the forests. In 1976, the government, having failed to manage the forest resources through bureaucratic machinery, for the first time recognised by law that management of local forests by villagers who had used them sustainably in the past was the only practical way to ensure protection and a sustainable supply of forest produce for subsistence needs. This initial attempt took the form of entrusting the resource to the community through the local political body called the *panchayat*. This policy was continued for over a decade until it was recognised to be ineffective. The local political body was found to be too large a unit to develop a genuine interest in supervising and managing the local forest. This failure was amply demonstrated by the decrease of forest area from 6.5 million hectares in 1965 to 5.5 million hectares in 1990.

The government made an effort to develop Nepal's forests again in 1989 by declaring the new Forestry Sector Policy through the Forestry Master Plan, which recognised the community forestry programme as the largest among six programmes. This programme depends upon local user groups for the protection, management, and utilisation of the forests. The underlying strategy was to carry out a phased handing over of all accessible hill forests to local communities to the extent that they were able and willing to manage them. Studies indicate the total area of such community forests to be 3.5 million hectares, 61 per cent of the total forest area.

The procedures for handing over a forest to a community consist of (a) the formation of a users' group, following an identification process, (b) the delineation of a forest as a community forest, (c) the preparation and approval of an operational plan, and (d) the handing over of the forest to the group and the implementation of the operational plan.

Forest Legislation

The first forestry-related legislative measure was initiated with the promulgation of the Private Forest Nationalisation Act of 1957 which abolished private ownership of forests and transferred it to the government. Private plantations of less than 1.25ha in the hills and 3.25ha in the *terai* were allowed to remain. No compensation was given to private forest holders for the loss of ownership. But, however well-intentioned it may have been, the Act had a negative effect on forest protection.

The second important forestry legislation was the Forest Act of 1961 which was intended to restore government control of national forests by tracing offences and meting out punishment. The Act provided for the regulation of sale of forest products and classification of national forests into different categories according to use. It was amended in 1976 and national forests were classified into four different categories: (1) *Panchayat* Forests, (2) *Panchayat* Protected Forests, (3) Religious Forests, and (4) Leasehold Forests. *Panchayat* Forests and *Panchayat* Protected Forests were those forests which could be handed over to local village *panchayat*(s) for protection and management. Under this amendment, the *Panchayat* Forest Rule and the *Panchayat* Protected Forest Rule of 1978 were enacted with the provision for handing over national forests to local village *panchayat*(s) as *panchayat* forests. These rules were amended twice, in 1979 and again in 1987.

The salient features of these rules were as follow.

- a) The district forest office would hand over a forest to a local village *panchayat* after obtaining approval from the Regional Forest Director.
- b) The local village *panchayat* would form a users' group which would be responsible for the protection and management of the forest in keeping with an operational plan.

- c) The local village could dissolve the users' group and form another if the former deviated from the operational plan.
- d) The money from sale of forest products would go to the *panchayat* fund.

In 1990, with the restoration of democracy, the term *panchayat* was replaced by 'Users' Group' in the Forest Act of 1961. In 1993, the government published the Forest Act of 1993, but it has not been implemented yet as the rules are in the final draft stage. The Forest Act of 1993 categorises forests into two broad classes.

- a. National Forest
- b. Private Forest

The National Forest is further divided into five sub-categories.

- 1. Community Forest
- 2. Leasehold Forest
- 3. Government-managed Forest
- 4. Religious Forest
- 5. Protected Forest

The main features of the Forest Act are as follow.

- 1. The district forest officer is empowered to hand over a forest directly to user groups.
- 2. The user groups can price forest produce independently, can sell forest products, and can transport them anywhere in the country.
- 3. User groups can appeal to the regional director if the district forest officer decides to reclaim the community forest because of the groups' deviation from the operational plan.

Present Status of Community Forestry

In the early stages of the community forestry programme, the field staff attempted to motivate local people to engage in community forestry through extension, even though they were not properly trained for the job. Initial field activities focussed on establishing nurseries and plantations to provide demonstrations to the local people. The formation of user groups and the handing over of community forests were very slow processes. Field-level training programmes were planned and implemented extensively in districts and regional training centres for field staff, user groups, and local leaders. Study tours and workshops were organised to discuss community forestry. Extension materials were developed and distributed in the field. Within the last three years, much progress has been made in this area.

At present, the community forestry programme focusses on natural forests because the villagers prefer to take them over rather than to establish plantations, since they

receive quick benefits from the forest. Non-government organisations are also active in convincing local people to take over forests. User groups are given opportunities to discuss ways and means of managing community forests through networking at the district and national levels. The district-level forestry staff are encouraged to plan community forestry work through range-level planning using the Participatory Rural Appraisal method. The formation of user groups and handing over of forests, especially in the hills and mid-mountains, are gaining momentum, as shown in Table 1.

Table 1: The Number of User Groups Formed and the Area under Community Forest

Region	No of forest user groups formed (by 12/1994)	Area under community forest (ha)
Mountains and hills	2489	93491
<i>Terai</i>	267	19135
TOTAL	2756	112626

The user groups receive cash subsidies as an incentive for plantation development and protection. However, this subsidy is being reduced and gradually withdrawn to make the programme sustainable. The user groups themselves are managing nurseries, which were previously run by district forestry staff, with the help of the training they have received. Thus, both forests and forest technology are being transferred smoothly to user groups. However, it must be noted that the actual ownership of forest land is not transferred to user groups but remains with the government.

The Conflicts

Conflicts generally occur when people have differing views or perceptions about an issue, when someone's interest is not considered or fulfilled in a decision, when someone's interest is encroached upon, and so on. These conflicts can be between individuals within a group, between groups, or even between institutions. Similarly, community forestry conflicts can be within a forest user group, between two forest user groups, or between a user group and the district forest office. An attempt to list and explain the nature of conflicts from the perspective of the conflicting parties follows.

Conflicts within a Forest Users' Group

i) Identification of Users

The operational guidelines of the community forestry programme recognise investigation as one of the four phases of the planning process. This phase con-

cerns, among other things, the identification of users of the prospective community forest. The field staff investigates within the village, by discussion or by checking, to determine the real users of a particular forest. But a low caste person or a disadvantaged person may miss the chance to be included in the users' group, as low caste people do not usually speak out in a community dominated by higher castes. As a result, when a users' group is formed, such disadvantaged persons are excluded, and, at the time of benefit-sharing, conflicts may surface.

In other cases, there are people living away from the forest who are not regular users but who use the forest seasonally. They are 'secondary users', e.g., charcoal-makers who do not contribute to the protection of the forest. Often, during the identification process, these secondary users are not aware of the field staff's visit and thus are excluded from the list of forest users, possibly causing a conflict afterwards.

ii) Sharing of Benefits

Community forests handed over to user groups are being used for fodder, fuel-wood, and so on. Conflicts arise concerning how the forest produce should be shared. A user with eight family members argues that, due to the size of the family, his is the greater need for forest produce and that forest products should be shared according to the number of family members. Others argue that benefits should be shared on the basis of households, irrespective of family size, because the contribution of voluntary labour for forest management depends on the house-hold, and there will be a difference between need on one hand and duty on the other.

iii) Participation

All members of a users' group cannot actively participate in meetings or provide voluntary labour. Some members are bound to be inactive because of their nature, physical condition, or the absence of the head of the family from the village for various reasons. The active members may feel that, because of their limited participation, the inactive members should not enjoy benefits equal to those of active members. The inactive member, on the other hand, can counter that, as a member of a users' group, social compulsions not under his control should not bar him/her from benefits enjoyed by others, thereby giving rise to conflicts and disagreement.

The most visible form of participation in community forestry is protection work. In many community forests, the users decide that protection work should be carried out in turns. Protection work requires physical presence at the site and strict vigilance. For most users, this is acceptable. However, because protection work demands physical presence at the site, sometimes even at odd hours, those of a higher social status, or caste, in the users' group may not participate to the desired extent, yet wish to enjoy the benefits. Their social status may prevent

other members of the group from complaining openly but resentment and conflicts are inevitable.

Similarly, some members of a group may live near the forest and others at a distance. In such situations, more participation is demanded from the former. Their proximity to the forest does not allow them to escape or overlook the responsibility of protection work and forces them to act if an offence is being committed, even though protection on that day could be someone else's duty. Thus, unassigned demand for vigilance could be heavier on members living close to the forest, and this may cause them to demand benefits commensurate with their work.

iv) Leadership

In a village or community, people may want to enhance their social status by ostentation, by pursuing higher education, or by becoming a leader, and so on. Being nominated Chairman or Secretary in a users' group committee can elevate one's social standing in the village and act as a stepping stone to local leadership. Naturally, this is an attractive proposition, and, if two or more people compete for chairmanship and consensus cannot be reached, conflicts could arise. If the ulterior motive is political, these conflicts could take a dangerous turn.

Conflicts between User Groups

There are various situations causing conflicts between user groups.

i) Location of Forest

In general, a patch of forest in one Village Development Committee (VDC) is used by villagers from the same village. Over time, when the boundary of a VDC is redrawn (a common occurrence), that patch of forest is assigned to another VDC. The villagers from the second VDC then claim the forest as a community forest, while the previous users make the same claim on the grounds that they are the traditional users, and, thus, a conflict ensues.

Another potential conflict area is a patch of forest lying within more than one or two VDCs. User groups from these VDCs request the district forest office to demarcate and hand over the community forest for management. In the absence of a clear cut boundary line on the ground, conflict arises as to where the line of demarcation inside the forest should be. Naturally, the user groups will claim and counter claim the better parts of the forest.

ii) Nature of the Forest

There are instances of villagers using more than one forest for forest produce. For some forest produce, such as firewood and leaf litter, the villagers may use a

miscellaneous forest in their own village, but for other produce, such as timber, they may use a *Sal* forest which lies in another village but within the same VDC. When the user groups are formed, the users' group claiming the *Sal* forest refuses to give any right to their forest to the users' group with the miscellaneous forest, arguing that the other users' group does not contribute to the protection of the *Sal* forest. The other group claims that they are barred from their long-standing right to construction timber. This conflict occurred in Nirmal Pokhari VDC of Kaski District.

Conflicts between User Groups and the Forest Division Office/Forest Department

Recent cases of conflicts between forest user groups and forestry institutions are described below.

i) Deviation from Operational Plan

When the operational plan is approved, and the forest handed over, a representative of the user group committee, usually the chairman, and the district forest officer sign an agreement to implement the operational plan without deviating from any of the provisions. Yet, instances of deviation have been recorded. Deviation has occurred, due either to a lapse on the part of the district forestry staff or because of the forest user group's zealous pursuit of income for their community fund to build community infrastructure.

One case of an active women's user group is illustrative. The operational plan prescribed the removal of two trees only in a particular year from the commercially valuable forest (a *Sal* forest), in addition to the removal of other dried fallen forest produce. The users' group, according to the operational plan, were to collect dried fallen material in a cleaning operation. This operation, along with strict protection, led to profuse natural regeneration of *Sal* seedlings. The users' group was happy to see this and cut more than 30 over mature trees, mainly of *Sal*, on the technical advice of the forestry staff.

This occurred as a result of the user group's desire to increase their fund, and because the district forestry staff were encouraged by the natural regeneration they saw in the forest and considered it technically sound. However, what both the district forestry staff and the users' group overlooked was the provision in the operational plan which permitted them to cut two trees only; the operational plan had not been revised. The over cutting in the community forest was reported to the centre, which seized the timber and ordered an enquiry. For many months, the timber lay in the open while the case was being reviewed.

The dilemma for the officials at the centre was whether or not to take the community forest back from the users' group and revert it to a national forest,

hence losing the confidence of other forest user groups in the district and possibly jeopardising the community programme in the district. At the same time, the officials were undecided about whether or not to take action against the district forest staff for prescribing a silvicultural operation which was technically sound and being practised in another district. The users' group demanded the hand over of the timber seized on the grounds that they had acted upon the advice of the district forestry staff. This conflict dragged on for almost a year.

ii) Deviation from the Objectives of Community Forestry

User groups sometimes tend to deviate from the objectives of community forestry, as illustrated by the following case.

The case involved a mixed *Sal* Forest which had been handed over to a users' group. A section of this forest had only sparse vegetation of young *Sal* because of a rocky outcrop which had been a stone quarry 30 years previously. The users' group had been protecting this forest without any problems. Subsequently, the government planned to build a major hydropower project of considerable national importance in the district and gave a private company the contract to construct an access road originating about a kilometre from this community forest. Upon the contractor's request, the district forest office issued a permit to quarry the rocky part of the community forest on the basis of a rule made 24 years previously which authorised the district forest office to issue such permits for the national forests. The contractor quarried the area.

The forest user group did not challenge the validity of this permit but instead decided to levy a tax on the truckloads of stones. This continued for some time until it came to the attention of the centre, which at once ordered an enquiry and stopped the quarrying, thereby halting the construction of the approach road. This, in turn, affected the scheduled construction of the hydropower project and prompted the Nepal Electricity Authority to request the Forest Department to permit quarrying of the area. The Nepal Electricity Authority cited the high quality of the stone and stated that no other potential quarry of a similar quality existed within a radius of 100 km. Moreover, the cost of transporting the stones as far as 100 km would be exorbitant. Under community forestry rules, quarrying is not permitted.

The dilemma of the central forestry administration was whether to absolve the right of the users' group to manage the whole forest and declare it a national forest, thereby allowing the forestry administration to issue the quarry permit for the project and, at the same time, punishing the users' group for wanting to earn money, or to deny the request to quarry the area, depriving the national hydropower project of its much needed stones. This occurred in Syangja District in Western Nepal.

iii) Unclear Policy

With the hand over of community forests during recent years, many community forests have reached the harvesting stage; plantation forests and some natural forests are being harvested. Some user groups are requesting that the forestry administration allow the harvested timber to be transported to other districts for sale. Some have even requested the forestry administration to permit them to install wood-based industries such as sawmills. Existing rules do not make such provisions. Thus, the forestry administration must use its judgement concerning whether to allow such activities or not.

One such case involved the Baghmara forest users' group of Dang district in Mid-western Nepal. This group logged 12,000cuft of *Sal* wood and had an excess of 8,000cuft of timber that could be sold outside the district, but permission to transport the wood to other districts has not yet been obtained. It has also requested a permit to install a sawmill; so far, permission has not been granted and the case is still being reviewed.

It can be argued that the objective of the community forestry programme is to fulfill the user groups' daily requirements for forest products. As such, the groups are not supposed to sell the products in the market. Likewise, by requesting permission to install wood-based industries, they are attempting to commercialise the community forests. The user groups argue that, if the forest is not properly utilised, its protection is of no use. This conflict has not yet been resolved and such conflicts may increase in the future.

Future Policy

The Forest Act of 1993 has outlined the course of action to be taken by the government regarding community forestry. The government is committed to the institutionalisation of forest user groups by recognising them as legal and independent entities, as reflected by the new draft rule of community forestry. Provisions have also been made in the new draft rule to allow farming of non-timber forest products and also some cash crops that do not affect the growth of community forests. The government is prepared to allow, on the Forest Department's approval, a users' group to mortgage forest products of the community forest if it desires to obtain a loan from a financial institution to develop the community forest.

As mentioned earlier, the absence of any provision enabling forest user groups to freely market products creates conflicts. This has been taken seriously by the government which has acted positively by including the provision in the new draft rule.

The rule that a community forest's objective is to fulfill only subsistence needs for forest products is now under serious review. The lack of clear policies concerning

whether or not community forests can be allowed to operate on a commercial basis is being addressed. The new draft rule includes a provision to permit the running of forest-based industries with the approval of the Forest Department. With the expected enactment of the new rules, some areas of conflict should be resolved.

The conflicts mentioned earlier arose mostly due to ignorance of existing rules. The Department of Forests has scheduled training on legal provisions for the district forestry staff which will help minimise this type of dispute.

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ICIMOD is the first international centre in the field of mountain development. Founded out of widespread recognition of environmental degradation of mountain habitats and the increasing poverty of mountain communities, ICIMOD is concerned with the search for more effective development responses to promote the sustained well being of mountain people.

The Centre was established in 1983 and commenced professional activities in 1984. Though international in its concerns, ICIMOD focusses on the specific complex and practical problems of the Hindu Kush-Himalayan Region which covers all or part of eight Sovereign States.

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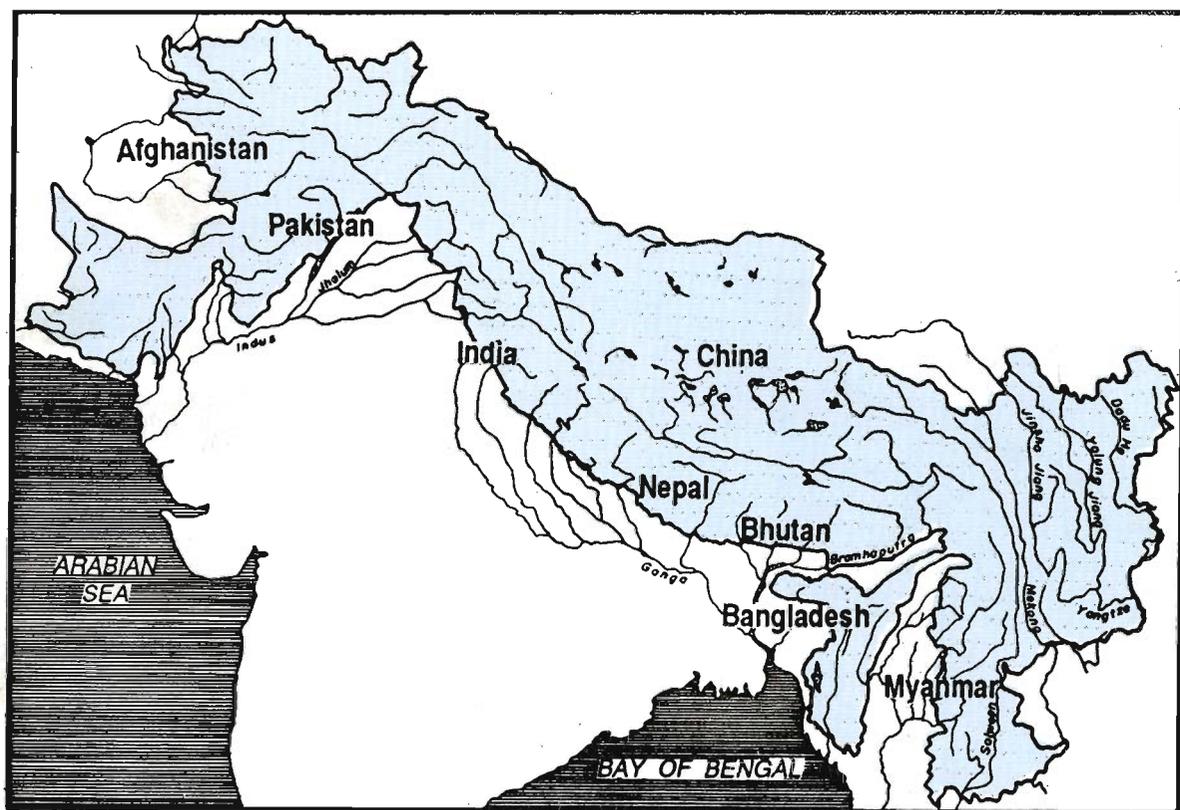
MOUNTAIN NATURAL RESOURCES' DIVISION

Mountain Natural Resources constitutes one of the thematic research and development programmes at ICIMOD. The main goals of the programme include i) Participatory Management of Mountain Natural Resources; ii) Rehabilitation of Degraded Lands; iii) Regional Collaboration in Biodiversity Management; iv) Management of Pastures and Grasslands; v) Mountain Risks and Hazards; and vi) Mountain Hydrology, including Climate Change.

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