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Nepal Madhyasthata Samuha

Jalbire Women's Community Forest Group

Sapana Pradhan Malla

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Nepal Madhyasthata Samuha

The Nepal Madhyasthata Samuha was brought together in August 1994 by ICIMD's Participatory Natural Resources Management Programme. Members of the forum

Jalbire Women's Community Forest Group

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.

The case study by Sapana Pradhan Malla, emerging over the last one year. This study highlights the problems and challenges underlying a dispute between a women's forest user group and the Department of Forests, Nepal. We hope that this discussion paper will stimulate community forestry policy-makers, practitioners, and users to examine the consequences of policy, action, and utilisation so that many potential disputes can be prevented or resolved without causing damage to village-level institutions and the resources they are attempting to manage.

This case study will also be made available in Nepali and Hindi.

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International Centre for Integrated Mountain Development
Kathmandu, Nepal

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.

The case study by Sapana Pradhan Malla is one of several emerging over the last one year. This study highlights the gender discrimination underlying a dispute between a women's forest user group and the Department of Forests, Nepal. We hope that this discussion paper will stimulate community forestry policy-makers, practitioners, and users to examine the consequences of policy, action, and utilisation so that many potential disputes can be prevented or resolved without causing damage to village-level institutions and the resources they are attempting to manage.

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Contents

	page
ACKNOWLEDGMENTS	i
GLOSSARY	ii
SPECIES	ii
Background	1
The Jalbire Women's Community Forest Group	1
The Objectives of Forest Management	2
The Conflict	2
Attempts at Conflict Resolution	3
Analysis of the DOF Decision	4
The Decision of the Department of Forests and Its Impact	5
Impacts on the Jalbire Women's Community Forest Group	6
<i>Social and Gender-related Impacts</i>	6
<i>Loss of Confidence in the DOF</i>	6
<i>Economic Impact</i>	7
<i>Institutional Impact</i>	7
<i>Ecological Impact</i>	7
Impact on the Department of Forests	7
Gender Implications	8
Legal Issues	8
Exploring Possible Recommendations	10
<i>Policy Level</i>	10
<i>Departmental Level</i>	10
<i>District Forest Office Level</i>	10
<i>Community Level</i>	10
REFERENCES (not cited in the text)	12

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We hope that this case study will contribute towards deepening our understanding of the disputes and conflicts over natural resources. This case study raises certain issues which merit serious discussion among foresters, communities, and those committed to village-level institutions and community forestry.

The Jalbire Women's Community Forest Group

*The Jalbire women's community forest is situated near Khaireni Bazaar of Gorkha district. Its boundaries are the Khaireni Gorkha road in the east and west, the north and south surrounded by agricultural lands. The forest area handed over to the women's group is 3.93ha and is divided into two blocks. Block I (1.5ha) is forested with species such as *Sitona* (*Quercus ussoni*), *Kayu* (*Pinus*),*

GLOSSARY

ha	hectare (2.5 acres)
cuft	cubic Feet
DFO	District Forest Officer
DOF	Department of Forests
HMG	His Majesty's Government
JWCFG	Jalbire Women's Community Forest Group
OP	Operational Plan
SCF	Save the Children Fund
WRFD	Western Regional Forestry Directorate

SPECIES

Local Name	Botanical Name
Sissoo	<i>Dalbergia sissoo</i>
Kapur	<i>Cinnamomum camphora</i>
Khair	<i>Acacia catechu</i>
Sal	<i>Shorea robusta</i>
Siris (white)	<i>Albizia procera</i>
Chilaune	<i>Schima wallichii</i>
Saj	<i>Terminalia alata</i>
Mahuwa	<i>Madhuca latifolia</i>

Background

Gorkha district is located in Nepal's western development region, with the *terai* in the south and Tibet in the north. The district's elevations range from 488 to 8,156m. The average annual rainfall is 1,491.5ml. The topographical distribution of land in the district ranges from high Himalayas and high mountains to middle mountains. The total area is 361,470ha, of which 112,535ha are forest, 41,482ha are cultivated agricultural land, 23,057ha are non-cultivated agricultural land, and 58,990ha are used for grazing.

According to the 1991 census, the total population of Gorkha district is 252,524, with a population density of 70/km². The average household size is 5.1. The literacy rate for people six years of age and above is 43.6 per cent (from 18.3% recorded in the 1981 census). Although more than 20 languages are recorded among the local population, Nepali is the mother tongue of the majority of the people. Other commonly spoken languages are *Gurung*, *Magar*, and *Bhotia/Sherpa*. Similarly, 225,939 persons are Hindus and 22,399 are Buddhists.

The Jalbire Women's Community Forest Group

The Jalbire women's community forest is situated near Khaireni Bazaar of Gorkha district. Its boundaries are the Khaireni-Gorkha road in the east and west with the north and south surrounded by agricultural lands. The forest area handed over to the women's group is 3.93ha and is divided into two blocks. Block No 1 has been afforested with species such as *Sissoo* (*Dalbergia sissoo*), *Kapur* (*Cinnamomum camphora*), and *Khair* (*Acacia catechu*). There are naturally regenerated species also in this block. The southern part of Block No 2 is affected by grazing. The block has some poles and shoots and tree species such as mango, *Siris* (*Albizia procera*), *Khair* (*Acacia catechu*), *Chilaune* (*Schima wallichii*), *Saj* (*Terminalia alata*), and *Mahuwa* (*Madhuca latifolia*). The natural regeneration of *Sal* in this block will be hampered if grazing continues uncontrolled.

Twenty-five years ago the forest was dense, but it began to diminish rapidly after the opening of a highway. As previously it had been an open access public forest, the local people did not care to protect it. Timber was extracted not only for building houses in Khaireni Bazaar but also for smuggling. The villagers did not dare to confront the smugglers.

Save the Children Fund (SCF), an international NGO, started an adult education programme in this area. SCF generated awareness among the women of the

importance of forests, motivating them to develop conservation strategies. In 1989, a women's forest users' group, the Jalbire Women's Community Forest Group (JWCFCG), was formed from among the households adjoining the forest for forest protection and development. The JWCFCG started collecting five rupees per month from each member household and activities commenced in the community forest with the support of SCF. The first plantation was carried out in 1990 and the next in 1991. At this time (1990-91), the Department of Forests (DOF) of His Majesty's Government of Nepal (HMG/Nepal) started implementing its community forestry programme in Gorkha by handing over public forests to community groups. The District Forest Office (DFO) of Gorkha was contacted by SCF with whose coordination an Operational Plan (OP) for managing the forest area was prepared. The OP was approved by the DFO and the Western Regional Forestry Directorate (WRFD) on April 4th, 1992, and June 16th, 1992, respectively.

In 1991, the JWCFCG included 44 households with 258 people and 179 livestock. The members of all the households around the forest were involved. By 1994 only 31 households remained as members of the group and one household only had been recently added. Although migration to other areas for livelihood reduced the overall membership in terms of households, the number of users remained the same as it had been with the original 44 households. The JWCFCG functions as a cooperative. The majority of users are *Magar(s)*, *Gurung(s)* and *Chhetri(s)*. All of them are women and most are illiterate.

The Objectives of Forest Management

To improve the productivity of the forest area in order to meet the daily requirements for fodder, fuelwood, and timber, the JWCFCG formulated the following management objectives.

- To improve the status of the forest and the production and preservation of the seedlings planted
- To gradually meet its members' daily requirements for forest products
- To control soil erosion, protect water sources, and maintain an ecological balance
- To obtain economic benefits from the forest on a long-term basis and use the income from it for the welfare of the community

The Conflict

According to the Operational Plan of 1991, no trees were to be felled in Block No.1.

In Block No 2, all trees were to be retained that were near the water sources, open places, and the road; trees, excepting mango and *Khair*, would be felled in other places. Details are given below.

- Only one *Sal* tree was to be felled in 1992. A rest house was to be constructed by the side of the motorable road.
- No timber-producing trees were to be felled in 1993.
- If necessary, two trees were to be felled in 1994.
- A maximum of four trees were to be felled in 1995.
- A maximum of five trees may be felled in 1996.

Despite these restrictions in the OP, trees such as *Sal*, *Chilaune*, and *Mahuwa* were harvested in 1992, and the total production of timber was 966.21cuft (Table 1). Earlier, the group had extracted a stack of fuelwood of *Sal* and half a stack of fuelwood of *Chilaune* from weeding/cleaning operations, and the DFO had given permission to sell this wood. According to the JWCFCG, timber and fuelwood extraction was carried out under the supervision and direction of the DFO and Range Office, but the group could not produce any written document to verify this. The DFO officials did not confirm whether or not such instructions were issued.

Table 1: Species and Quantity of Harvested Timber

No	Species	Quantity cuft
1	<i>Chilaune</i>	317.06
2	<i>Mahuwa</i>	506.00
3	<i>Sal</i>	143.15
Total		966.21

The dispute was triggered by a seemingly innocuous decision of the women's group. In order to maximise its income from the sale of harvested timber, the JWCFCG decided to market the logs in Kathmandu rather than in the village or within Gorkha district. This decision, based on the perception that the timber would fetch a higher price in the more competitive market environment of Kathmandu, threatened the livelihood of local timber contractors. Seeing that the women's group could deprive them of their comparative advantage, they decided to politicise the issue and the dispute.

Attempts at Conflict Resolution

This simple conflict between the DFO and the women's group emerged from a violation of the community forest OP. The dispute could have been resolved through mutual understanding between the DFO and the women's group, but, due to their vested interests, local timber contractors mobilised opinion against the women's group among the local administrative bodies and no one tried to address it. Consequently, the dispute and its possible resolution were taken out of the local district environment to the authorities at the centre.

The traditional approach, involving attempts at intervention by local institutions, was not used. There was neither a closed-door meeting nor an exchange of ideas for building confidence between the DFO and the women's group. The transfer of the District Forest Officer inhibited others in the DOF from resolving the issue. Both parties were prepared to come to a settlement, but neither of them took the initiative. Apparently, there was no mediator to solve the problem. The DFO, in particular, seemed to be waiting for decisions and instructions from a higher and more central authority in the DOF hierarchy.

On April 23rd, 1993, the DFO had requested the WRFD to take necessary action. After seven months it received a reply saying that, according to its circular of April 26th, 1993, the issue did not fall under its jurisdiction. An investigation team was subsequently formed in the Ministry of Forest and Soil Conservation in April 1993. The team submitted its investigation report on May 5th, 1993, but the final decision was made only on April 31st, 1994.

Analysis of the DOF Decision

Although the dispute was not settled through mutual understanding, the decisions taken by the DOF seemed to satisfy both sides as far as their own interests were concerned. The decisions taken by the DOF on April 31st, 1994, are as follow.

- There is a provision in the rules to dissolve a users' committee if it violates an OP.
- Action can be taken according to the decision of a general body meeting of the group.
- Timber and fuelwood will be made available to the group after the approval of the revised OP, and all the revenue generated from the sale will be used for the conservation and preservation of the forest.
- No trees will be felled for the next five years.

It can be seen from the decisions that, on the one hand, the DOF wished to punish and warn the women's group against violating the OP and, on the other hand, not

only can the women enjoy the rights to sell the forest products according to their interests but they can also decide themselves whether or not to dissolve the committee.

In order to follow this decision, the OP has been revised and a group decision made to implement it. However, some difficulties remain. For instance, although the revised OP does not allow money collected in the account of the users' group to be used for lending, the group lent some money to an outsider, keeping a house as collateral. The group took this step to increase its income from interest. While this is a violation of the revised OP, the women's group claims that it was unaware of this clause.

The Decision of the Department of Forests and Its Impact

1. The final decision regarding this dispute over trees felled in January 1992 was only made on April 31st, 1994. Due to the delay, approximately 25 per cent of the timber decayed and the women's group suffered a significant loss of income, which is also a loss to the national economy.
2. The delayed decision and accompanying uncertainty hampered the JWCFCG's ability to care for the forest properly and also affected its morale and interest, threatening the existence of the group.
3. The OP is only valid for five years and the decision restricts felling of trees throughout the plan period. The women feel that no concrete benefits will accrue to them in the future.
4. The decision states that all income generated from the sale of the disputed timber and fuelwood should be used to conserve and preserve the forest. This is a disincentive. The forest area is very small (only 3.93ha), and the entire income from it cannot possibly be used in that way exclusively. But the group is not allowed to use this income for social development work.
5. The DOF's decision has affected only the women's group. No visible action was taken against the concerned DOF officials who knew about the felling operation.
6. Due to the DOF's decision, which was made without any established Forest Act, bye-laws, rules and regulations, other user groups in Gorkha District are asking about felling trees despite what is stated in the Operational Plan. If allowed, this will clearly violate community forestry programme policy and endanger the success of the community forestry programme.

7. Clause 20 of the Operational Plan of 1991 stated that the JWCFCG account had to be operated by opening a bank account and that a minimum of 25 per cent of the income had to be used to protect and develop the forest. The group was given the authority to decide how to spend the rest.

Clause 22 of the revised Operational Plan of 1994 stated that a minimum of 75 per cent of the income should be used for forest development work. Apart from this, all income generated from the auction of timber and fuelwood extracted in 1992 and 1993 was to be used solely for conserving and preserving the forest. This demoralised JWCFCG members. Other groups are also losing interest in community forestry because of this Clause.

8. The Operational Plan of 1991 gave JWCFCG authority to revise the plan. This provision was not included in the revised plan. It follows that, although the forest has been handed over to the group, it remains in the possession of the DOF, and the group cannot revise the OP as it wishes.
9. The Operational Plan of 1991 allowed the users' committee to spend up to Rs 200 on its own. Amounts exceeding this required the consent of the group. This provision is also missing from the revised plan.
10. The revised OP is valid for five years and, unlike the earlier plan, has no provision for renewal. Consequently, the group feels insecure, as the forest might be taken back at the end of five years.

In view of all the actors in the conflict, the impact of the conflict and the decision made by the DOF have to be assessed at different levels.

Impacts on the Jalbire Women's Community Forest Group

Social and Gender-related Impacts

The main impact has been on the motivation and interest of women members. The women had taken the initiative to enter into an agreement with the DOF to protect and manage the forest area. In this, they had faced much scepticism and resistance from the men in the village. The dispute has caused the women to lose face at the household and community levels; men are using the dispute to deride the women members. In addition, a lot of time has been spent by the women in the resolution of this dispute.

Loss of Confidence in the DOF

The uncertainty caused by the dispute has resulted in loss of confidence in the DOF. Today, members are unsure about the future and are less enthusiastic about participating in meetings and sharing responsibility for the protection of the forest. The long-term consequences of this factor will have to be assessed in the future.

Economic Impact

The substantial delay in the resolution of the dispute caused the harvested timber to lie in the open for a long time, exposed to the elements. Approximately 25 per cent of the timber decayed, leading to considerable loss of income for the women's group. Had the dispute been resolved earlier, either locally or by the DOF, this could have been avoided. In addition, the JWCFG paid a sum of Rs 59,391, out of its total income of Rs 304,591, as sales' tax. Past and current practices indicate that sales' tax is levied for the state treasury on the income from timber only if it is auctioned by the District Forest Officer in the district. Analysis of similar incomes from other community forestry user groups in Nepal also reveals that sales' tax is not levied on products from community forestry areas or from the sale of timber from private lands. It is obvious that the lack of information among the women led the group to incur a loss of Rs 59,391, which could have been avoided.

Institutional Impact

This unfavourable experience has demoralised and weakened the village-level institution. Group processes can empower members and strengthen their ability to cope with crises, but, in this case, the gulf between the women's group and the DOF has affected the sustainability of the group; at times, its very survival has been at risk. The final decision has placed restrictions on felling even trees of advanced maturity for the next five years and insists that the entire income from the disputed timber and 75 per cent from future products can only be used for forest protection and development. This is a disincentive to the group, making members question their future role in forest protection and management. It will take the group some time to consolidate and learn from this experience and work towards building an institution for effective forest protection and management.

Ecological Impact

The level of interest in and protection of the forest area by the JWCFG resulted in rapid regeneration. The dispute and accompanying problems have lessened their commitment. If the forest area reverts to an open access grazing area, this will hamper regeneration and lead to further degradation and, consequently, a lack of revenue.

Impact on the Department of Forests

There were a number of negative impacts on the DOF: degradation of the forest, violation of the OP, and hesitation of other communities to implement community forestry programmes.

At present, Gorkha district has 91 community forest user groups; five additional operational plans are under way. As there are many user groups for community forests, different types of disputes could arise between the DOF and the groups. The rest of the user groups will have to learn from the JWCFG's dispute, its impact, and the decisions to resolve it.

Gender Implications

It is apparent that a village-level institution, especially of women, cannot exist in isolation. It has to contend with competing interests within its wider environment. Issues regarding power and the control of benefits from natural resources have been complicated by gender biases.

The dispute was between the DOF, HMG/Nepal and a small women's group. The women's group of the Jalbire community forest consists of illiterate women, inexperienced in administrative and legal matters but dedicated to their work. It is likely that they had received instructions from someone in a position of authority to execute the forestry operations that led to the 1992 violation of the OP. At the same time, the male members of the group's households derided the women's efforts, claiming that a group composed only of women would not function well. The men did not like the women's involvement in forest activities which gave them less time for household and agricultural work. The women were not supported by their male counterparts in their dispute with the DOF.

As matters stand, the women cannot use the income generated from the community forest for general development work, and their authority to make decisions is extremely limited. They do not need to construct new houses and have no urgent requirements for timber. They do not need the forest for livestock grazing, as they obtain fuelwood and fodder for their livestock from agricultural residue and the trees on their land. Thus, the women and their male family members feel that working hard for the management of the forest without benefitting from it is pointless. The women have also started thinking that certain decisions, such as the prohibition on the felling of trees for five years, strict control over funds, and other restrictions, were imposed because the group consisted solely of women.

Legal Issues

The OP is silent about the settlement of disputes, an essential component of any agreement between two parties. A provision in the Forest Act of 1993 stated that a users' group could be dissolved if it violated the OP. That may be the reason for the DFO requesting the DOF for instructions, referred to as Article 5 of the Forest Act of 1993 (which has not yet been implemented).

The Forest Act of 1993 provides for community forestry management and user group formation, but the byelaws have not been promulgated to date. The Forest Act of 1961 did not mention community forests, but it provided for *panchayat* forests. Under certain conditions, the government could hand over a public forest to a village *panchayat* for afforestation. Community forests and users' committees are provided for in Clauses 29, 29(e), and 32 of the Forest Act of 1993.

In 1994, a new OP was to be prepared by the women's group with assistance from the DFO. However, the DFO itself revised the plan without the involvement of the women's group. No clarification was requested, either from the responsible authorities of the DFO of Gorkha or the Range Officer, who were both directly involved in the dispute. Also, while the investigation team from Kathmandu recorded a statement from the chairperson of the users' group stating that the group had felled the trees under the "responsible authorities' direction," there is no indication that the team investigated this with the 'responsible authorities'. Nevertheless, after the transfer of the District Forest Officer then in office, the newly appointed DFO asked the government for instructions on January 5th, 1994.

The OP of the users' group was approved by the DFO on April 16th, 1992, but the handing over of the forest was carried out only on May 7th, 1993, after getting the approval of the Western Regional Forest Directorate on August 16th, 1992. Such slow and time-consuming working procedures can lead to disputes and confusion about the effective date for the implementation of an OP that has no specific provisions for this.

The dispute began in January 1992, but the final decision was made only on April 12th, 1994. The DOF took more than 24 months to settle this dispute.

Evidently, in this case, the conflicts could not be resolved through negotiation. If we consider problems, issues, and impacts, we can conclude that a conflict resolution process should be clearly included in the OP when it is prepared. The resolution processes will take less time and money and might also lead to a more constructive

relationship between the concerned parties. Both sides could make an agreement through mutual discussions when there is confusion due to the lack of appropriate laws, bylaws, rules, and regulations in the OP. Conflicts would be free from politics and negative impacts would be avoided. The power balance could then be equal between parties as diverse as DOF/HMG and a women's group, and the latter would have to agree to the decisions made by the former.

Exploring Possible Recommendations

Policy Level

- The Forest Act of 1993 should be implemented immediately. The Act, published in the Gazette in 1993, had not come into force even by February 1995. This resulted in great inconvenience and confusion in all forestry activities and decisions. At present, the Forest Act of 1961 has to be used for any legal actions.
- Forestry bylaws should be updated immediately; they should cover all the rules and regulations for community forests and user groups.
- The authority to approve operational plans should be given to one agency.
- The traditional approach of DOF/HMG to decisions on disputes should be revised to make decision-making less time-consuming.

Departmental Level

- When a party to a dispute issues a statement that the conflict took place through the instructions of a government official, the party should have written proof.
- Conflicts should be resolved within a reasonable time frame.
- The women's community forest group should be allowed to use the income in their account (from the sale of timber and fuelwood) for the welfare of the community.

District Forest Office Level

- The DFO has special judicial authority. In order to function as a quasi-judicial body, necessary training on judicial proceedings should be provided to District Forest Office officials. The lack of judicial knowledge may be the reason for the DFO, in his comment on September 27th, 1993, referring to the Forest Act of 1993 which had not then come into force.
- User groups should be given the sole authority to prepare or revise an OP. The DFO should only be responsible for providing necessary technical advice.
- The OP should have a clause for dispute settlement.
- The date from which an OP is effective should be clearly mentioned.

- Every possible attempt should be made at the district level to settle a dispute; communication between the two parties should be frequent.
- Training programmes on OP preparation, forestry rules and regulations, and awareness building should be conducted for all community forestry user groups.

Community Level

- User groups should work according to the OP. Any changes should be communicated in writing and appended to the OP.
- Written instructions should be provided for undertaking any activity under the DFO's direction.
- Women should also receive training in community forestry. The women of the Jalbire community forest group have also asked for a study tour of community forests where the users' committees/groups are functioning well.

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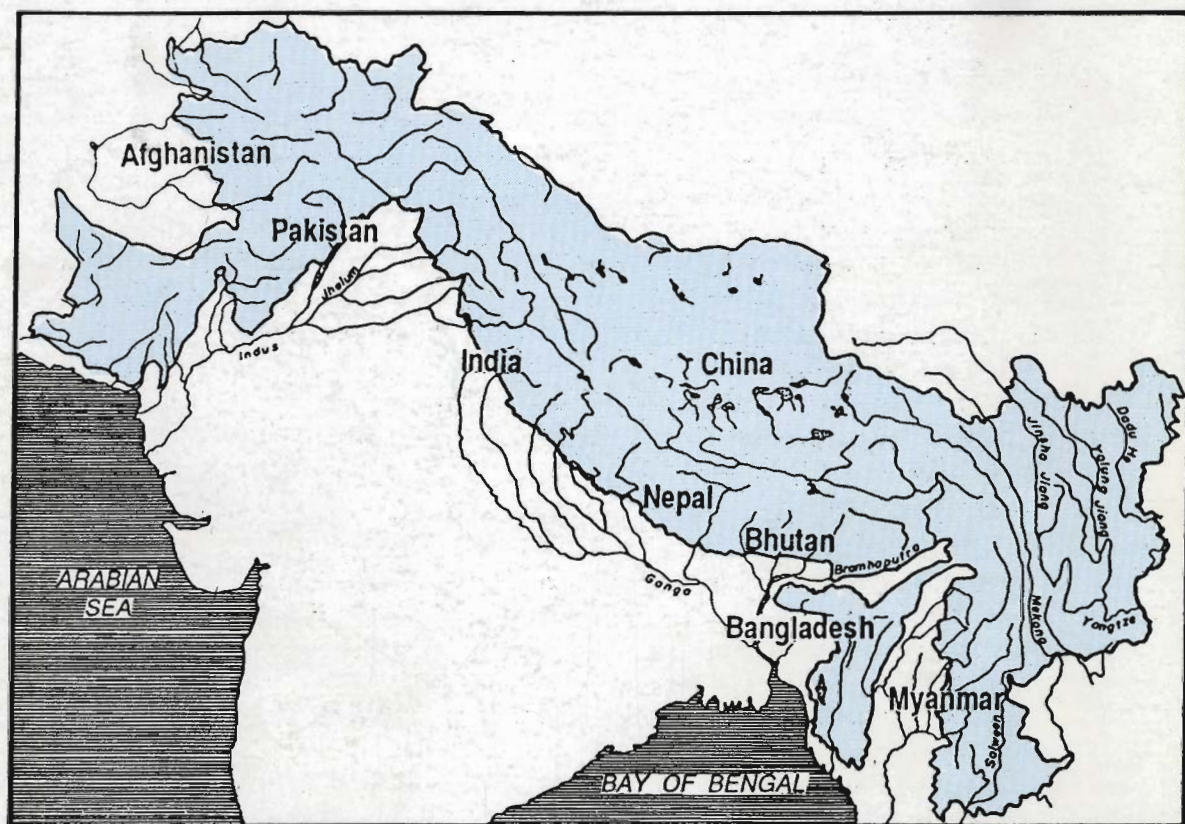
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