

## 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.