

# 1 Introduction

There is a trend sweeping through many parts of the world towards decentralization and devolution of forest management authority. Nepal was one of the first countries to empower local communities to manage forest resources. Implementation of community forestry as the primary forest policy in Nepal is leading to rejuvenation of once degraded forest areas in the mountains.

The two critical areas for the successful implementation of community forestry are policy and human resource development. Nepal's community forestry policy is considered to be one of the most progressive forest policies in the world. The policy stresses the development and management of all accessible forest resources through active participation of the local communities. This is accomplished by handing over forest management responsibilities to the local forest users, if they are willing and able to manage the forest. Management of community forests is regulated by the users' own decisions and by the Operational Plan for the forest area.

At the same time as it adopted a community forestry policy, the government of Nepal developed a human resource development programme to produce appropriate manpower for effective policy implementation. The ultimate aim of the human resource development programme is local level capacity building to enhance the forest management and utilisation skills of the forest users.

Although considerable work has been done in community forestry policy and human resource

development, there is a lack of comprehensive and organized analytical knowledge. This case study is an attempt to fill this gap.

## 1.1 General Background

The Kingdom of Nepal is a land-locked mountainous country with an area of 147,181 sq. km. located between India and China. Its geographical location is between 26° 22' and 30° 27' north and 80° 04' and 88° 12' east. More than 80 per cent of the area is covered by rugged hills and mountains. These include Mt. Everest, the world's highest peak. In the south there is a belt of flat land called the *Terai*, which is an extension of the Gangetic plain.

### 1.1.1 Physiographic Zones

Nepal can be divided into five physiographic zones (Figure 1): the high Himal, the high mountains, the middle mountains, the Siwaliks, and the *Terai*.

#### The High Himal

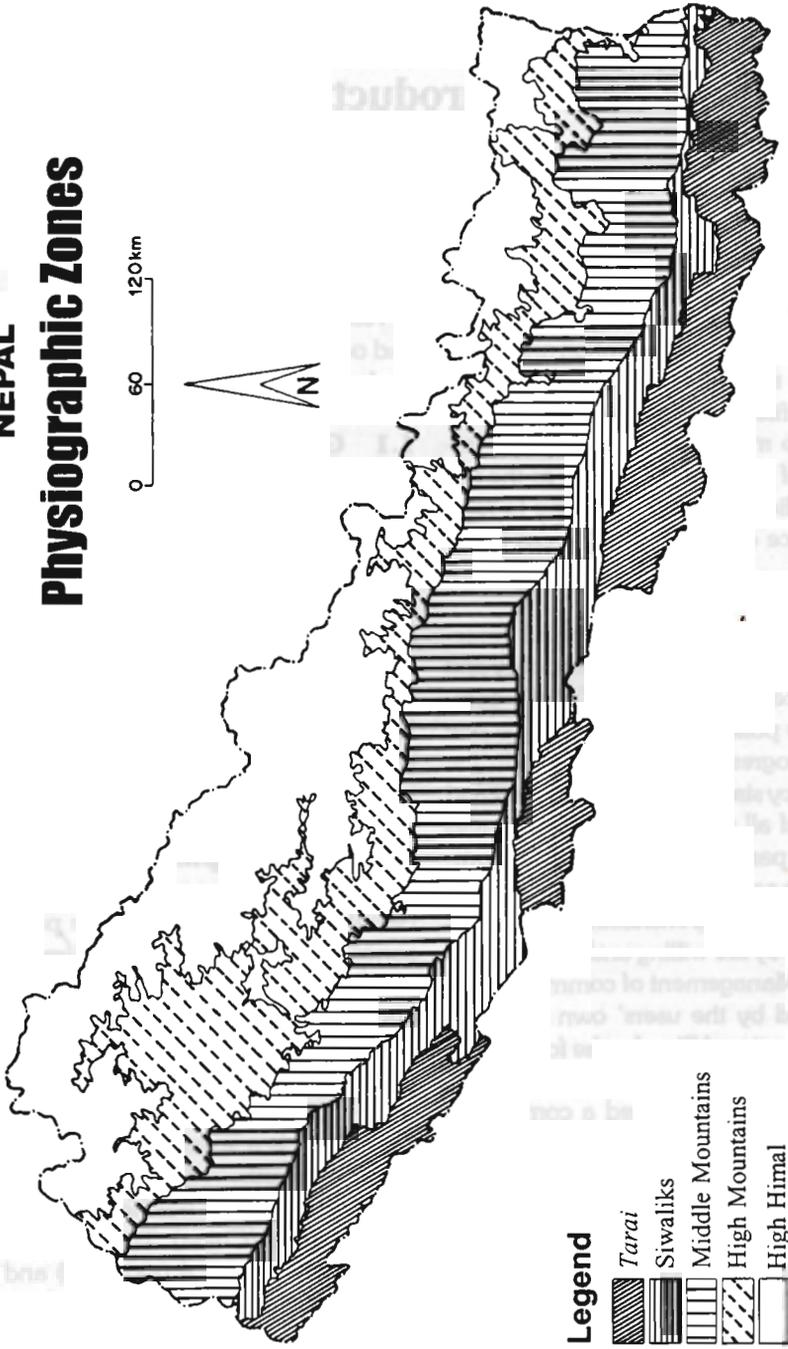
The Himal is a spectacular area of rocky ice-covered massifs, rolling snow fields, and glaciers and marks the northern boundary of Nepal with Tibet (China). This zone lies between the tree line (about 4,000 masl) and the tops of the Himalayan massifs.

#### The High Mountains

The high mountain zone comprises the land between the middle mountains and the high

# NEPAL Physiographic Zones

0 60 120 km



- Legend**
- Tarai
  - Siwaliks
  - Middle Mountains
  - High Mountains
  - High Himal

Himal. It makes up 20 per cent of the country. The main features are long, steep slopes with heavy forest cover which are important watersheds. This zone contains about 30 per cent of Nepal's natural forests.

### The Middle Mountains

This zone (also known as the 'middle hills') is bounded by the Siwaliks in the south and the forest-covered slopes of the High Mountains to the north. This area supports about half the population of the country and about one third of the agricultural production. Some of the main urban centres, including the country's capital, Kathmandu, are located in this zone. Long and intensive use of the land in this zone is shown by the intricate and extensive terrace systems. A large number of landslide scars, eroded areas, and areas with loss of forest land also attest to the intensive use of land. This zone occupies about 30 per cent of the country.

### The Siwaliks

The outermost Himalayan foothills, which lie to the north of the Terai and stretch the length of the country from east to west, are known as the Siwaliks. This zone comprises 13 per cent of Nepal's land area. The Siwaliks enclose several valleys and intricately dissected out-wash cultivated plains. Most of the ridges retain their forest cover because their coarse-textured, sandy, shallow, highly erodible soils and steep slopes make them unsuitable for cultivation.

### The Terai

The Terai is bounded to the north by the Siwaliks and to the south by the Indian border. This narrow belt of lowland covers about 14 per cent of the country. Originally the Terai was covered by dense hardwood forests, but agricultural development has reduced most of these to discontinuous blocks and strips. Even so, much of the northern Terai (called *Bhabar*) is still forested.

The geographical location of Nepal means the major climatic influence is sub-tropical monsoon. However, as a result of the varied

topography, a wide range of climates, ranging from arctic to humid monsoon, is found in the country.

Nepal has been divided into five Development Regions, 14 Zones, and 75 Districts for administrative purposes. Each district has a District Development Committee responsible for overseeing the overall development of the district. A district consists of many Village Development Committees and Municipalities, which are the lowest elected bodies responsible for local development.

Nepal has a largely subsistence economy. At the time of the 1991 census, the population of Nepal was 18,491,093 and the population density was 125 persons per sq. km. More than 90 per cent of the Nepali population lives in rural areas. The population growth rate is estimated at 2.1 per cent per annum. Over half of the population lives in the mountainous areas and most are dependent on agriculture for their livelihood; yet the ratio of agricultural land to agricultural population is only 0.12 ha/person. As a result, mountain residents are forced to seek off-farm employment through both permanent and seasonal migration to the Terai and urban areas.

The land use in Nepal is summarised in the Annex to this report. Forests occupy 37 per cent of the total land area. The distribution and type of forests are generally related to elevation. Tropical evergreen forests are found below 1,000 masl, typically composed of *Shorea robusta*, *Dalbergia sissoo*, and *Acacia catechu*. Sub-tropical forests are found between 1,000 and 2,000 masl and include *Pinus roxburghii*, *Alnus nepalensis*, *Schima wallichii*, and *Castanopsis spp.* The lower temperate forests found between 2,000 and 2,700 masl consist of *Pinus wallichiana* and several species of *Quercus*. Upper temperate forests, found between 2,700 and 3,000 masl, include species such as *Quercus semecarpifolia*, *Rhododendron arboreum*, and *Acer spp.* Sub-alpine forests are found between 3,000 and 4,200 masl and include *Abies spectabilis*, *Betula utilis*, *Rhododendron spp.*, and *Juniperus indica*. The alpine zone has no trees, but shrubby *Rhodo-*

*dendron* and *Juniperus* are found up to an altitude of 4,500m.

In strict legal terms, all land that is not privately owned falls under the jurisdiction of the Department of Forests (DOF). According to the Master Plan for the Forestry Sector (MPFS) 1988, more than a quarter of the forest area is degraded (less than 40 per cent crown cover). Almost two-thirds of the forests are occupied predominantly by small-sized timber, and only one third by large timber. Regeneration of pole-sized stands is inadequate. The total growing stock is 522 million cubic metres over bark up to 10 cm top diameter (MPFS 1988).

The DOF is represented in all 75 districts of the country by a District Forest Office, which is headed by a District Forest Officer (DFO) (except in Mustang District). The DFO is assisted by Assistant Forest Officers, Rangers, and Forest Guards, the number dependent on the category of the district.

## 1.2 The Role of Forests in the Livelihood Strategies of Mountain People

Forests are a versatile and renewable natural resource and provide a wide range of economic, social, environmental, and cultural benefits and services. Since time immemorial, mountain people have depended on forests for various products to fill their basic needs such as fuelwood, fodder, leaf litter, poles, timber, fruit, and medicinal plants and to provide other services that are essential inputs into the farming system.

According to Mahat (1987): "*the hill farming system can be described, in general, as being comprised of a complex arrangement of soils, water, crops, livestock, forest, and other resources within an environmental setting that the farm family manages in accordance with its preferences, capabilities, and available technologies.*" Forests provide the mineral nutrients and energy that are essential for the survival of the farming system. Tree fodder makes up a great proportion of animal feed, particularly during the winter months when ground

forage is in short supply. Green and dried leaf litter is used as animal bedding and later mixed with dung to form a compost, the major farm fertilizer used by mountain people. Based on fodder availability and consumption, Wyatt-Smith (1982) has suggested that 2.8 ha of accessible forest are required for each ha of farmland to sustain the farming system that exists at present in the mountains of Nepal. Some 2.3 metric tonnes of leaf litter and dung are used per ha of cultivated land annually (Mahat 1985). A substantial proportion of leaf litter is removed from the forest in the Nepalese mountains. This affects the nutrient recycling in the forest ecosystem.

Nearly all-rural mountain households depend on fuelwood for cooking and heating. Per capita fuelwood consumption per annum has been estimated at 330 kg in the Terai and 640 kg in the mountains (TU 1976). All tree species except those valued for timber and fodder species are used as fuel. It has been estimated that forests supply two-thirds of the fuelwood. Private trees and agricultural crop residues are other sources of fuel.

Compared to fuelwood and fodder, the demand for timber in the mountains is low. Forests provide timber and poles for constructing houses and animal sheds and wood for making household and farming tools. At high altitudes, conifer shingles are used as roofing materials. Timber is also used for various local development activities, such as building schools and bridges, and thus contributes to the economic and social development of the area. The demand for timber in the mountains of Nepal is estimated to be 0.1 cubic metres per person per annum (Wyatt-Smith 1982).

The people of the mountains also use forest areas to obtain other products for direct domestic consumption and income generation. Honey, mushrooms, birds, animals, fish, and plants (tubers, stems, fruits, flowers, bark, seeds, leaves) are used as dietary supplements. People also augment their cash income by engaging in various small-scale cottage industries that depend on forest products such as hand made paper (using *lokta*, *Daphne* spp.),

bamboo and cane products, ropes, and brooms.

The forests contribute significantly to the subsistence economy of the mountain people of Nepal, thus increasing human and livestock populations means an increasing demand on the forests for food, fuel, and fodder. These demands exert a heavy pressure on forest resources. According to the MPFS (1988), the area of natural forest is being reduced by about 26,000 hectares per year, most of this in the *Terai*. A more recent study (FRIS 1994) indicates that the overall forest area in the mountains has not decreased significantly over the last 15 to 20 years. However, the condition of the forests is being degraded. The extent of this degradation is not known clearly, but it is believed to be widespread. The forest degradation seriously affects the livelihood of the local people.

### 1.3 History of Forest Management

The history of forest management in Nepal closely parallels the political history of the country. Therefore understanding the evolution of forest management in Nepal requires an understanding of Nepal's political history. The key historical periods are as follow.

- **Prior to 1769 (Pre-unification Nepal):** Nepal consisted of a number of small kingdoms and tribal areas. In 1769 Nepal was unified by the Shah dynasty of Gorkha.
- **1846 – 1950:** Nepal was ruled by a hereditary dynasty of Prime Ministers – the Ranas, with the Shah kings as figureheads. The country was administered as a feudal fiefdom until the Ranas were overthrown in 1950.
- **1950 – 1960:** In 1950 the Shah king was restored as a constitutional monarch. The following ten years saw an experiment with democracy and was a period of political instability.
- **1960 – 1990:** In 1960 the king resumed full political control, political parties were banned and a partyless *Panchayat* system was established. The smallest political unit under this system was the Village *Panchayat*

(population 4,000 – 6,000). Each of the 75 districts in the country had an elected District *Panchayat* and at a national level there was a National *Panchayat* (parliament).

- **After 1990:** Following a period of often violent civil unrest in early 1990, multiparty democracy was reinstated with the king as a constitutional monarch.

In the earlier periods, the rulers of Nepal showed little interest in forest management. Land use policy in the mountains was designed to encourage the conversion of forests to farmland in order to increase the tax base (Bajracharya 1983). In the virtual absence of any State control, local people controlled forest use themselves. The population was small and the forest resources abundant, thus there was little need to regulate forest use. The forests of the *Terai* were protected as a buffer against a British invasion from the south. *Talukdar(s)* (unofficial functionaries) had responsibility for regulating the use of forests in the mountains. They were able to protect forests effectively and control their use. Forests were used only for fuelwood, fodder, leaf litter, grazing, and collection of other forest produce. Local people collected what they needed without payment of any fee to the state, although some kind of gift was given to the *Talukdar(s)* (Mahat *et al.* 1986). Occasionally royal orders were issued concerning the treatment of specified forest areas.

The Rana rulers maintained this view of the forests. The policy of the Rana government was to extend the area under cultivation in the *Terai*. Exploitation of forests was formalised through rules drawn up by the government. This resulted in a massive removal of forest products, mostly timber for sale to India. A British forestry adviser, J. V. Collier, was appointed from 1925 to 1930 to advise the government on the regulation of the *Terai* forests and to aid export of *sal* (*Shorea robusta*) timber to India. Following the recommendations made by Collier, the forests in Morang district were cleared for settlement and agriculture. Intensive felling of forests by Indian contractors took place in the *Terai* up to the end of World War II.

The government forestry organization structure began in Nepal around 1880 when the *Ban Janet Adda* (Forest Inspection Office) and *Kathmahal* (Timber Office) were established. A national Forest Management Office was opened in 1924, headed by one of the Rana Generals. Another British forestry adviser, E. A. Smythies, worked in Nepal from 1941 to 1947. He wrote several forest working plans, which, unfortunately, were not implemented. Smythies was instrumental in starting a 'modern' forest service in Nepal by setting up the Forest Department in 1942, which was based on the model of the Indian Forest Service. Forest exploitation continued and timber was exported to India.

In 1947, a Forestry School was set up under the Department of Forests to provide training to middle-level technicians. The Ministry of Forests was established in 1951 and the Office of the Chief Conservator of Forests with three circles under it was established in 1955.

By 1950, about one-third of the total forests and cultivated land were under *birta* tenure, and three-fourths of that belonged to members of the Rana family. *Birta* land was granted by the state and was usually tax free and heritable. In order to remove this feudal land tenure, the Private Forest Nationalisation Act was promulgated in 1957. The main intention of the Act was to "prevent the destruction of forest wealth and to ensure adequate protection, maintenance, and utilisation of privately owned forests" (Regmi 1978).

The Forest Act of 1961, that followed the political change in 1960, provided legislation for the state administration of the forests. The act defined forest categories and emphasised the demarcation of forests. It also defined the duties of the DOF, listed forest offences, and prescribed penalties. However, the government was unable to manage the forests effectively because of the lack of requisite infrastructure. Furthermore, forest management was affected by the government policy of resettling landless people by distributing forest lands and by illegal encroachment. Although several management plans were written for commercial man-

agement of the Terai forests, these plans were not implemented.

The Act (and its revision) categorised the forests of Nepal into national, community, religious, leasehold, and private forests. It also made provisions for handing over forest protection to the *Panchayat(s)*. The act, however, had little impact on the forests situated in remote areas where local people continued to use the forests for their needs regardless of their legal status. In fact the local people who were considered to be "illegally" using government forests to meet their basic needs were actually managing them.

The Forest Preservation Act of 1967 was enacted to further strengthen the role of the DOF. The National Forestry Plan of 1976 recognized the need for people to participate in forest management. Greater powers were given to District Forest Officers (DFOs) to formalise the transfer of forest land to *Panchayat* control. At the same time, the DOF was reorganized so that the forests in each district came under the jurisdiction of a forest officer. However, the number of staff at field level was low and the management of forests meant mere protection through policing.

In 1978 the *Panchayat* Forest Regulations and *Panchayat* Protected Forest Regulations were adopted which governed the handing over of limited areas of government forest land to the control of *Panchayat(s)*. These landmark rules formally recognised the rights of local people to manage their forest resources with the technical assistance of DFO staff.

Another milestone was the declaration of government forestry sector policy in the Sixth Five Year Plan (1981 – 1985) which emphasised community participation in the management, conservation, and use of forest resources. The move towards transferring the control of forests to local people was further strengthened by the provisions of the Decentralization Act of 1982 and Decentralization Regulations of 1984. Subsequently, the 1988 amendment of the *Panchayat* Forest and *Panchayat* Protected Forest Regulations of 1978 adopted the concept

of user groups by citing the Decentralization Act and Rules.

As a result of these legal provisions and the shift in government policy, large numbers of donors supported the implementation of community forestry programmes. Initially, these projects focussed more on establishment of plantations, as the projects gained experience the focus shifted to managing natural forests.

In 1988 the government approved the Master Plan for the Forestry Sector. While the plan covered all aspects of forestry, it strongly emphasised community forestry by earmarking 47 per cent of total forestry sector investment for the following two decades for community forestry programmes. The forestry policy document, which forms a part of the Master Plan, contains a series of statements re-emphasising implementation of community forestry activities.

The Forest Act of 1993 and Forest Regulations of 1995 are the current forestry legislation. These follow the recommendation of the Master Plan. As a result, it is now possible to hand over a particular forest to a forest user group (FUG) for management and use. The DFO can now form and register FUGs and can hand over management and use rights of a particular forest to the FUG. The process of handing over forests to user groups is continuing all over the country and especially in the mountains.

#### **1.4 Development of Government Policy on Community Forestry**

Nepal's forestry sector policy addresses all the sub-sectors including forest, soil conservation and watershed management, and national parks and wildlife conservation. Community forestry has the highest priority. US\$ 2.9 million was allocated to the community forestry programme in fiscal year 1997/98, 46.8 per cent of the total budget for the Department of Forests (MOF 1997).

For many years, Five Year Plans for national development have been the main instrument for laying out the government's sectoral policy.

The National Forestry Plan of 1976 was the first such document to spell out the country's forest policy. The intention was to institutionalise scientific forest management in Nepal. The Plan also recognised the need for people's participation in forest management, emphasised the establishment of national parks and wildlife reserves, and initiated soil conservation and watershed management activities.

The National Forest Plan of 1976 incorporated a policy of seeking people's participation. In accordance with this, the government formulated a strategy to hand over areas of degraded national forest to locally elected bodies for management and utilisation. The benefits were to be shared between the local bodies and the government. These forests were designated *Panchayat Forests* or *Panchayat Protected Forests*. The strategy did not work well as it could not muster the support of the real users of the forests. Increasingly the government realised that sustainable community forest development could only be achieved by the devolution of forest management responsibility to the actual users of the forests. This approach was highlighted in the Forestry Sector Policy of the Master Plan for the Forestry Sector (MPFS 1988). The historical development of forest policy in Nepal is shown in Table 1.1.

##### **1.4.1 The Master Plan for the Forestry Sector 1988**

The Master Plan stressed people's participation in the development, management, and conservation of forest resources and identified the legal and organizational framework needed to enhance the contribution of communities and forestry institutions to forestry development. The Master Plan set out the following long-term objectives for the forestry sector.

- To meet people's basic needs for fuelwood, timber, fodder, and other forest products on a sustainable basis
- To protect land against degradation by soil erosion, floods, landslides, desertification, and other effects of ecological disturbances
- To conserve ecosystems and genetic resources

**Table 1.1: Historical Timeline of the Forest Management Policy in Nepal**

Year	Policy/Act/Regulations	Remarks
Up to 1846	- Conversion of forests to agricultural land	To increase the tax base of the state
1846 - 1950	- Protection of <i>Terai</i> forests	As a buffer against foreign invasion
	- Forest lands given as <i>birta</i> to influential officials	Conversion of forests to agricultural land Export of timber to India
1957	- Exploitation of <i>Terai</i> forests	
1961	- Private Forests Nationalisation Act	Indiscriminate cutting of forests
	- Forest Act	
1967	- Forest Preservation Act (Special Provision)	Protection, management, and utilisation of forests entrusted to the Department of Forests (DOF) The powers of the DFO as a law enforcing agent strengthened further
1976	- National Forestry Plan	Recognised the need for people's participation in forest management
1978	- <i>Panchayat</i> Forest Regulations and <i>Panchayat</i> Protected Forest Regulations	Handing over of limited areas of government forest land to the control of <i>Panchayat</i> (s)
1981	- Forestry Sector Policy of the Sixth Five Year Plan (1981-85)	Emphasised community participation in the management, conservation, and use of forest resources
1982	- Decentralization Act	Moves towards transferring the control of forests to local people strengthened
1984	- Decentralization Regulations	Moves towards transferring the control of forests to local people strengthened
1988	- Master Plan for the Forestry Sector Nepal	Covered all aspects of forestry; designed to take Nepal's forestry into the 21st century; strongly emphasised community forestry; recognised the role of the real users in forest management
1993	- Forest Act	Regulatory function of DOF still intact, but significantly softened. Forests can be handed over to Forest User Groups by the DFO
1995	- Forest Regulations	Procedural guidelines for implementation of the Forest Act 1993

- To contribute to the growth of the local and the national economy by managing the forest resources, developing forest-based industries, and creating opportunities for income generation and employment

To meet the above objectives, the Plan put forth its policy in the following statements (HMG/N 1990).

- The forest resources of the country will be managed and utilised to give priority to the

needs of the people, for example fuelwood, timber, and fodder. Forests near villages will be managed with the participation of local people.

- Land and forest resources will be managed and utilised according to their capability so as to conserve forests, soil, water, flora, fauna, and scenic beauty. In doing so, unique ecosystems, and areas of special scientific, scenic, and recreational cultural values, will be protected.
- Emphasis will be given to multiple utilisations

- tion of land for integrated farming systems by strengthening soil conservation and watershed management activities.
- Land exceeding the needs of the local communities will be allocated for forest management to poor people, small farmers, and forest-based industries.
- No more forest land will be released for cultivation.

In line with its objectives and policies, the Master Plan envisioned six major programmes.

- The Community and Private Forestry Programme. The aim of this was to facilitate the development and management of forests through the active participation of communities and individuals. It was accorded the highest priority by the Plan.
- The National and Leasehold Forestry Programme. This supported the management of production forests by government and of small woodlots (on lease) by groups of people, communities, or institutions.
- The Wood-based Industry Programme. This was directed towards the development and management of wood-based industries that would facilitate the conversion of wood into commodities needed by people.
- The Medicinal and Aromatic Plants and other Non Timber Forest Product Development Programme. This was intended to increase the supply of medicinal and aromatic plants and facilitate their conversion into useful commodities.
- The Soil Conservation and Watershed Management Programme. The aim of this was to protect land from degradation, conserve soil and water resources, and encourage people's participation.
- The Conservation of Ecosystem and Genetic Resources' Programme. This focussed on the protection of special areas for their ecosystem and genetic resource value, and the promotion of *in situ* and *ex situ* conservation of plant and animal resources.

A further six supporting programmes were developed to facilitate implementation of the major programmes outlined above. The programmes were titled:

- Policy and Legal Reforms;
- Institutional Reforms;
- Human Resource Development;
- Forestry Research and Extension;
- Resource Information and Planning; and
- Monitoring and Evaluation.

The single most important changes brought about by the Master Plan were the concept of Forest User Groups (FUGs) and the strategy for handing over all accessible forests to such groups if they are able and willing to manage them.

#### **1.4.2 The Eighth Five Year Plan**

The Eighth Five Year Plan (1992-97) reinforced the policy of the Master Plan. The Eighth Plan emphasised the policy of expanding people's participation in the development and conservation of forests by implementing community forestry through FUGs, and of promoting private and leasehold forestry. In line with the policy of the Master Plan, it also committed the government to provide leasehold forests to people living below the poverty line. Moreover, it stressed the need for people's participation in soil conservation activities. The Plan also aimed to bring about people's participation in the management of national parks and wildlife reserves, and to foster goodwill between people and park or reserve administrations.

#### **1.4.3 The Ninth Five Year Plan**

The full document of the Ninth Five Year Plan (1998 – 2003) was not published when this paper was written, but the Approach Paper was. According to the Approach Paper, this plan reiterates the policy on community forestry outlined in the Eighth Plan. In addition, it emphasises the need to strengthen the institutional framework for handing over community forests to the users and for effective monitoring of the community forestry programme. It stresses the need to clarify the role of the government, NGOs, and private sector in all forestry development activities. It also aims to simplify the implementation of all forestry programmes and to make them transparent.

### 1.4.4 Community Forestry Policy

Current community forestry policy is the result of an evolution in forestry policy over a long period of time. The evolution of community forestry clauses in different forest legislation is shown in Table 1.2. After many years of policy exercises, the government recognised forests as 'social property', or the property of society, in contrast to earlier recognition simply as 'national property'. This realisation changed the government's policy towards the protection, management, and utilisation of forests. Currently the government has embraced a policy

of involving the people as its partners in the protection, management, and use of the country's forest resources. The approach used to achieve this is the development of 'community forests'.

Community forests are government forests that have been handed over to a group of local people, a Forest User Group (FUG), for protection, management, and utilisation. These forest areas are used by the FUG to meet both individual and collective needs. The activities of the group are governed by a set of rules and arrangements spelled out in the group's Con-

**Table 1.2: Evolution of Community Forestry Clauses in Forest Legislation**

Clause	1978 Regulations	1979 Amendment	1987 Amendment	1995 Regulations
Community Forest Area	<i>Panchayat</i> Forest not more than 125 ha, <i>Panchayat</i> Protected Forest 250 ha	<i>Panchayat</i> Forest not more than 125 ha, <i>Panchayat</i> Protected Forest 250 ha	No limit	No limit
Per cent of Benefit to the Community	40	75	100	100
Use of Community Funds	50% for forestry	50% for forestry	100% for forestry	Surplus for any community development work
Pricing of Products	Not less than government royalty rates By DFO	Not less than government royalty rates By DFO	Not less than government royalty rates By community	As per FUG decisions
Plan Preparation Plan Approved By	Conservator	Conservator	Regional Director (new name for Conservator) Administrative	DFO
Community Forest Boundary	Administrative	Administrative	Administrative	Defined by use practices
Management Responsibility	<i>Panchayat</i> (political unit)	<i>Panchayat</i>	Users Committee under <i>Panchayat</i>	Forest User Group
Chairperson	Elected leader of <i>Panchayat</i>	Elected leader of <i>Panchayat</i>	Nominated by the <i>Panchayat</i>	Selected by the Users Assembly

Adapted from Joshi (1997)

stitution, and the management of the forest is detailed in an Operational Plan for the forest area. The ownership of the land remains with the government. The DOF, through its field offices, plays a catalytic role in getting the process started and ensuring continuity.

Depending on the locality, community forest areas may be bare land, plantations, shrub land, degenerated forest, well-stocked dense forest, or a combination of these. There is no limit on the size of the forest area that can be handed over as a community forest; the only criterion is whether the user group is able and willing to manage the area. All income from the sale of forest products or from other sources belongs to the group and can be used for forestry or other local development activities.

The current policy on community-based forest management focusses on the following.

- Handing over accessible forests to FUGs irrespective of political or administrative boundaries
- Ensuring that the real or traditional users of the forest make up the FUG
- Sharing of all benefits from community forests among the users
- Using the FUG fund in community development work including forest development
- Changing the role of forestry staff from custodial to facilitatory
- Capacity building of the FUGs and DOF staff through training

Nepal has a central government and, unlike India or China, does not have state or provincial governments. Thus the community forestry policy is implemented all over the country. The Forest Act and Regulations apply to the whole country and are not mountain or *Terai* (plains) specific. A study by Tamrakar and Nelson (1991) indicated that 3.5 million ha of forest, 61 per cent of Nepal's total forest area, is 'potential community forest area'. The community forestry programme is both the largest forestry programme and the one with the highest priority, and it is intended to hand over all accessible forests to local Forest User Groups (FUGs).

## 1.5 Legal Framework

The government has demonstrated its commitment to the policy of promoting people's participation by effecting timely changes in the forest legislation. These changes were especially significant for people's participation in forest management.

The Forest Act of 1961 was enacted to establish state control over all forests following the Private Forest Nationalisation Act of 1957. The *Panchayat* Forest Regulations and *Panchayat* Protected Forest Regulations of 1978 were implemented in accordance with the National Forest Plan of 1976. These regulations enabled community management of forests by handing over forests to a local village body, the Village *Panchayat* (equivalent to the present day Village Development Committee). But not enough interest could be generated among the real users of forests under these regulations and the results were disappointing.

The Forest Act of 1993 and Forest Regulations of 1995 gave a new direction to people's participation. In line with the declared policy, community forests could now be handed over to the real users in the form of an FUG. The Community Forestry Directives of 1995 and Operational Guidelines of 1995 provided procedural guidelines for effective implementation of the Act and Regulations.

The Forest Act of 1993 and Forest Regulations of 1995 placed government forests into five categories.

- Community Forest—entrusted to FUGs for management and sustainable utilisation for the collective benefit of the users
- Leasehold Forest—leased to institutions, or groups of people
- Religious Forest—handed over to any religious body for protection and development
- Protected Forest—declared by the government to have a special environmental, scientific, or cultural value
- Government-managed Forest—production forests managed by the government

The legal instruments recognise FUGs as autonomous legal entities. FUGs are allowed to grow perennial cash crops in community forests and to establish forest-based industries. FUGs can fix prices, transport, and market products obtained from the community forests and use the funds generated through these in any community development activities. The Act also guarantees non-interference from the forestry administration in the operation of FUGs and in the management of their community forests as long as the group observes the provisions of the Forest Act and Regulations and of the group's Operational Plan.

The government has formulated different Acts for other areas of the forestry sector. The Soil and Water Conservation Act of 1982 and Regulations of 1985 empower the government to declare any area to be a protected watershed. The land within the watershed is classified according to land use, and official permission is required to exploit any forest produce. This Act and Regulations have not come into effect, however, although land stabilisation, productivity improvement, and land use planning programmes are being implemented through community involvement.

Similarly, the National Parks and Wildlife Conservation Act of 1972 and Regulations of 1973, the Wildlife Reserve Regulations of 1977, and the Himalayan National Park Regulations of 1979 have been implemented with the aim of protecting wildlife and regulating hunting. Legal provisions concerning Conservation Areas and Buffer Zones have also been formulated and have been enforced in some areas recently. These legal provisions recognise the need for people's participation and for benefit sharing between National Parks and the people living in the surrounding area.

The Master Plan for the Forestry Sector, the Forestry Sector Policy objectives, and the legal frameworks are appropriate for Nepal where most of the population is rural and living at a subsistence level. Both the Plan and Policy accept the nature of the forest-based rural economy of Nepal. The emphasis on decentralized community forestry is also appropriate

since demands for fuelwood and fodder are dispersed and have to be met within a short distance of a large number of human settlements. These demands are different to those of large urban concentrations, which can be supplied from government-managed forests.

### **1.5.1 The Policy-making Process**

The policy-making mechanism in Nepal is well defined. In general, initiatives to formulate sectoral policy are taken at Ministry level, in the case of forestry at the Ministry of Forest and Soil Conservation (MFSC). The process of policy formulation is as follows.

Any issues of national importance related to forest protection, management, or utilisation and identified by the District Forest Offices are reported to the Director General of the DOF. The DOF carefully scrutinises the issues and communicates any perceived need for a new policy to the MFSC, generally to the Secretary who is the administrative head of the Ministry. At the Ministry, senior officials discuss the issues, and, if a need is felt for the formulation of a new policy, the Secretary informs the Minister of Forest and Soil Conservation. Equally, when a new government is formed, the Minister responsible for the MFSC may instruct the Secretary to formulate a new policy in line with the political party's declared policy.

In either case, consultations and discussions are held among senior officials of the Ministry. Usually a task force is formed to draft the policy paper. Additional inputs are obtained from the Director Generals of any other departments concerned. The task force is generally given the responsibility to interact with or solicit the views of other people or agencies that have an interest in the issue. In practice, the amount of interaction or discussion is limited as a result of both lack of time and the need to maintain a certain degree of official secrecy. More recently the MFSC has encouraged as much interaction as possible between all the parties concerned—including donors, FUGs, and non-government organizations (NGOs). Discussions with donors take place in the Forestry Sector Co-ordination Committee (FSCC) meetings, at

which all the donors involved in the forestry sector are represented.

Once a new policy paper is drafted, the Secretary of the MFSC forwards it to the Minister concerned for approval. The approved policy paper is then presented to the Cabinet Secretariat as a sectoral policy proposal for endorsement by the Council of Ministers (Cabinet) headed by the Prime Minister. The Cabinet Secretariat, headed by the Chief Secretary, scrutinises the policy proposal for appropriateness and then presents it to the Cabinet meeting for approval. Finally, the approved proposal is published as a sectoral policy of the government.

Generally the approved sectoral policy demands changes in either the Forest Regulations or the Forest Act. In cases where an amendment is necessary in the Regulations, the DOF generally drafts the amendment with the help of its Legal Officer. The draft amendment is presented to the Secretary of the MFSC and then to the Minister for approval. The approved draft amendment is then sent to the Ministry of Law and Justice for editing and checking to ensure that it does not contradict existing laws. After approval, the Ministry of Law and Justice presents the amendment to the Cabinet Secretariat for approval by the Cabinet. The approved amendment of the Regulations goes into legal effect with its publication in the official Gazette.

If an Act needs an amendment, the same draft formulation process is followed. The only difference in this case is that the amendment approved by the Cabinet is tabled through the Ministry of Parliamentary Affairs as a Government Bill. The Bill is passed first by the House of Representatives and then by the National Assembly, before being presented for Royal assent by the King who is the constitutional head of the country. After the Royal assent is obtained, the Bill is published in the official Gazette for its effective legal recognition.

### **1.5.2 Stakeholders in Policy Change**

Strictly speaking, the main stakeholders in community forestry activities are the DOF, repre-

senting the government, and the FUGs, representing the communities. Other stakeholders are donors (bilateral or multilateral), NGOs (both national and international), and political holders of office.

As mentioned earlier, the present community forestry policy evolved over a period of time and did not result from a single policy change brought about by a certain interest group or stakeholder. Until now, initiatives for policy changes in community forestry have come largely from the government side, especially the DOF. The donors, too, have played a significant role in such changes. Donors have assisted the DOF in the process of policy formulation and, significantly, in the implementation of the community forestry policy. NGOs have not had the opportunity to initiate changes in policy, but recent trends indicate that in future they may play a positive role in policy change in the forestry sector.

### **1.5.3 Forest Policy vis-à-vis Other Policies**

Although Nepal does not have an overall land-use policy, the forestry sector policy prohibits the conversion of forest land into other land uses. However, demands on forest land for construction of infrastructure such as roads, transmission lines, educational institutions, and medical facilities, and for settlement of landless people, is growing. This has resulted in some conflicts. Purchasing private agricultural land for infrastructural development by the government is expensive and can be time consuming. Most Ministries find it an easier option to use forest land which, being owned by the government, does not require cash compensation. This has brought about many conflicts with other sectoral ministries causing delays in the implementation of their projects.

It is mandatory to prepare an Initial Environmental Examination (IEE) and/or an Environmental Impact Assessment (EIA) whenever a proposal is made for change in the land use of forest areas for infrastructural development (HMG/N 1995). The decision to release forest land for other uses is usually based on such

