

Conflicts in Community Forestry and Mechanisms/Processes for Resolution

– Some Examples from Nepal

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Objectives

- To identify, analyse and discuss conflicts arising in community forestry
- To find ways of managing conflicts satisfactorily

Conflict

The word conflict denotes a relationship between opposing forces. The relationship may or may not be marked by violence. Conflicts are brought about by change and the way individuals or communities react to that change. Changes can be physical such as an increase in population and migration or in the degradation of physical environment. Alternatively, they can be social such as growing inequity in the distribution of natural resources. Conflicts are also observed when traditional practices, e.g., shifting cultivation, are considered not legitimate or consistent with national policies. They occur when external agencies try to do something according to their interest while ignoring the needs of local people. In all conflicts there is an element of change.

What role can conflict play? Can it be positive?

Individuals and communities react differently when confronted with change. Some may take it positively. They adapt to change and use the opportunity for good. Others may take change as a destabilising factor and try to resist, resulting in conflict. All development works, whether promoted by government, INGOs, or NGOs, propose change in one form or another. Such change contributes to the emergence of conflicts. These conflicts can be between individuals within a group, between groups, or even between institutions.

What are the major conflicts in community forestry?

In community forestry conflicts arise at different stages. The conflicts are seen within a forest users' group, be-

tween two or more forest users' groups, and between forest users' groups and forestry administration.

Conflicts within a forest users' group

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 concerns, among other things, the identification of users of the prospective community forest. The staff investigates within the village, by discussion or by checking, to determine the real users of a particular forest. However, low-caste or disadvantaged people may be missed out from the users' group as they do not usually have a voice in a community dominated by higher castes. As a result, if such disadvantaged people are excluded, at the time of benefit-sharing, conflicts may surface. In another case, people living away from the forest may not be regular users but only use the forest seasonally, e.g., charcoal-makers. They are 'secondary users' who do not contribute to the protection of forests. Often, during the identification process these secondary users are not aware of the field staff's visit and are excluded from the list of forest users. This could possibly cause conflict later.

Sharing of benefits

Community forests are used for the production of fodder, fuelwood and so on. Conflicts arise over how the produce should be shared. A user with eight family members argues that, due to the size of his family, he has the greater need; 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 household. There will be a difference between need on one hand and duty on the other — causing conflict.

All members of a users' group cannot actively participate in meetings or provide voluntary labour. Some members are bound to be inactive 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. Such arguments give rise to conflicts.

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 turn. Protection requires a physical presence at the site, and strict vigilance. For most users, this is acceptable. However, because it demands a physical presence at the site, sometimes at odd hours, those of a higher social status 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.

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; 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.

Conflict between users' groups

Location of forest

In general, a patch of forest in one village development committee (VDC) is used by villagers from the same

village. However, when the boundary of a VDC is re-drawn (a common occurrence), that patch of forest is assigned to another VDC. The villagers from the second VDC then claim the forest as 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 VDC. Users' groups from the VDCs request the District Forest Office to demarcate the forest prior to handing it over for community management. In the absence of a clear-cut boundary on the ground, conflict arises as to where the line of demarcation should be. Naturally, users' groups will claim and counter claim the better parts of the forest.

Nature of the forest

There are instances of villagers using more than one forest for forest produce. For some forest produce, such as fuelwood 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 (*Shorea robusta*) forest that lies in another village but within the same VDC. When the users' groups are formed, the users' group claiming the sal forest refuses to give any rights 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.

Conflicts between users' groups and the Forest Division Office/ Forest Department

Deviation from operational plan

When the operational plan is approved, and the forest handed over, a representative of the users' group committee, usually the chairman, and the District Forest Office 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 to either a lapse on the part of the district forest staff or because of the forest users' group's zealous pursuit of income for their community fund to build community infrastructure.

Deviation from the objectives of community forestry

Users' groups sometimes deviate from the objectives of community forestry as illustrated by the case given in Box 1.

Box 1

Stone quarrying in a community forest in Syangja District, Nepal

The case involved a mixed sal forest that 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 that had been a stone quarry 30 years' previously. The users' group was protecting the 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. On 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 that authorised the District Forest Office to issue such permits for national forests. The contractor quarried the area.

The forest users' group did not challenge the validity of this permit but instead decided to levy a tax on the truckloads of stone. 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 access road to the hydropower project and prompting the Nepal Electricity Authority to request the Forest Department to permit quarrying of the area. The Nepal Electricity Authority cited the high quality of stone and stated that no other potential quarry of a similar quality existed within a radius of 100 km. Under community forestry rules, quarrying is not permitted.

The dilemma of the central forestry administration was whether to annul 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 while, 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.

Conflicting decision

With the hand-over of community forests during the last few years, many community forests have reached the harvesting stage. The Forest Act of 1993 allows forest users' groups to price, sell, and transport freely forest produce yielded from community forests across the country. However, a government decision tried to regulate conditionally the sale and transport of forest products from a community forest outside a district. The condition was that priority must be given to the needs' fulfillment of the forest users' group first and then to the needs of other forest users' groups within the district before the forest products could be transported outside of a district. This had evoked criticism and protest by forest users' groups that the rights of the forest users' group incorporated in the Forest Act are being encroached upon by the government. The government's decision tries to safeguard the interests of other forest users' groups who do not possess enough forest area to cater for their need for forest products. Conflicts are emerging on this issue.

Lack of trust

A prerequisite for handing over a community forest is the approval of an operational plan by the District Forest Officer. Cases have been observed in which the District Forest Officer does not agree to apparently liberal provisions in the operational plan for removal of trees from a community forest. This invariably is due to the suspicion on the part of district forest staff that the for-

est users' group's proposal is driven by the motive for making more money for the community fund rather than by the need for forest products.

In other cases (Box 2), when forest users' groups have requested the hand-over of purely commercial forests, there has been a great deal of hesitancy on the part of field staff. This arises from the district forestry staff's lack of confidence in the abilities of forest users' groups and their apprehension that forest users' groups will be tempted to cut illegally such commercial timber, which has a high value in the market. Such low confidence has led to conflicts. The district forestry staff's suspicions are not without foundation. Recent cases of forest users' groups over-cutting commercial timber from community forests have compelled district forest staff to take back community forests from the groups. The resulting conflicts have attracted much attention across the country.

Amendment of the Forest Act

The Forest Act authorises the District Forest Office to take back community forest from a forest users' group if the forest users' group committee deviates from the operational plan or commits an offence in the community forest. There is no provision for penalisation of forest users' group committee members. The District Forest Office has no other option than to take back the community forest, an extreme step depriving the forest users' group of forest products. So the government has proposed an amendment to the Forest Act empowering

Box 2

Case of Koidim Community Forest

Koidim, a Community Forest predominantly of sal (*Shorea robusta*), was handed over to a forest users' group (FUG) consisting of 102 households in March 1994. The community consists mainly of an ethnic hill group of Magar, a simple and straightforward people. The chairman of the FUG, a former school teacher in Kathmandu, is a local political person. Other members of the FUG are poor and illiterate and depend upon him for any community activity. The FUG assembly under his leadership decided to cut trees (including green trees) from hill slopes and extracted 13,700 cubic feet of sal timber — when the permissible limit is 500 cubic feet annually of fallen and dead timber as prescribed by the operational (management) plan. Labour from poor people of the FUG was used for nearly two months for cutting and extraction of timber by providing them with a food ration taken on credit from a local shop with the agreement that the debt would be paid with proceeds from the sale of the timber. Local people informed authorities about the illegal cutting and an investigation team was dispatched to the field from the centre. Based on the report of the investigation team, the Forest Department suspended from duty the District Forest Officer and his deputies for negligence in duties.

The newly deputed District Forest Officer immediately seized all the timber, which was worth six million rupees (US\$ 1 million), and dissolved the FUG. The community forest was taken back on the grounds that the decision of the FUG assembly was not approved by the District Forest Office and could be recognised as an amendment to the operational plan as was necessary according to the Forest Act. Another reason was that cutting of the trees had an adverse effect on the environment. The District Forest Office also filed a case against the chairman and 10 executive members of the FUG for breaching provisions of the operational plan. This provoked protests in the district headquarters by the FUG, led by the chairman, demanding the withdrawal of the decision and the handing over of the seized timber. It drew wide publicity and there was a lot of political pressure from a top politician on the District Forest Office to solve the case in favour of the FUG because the Chairman's community had the decisive vote bank for the politician. At the same time the FUG filed an appeal to the Regional Forest Directorate against the decision of the District Forest Office as provisioned in the Forest Act. The Regional Director upheld the decision of the District Forest Office.

The chairman made many sorties to the centre to build up pressure through the top politician on the Department of Forests to solve the case in the FUG's favour or at least to make available some money to compensate for the labour provided by the poor members of the FUG. However, to the dismay of the top politician, there is no legal basis for the Forest Department to accept such a demand. The Chairman did a lot of lobbying and reportedly extracted Rs 80,000 (US\$ 1500) as a loan from the Federation of Community Forest Users' Groups to file a case in the Supreme Court against the decision of the Regional Director and the District Forest Office. However, the Supreme Court also upheld the earlier decisions. It was reported that the poor and innocent people of the FUG were used by the Chairman to fulfill his political ambitions. It was also reported that the FUG had earlier also illegally cut and sold 2,000 cubic feet of timber for 1.2 million rupees. The cutting of trees had gone unnoticed by the centre and had encouraged the FUG led by the Chairman to cut more than 13,000 cubic feet of timber later.

The conflict between the FUG and the District Forest Office has not been resolved yet, although the Chairman's effort to put pressure on forestry institutions continues. Because of the conflict, the forest cannot be used legally by the community and the timber cut illegally by users has not been utilised, but remains exposed to the elements.

District Forest Office staff to penalise the forest users' group committee members involved in the violation of operational plans. The proposed amendment, the government feels, prevents the need to take back community forest and, at the same time, acts as a deterrent for violations. The amendment to the bill is under parliamentary consideration, but the central organization of forest users' groups is lobbying against it — arguing that it will encourage District Forest Office staff to harass the forest users' group committee members. They also feel that it encroaches on the authority of forest users' groups to penalise any member not observing rules made in the operational plan. Conflict is brewing between the forestry administration and the central organization of forest users' groups.

What is conflict management?

Conflict management does not necessarily mean only conflict or dispute resolution. It also means preventing or minimising conflicts and covers all dimensions of conflict. Managing conflict demands promotion of participatory planning at all levels. It also seeks to raise awareness at all levels of 'conflict dimension' meaning how conflicts are generated, and how they can be avoided, mitigated, and resolved. It also seeks to develop the capacity of institutions at all levels through training in conflict resolution skills. Conflict should not be ignored because it often threatens social harmony. However, it must be stressed that there is no single mechanism or formula applicable to all conflict resolution.

tion. Each conflict is a unique situation and conflict resolution is not a ready-made tool.

What are the mechanisms for conflict resolution?

There are different mechanisms or processes or techniques by which conflicts can be resolved. The voluntary problem-solving and decision-making methods most often employed in conflict management are as follow.

- **Facilitation:** In this technique, a neutral third party's assistance is involved. The neutral party helps in designing and conducting a productive meeting of conflicting parties. A facilitator may help in time management or keeping track of agreements, etc.
- **Arbitration:** Arbitration involves a neutral third party's assistance. The conflicting parties voluntarily submit the case to the neutral third party for decision-making.
- **Conciliation:** In this process, a neutral third party attempts to communicate separately with the conflicting parties. The main purpose is to reduce tensions and agree on a process for resolving the dispute. The conciliator merely facilitates the process and does not direct the parties.
- **Negotiation:** This is a voluntary process in which conflicting parties meet face-to-face to reach a mutually acceptable resolution of the issue. There is no involvement of a third neutral party. Negotiations are typically unstructured and often lack formal procedures such as 'rules of the game' or in what order issues will be addressed. Voluntary participation usually indicates a greater 'good faith commitment' to the dispute-management process.
- **Mediation:** Mediation involves the assistance of a neutral third party in a negotiation process where a mediator assists the disputing parties in reaching their own agreement. The mediator has no power to direct the conflicting parties or make decisions or to attempt to resolve the dispute.

These processes are often combined in practice. An effort originally focussed on conciliation may develop into a negotiation which may in turn be enhanced by mediation. Similarly, a conciliator may be asked to act as mediator at some stage of the conflict-resolution process. Mediation and conciliation can also be seen as an extension of the negotiation process involving the assistance of a neutral third party in negotiation once direct negotiations have broken down.

How can people and institutions play a role in conflict resolution?

It is important for people engaged in natural resource management to understand and recognise the role that local institutions play and the mechanisms used to deal with conflicts within and between communities. Local institutions and mechanisms are rooted in tradition and locally recognised.

Forestry staff do not have the necessary skills or capability to resolve all kinds of conflicts. They are not trained to undertake such assignments. Conflict resolution is a new field in renewable natural resource management, especially in community forestry. The forestry administration has lately realised the need to be sensitive to conflicts and develop resolution skills among field staff. As such, regular training programmes on conflict resolution are carried out for field staff in the forestry sector.

The need to build up such capability is not confined to forestry field staff only: NGOs and INGOs who are assisting in the management of renewable natural resources also require such skills. An innovative forum called *Nepal Madhyasthata Samuha* (Nepal Mediation Forum) has been formed with the involvement of government officials—including foresters, sociologists from NGOs and INGOs, and independent lawyers. It has prepared case studies, and held workshops and training activities to develop awareness about conflict and build capability for resolving conflicts that occur in natural resource management. Such a neutral forum, which is acceptable to conflicting parties, can play an effective role in resolving conflicts.

Water users' committees and community forestry

The community forestry programme is not limited to the hills and mountains of Nepal but is also implemented in the *Terai* (plains). The *Terai* Community Forestry Programme assisted by the World Bank was implemented in *Terai* districts in 1985. Under this programme one of the activities was to plant trees on the banks of irrigation canals. Thousands of sissoo (*Dalbergia sissoo*) seedlings were planted along hundreds of kilometres of irrigation canals on both sides and protected by paid watchers with some assistance from the local people. The project was terminated in 1992. Since then the sissoo trees have grown and are being looked after by district forest officers. As the land belongs to the Department of Irrigation there is ambiguity as to who owns the trees: the Irrigation Department by being the land owner or the Department of Forests by being the planter. It is an uneasy situation. The Department of Irrigation

has formed water users' committees and entrusted them with management of irrigation canals—including maintenance. Recently, on the recommendation of the Department of Irrigation, water users' committees requested the Department of Forests to hand over the canal bank plantation for protection, management, and utilisation. Under the Forest Act, plantation on land not owned by the Department of Forests, can be designated as community forest if local communities form themselves into a users' groups and obtain the written permission of landowners of such plantations. On the requests of water users' committees and with the written permission of the Department of Irrigation, such canal bank sissoo plantations are being handed over to water users' committees for protection, management, and utilisation according to an operational plan approved by the District Forest Office. This novel arrangement is being adopted along irrigation canals in Nawalparasi and Sunsari Districts.

Lessons Learned and Recommendations

Experiences gained in implementing the community forestry activities have generated the following lessons.

- There is a growing need for forestry professionals, especially at field level, to build up capability and skills in conflict management. So conflict management should be included in training programmes at all levels.
- Many conflicts can be avoided or minimised if there is clear and good communication between forest users' groups and forestry staff. Communication mechanisms should be developed.
- Ambiguity in policy and legislation invites conflict. So, the government should formulate and disseminate clear policies and rules.
- There is no mediation mechanism existing between forest users' groups and forestry institutions. A mechanism for mediation should be developed.

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MODULE 2

Approaches, Techniques and Practices in Participatory Integrated Forest Management