

The Forest Act of 1993

Based on the Forest Policy of 1988 and building on the Master Plan, the Forest Act of 1993 enshrines the concept of user group or community forestry in Nepal. It classifies the forests of Nepal into the following.

- Protected Forests
- Community Forests
- Leasehold Forests
- Religious Forests
- Private Forests

In the provisions related to community forestry, the Act states that the "District Forest Officer may hand over any part of a national forest to a user's group in the form of a community forest in the prescribed number entitling it to develop, conserve, use, and manage such forests, and sell and distribute the forest products by independently fixing their prices, according to an operational plan. While handing over a community forest, the District Forest Officer shall issue a certificate thereof." (Annex 1: Provisions Relating to Community Forests, Forest Act 1993, HMG/N).

The act further requires that the DFO "provide technical and other assistance to formulate an operational plan." It provides an element of flexibility and allows user groups to "make timely amendments according to need in the Operational Plan related to the management of community forests, and must inform the District Forest Officer accordingly."

We turn now to the section on the Provisions Relating to Formation of Users' Groups (Annex 2) The act stipulates that "the concerned users of a forest, desirous of developing and conserving it and using the forest products for collective benefit, may form a users' group in the prescribed manner."

Additional provisions outline the registration process with the DFO and the sources of funds which can be accessed by a users' group. These provisions are important in that they provide a clear legislative framework to Forest Department staff for operationalising user group-oriented community forestry.

Although the new Bill acknowledges the rights of user groups to manage and protect forest areas, it also states that ownership remains with the government. It retains the sovereign right to repossess the community forest if the terms and conditions of the hand-over are not met. The new legislation gives unlimited power to the DFO to control user groups managing forests, with little protection for users in case a dispute arises between them and the forest department.

This apparent ambivalence between practice in the field and actual legal power does lead to some dilution in the rights of local people. However, the Bill is a progressive piece of legislation which does allow the following activities.

- Authority for handing over forests to users has been devolved from Regional Directors to DFOs.
- Surplus income generated from user group managed forests can be used for development other than forestry.
- The users have the responsibility for drawing up operational plans.
- Users can fix the rate at which forest products are sold, irrespective of government royalty rates.
- Community forestry retains priority over other national forestry programmes.
- Forestry user groups can register themselves as independent bodies.