

2. BACKGROUND AND INAUGURAL STATEMENTS

The seminar was opened by **Ramesh Khadka** of ActionAid, who anchored the day-long process in the plenary. After reviewing the day's programme, Mr Khadka introduced Dr Mahesh Banskota of ICIMOD, who gave the Welcome Address.

Welcome Address by Dr Mahesh Banskota, Deputy Director General, ICIMOD

Dr Banskota gave a brief introduction to ICIMOD and its Participatory Natural Resources' Management Programme, highlighting the programme's importance for Nepal and the importance of community forests not only in Nepal but in other countries as well.

Past strategies of the Department of Forests were based on the idea that plantations could increase the forest cover. That had seemed an easy task, so there was no people's participation. However, over the years, forest areas declined while the number of forest officers increased. Forests may be easy to plant, but they are difficult to protect and manage.

The seminar sought to illustrate that conflict is a normal process within society. When conflicts arise, they should not be hidden. To bring conflicts to light and discuss ways to deal with them is a breakthrough.

Earlier, the Government of Nepal nationalised all forests, but the policy current in 1995 was to return the forests to community user groups. There could be extreme views on this, but partners should work together and move cautiously. We should not only focus on the resources we have at present, but we should also start thinking about new resources and how to involve the community in their management. Not doing this will lead to conflicts as a growing population stakes its claim on scarce resources. Dr Banskota concluded by saying that ICIMOD had helped and continued to help promote discussions and new ideas on these matters, and that it was happy to support this process through the Nepal *Madhyasthata Samuha*.

Background to the Seminar

Manohar Lal Shrestha from the Training Division of the Department of Forests, HMG, Nepal, gave a background to the seminar and to the NMS. He stated that the Nepal *Madhyasthata Samuha* was established in August 1994 as an inter-institutional and collaborative organisation composed of members from a variety of government and non-government organisations. The institutions represented in the NMS included the Department of Forests of HMG/N, Nepal UK Community Forestry Project, Nepal Australia Community Forestry Project, FORESC, New Era, WATCH, ActionAid, and ICIMOD. Individual professional members included an attorney and a social scientist.

Mr Shrestha observed that the NMS was committed to participating in processes that strengthen capacities for conflict resolution, particularly in the area of natural resources' management. Its overall objectives were to develop and disseminate conflict resolution techniques and skills. Members of NMS were, however, well aware that indigenous conflict resolution mechanisms already existed. These mechanisms should be studied, so that they could be built upon and strengthened.

In pursuit of these objectives, the NMS members had developed several case studies based on conflicts encountered in their own work. These case studies were presented at a regional training programme on conflict resolution, organised by the Regional Community Forestry Training Centre (RECOFTC) in Bangkok in December 1994. The *Samuha* had organised the current seminar to disseminate its work more widely within Nepal, especially to people engaged at the community level. In general, conflicts were created by government regulations or at the community level. A goal of the seminar was to consider the causes of conflict as well as steps towards conflict resolution at the local and national level.

Mr Shrestha then introduced the Keynote Speaker, **Mr Kailash Nath Pyakurel, Member, National Planning Commission, HMG/N.**

Keynote Address: Conflicts and Solutions

Referring to the reasons giving rise to conflicts, Mr Kailash Nath Pyakurel stated that people had exploited natural resources for centuries. At present, while population growth and development programmes were increasing daily, the supply of natural resources was unable to keep pace with growing demands. The gap between supply and demand led to competition for scarce resources, the ensuing conflict obstructed the path of development.

While admitting that conflicts over property rights and access to resource distribution were not new, he said that institutional policies had only recently been formulated to deal with them. Extending and intensifying programmes to solve the shortfalls in natural, physical, and human resources would certainly accelerate the pace of development. In conclusion, he focussed on the importance of democratic solutions.

The full text of the keynote address is given in Annex 2.

Working Groups

Dr Pyakurel's address was followed by presentations on and small group discussions of the case studies from Jalbire, Buchhung, and Bokse. Three working groups were formed to maximise interaction on the issues presented in the case studies. A chairperson elected from each group made the group's presentation to the plenary. Presentations were focussed on the case study and the group's discussion.

Group One: Jalbire Women's Community Forest

Participants in this group included the following.

- Rajendra Pradhan (International Irrigation Management Institute)
- Samjhana Premi (Women's Support Group - Okaldhunga)
- Gita Devi Timilsina (Rural Women's Creative Family - Sindhupalchowk)
- Prakash Mani Sharma (Public Interest Litigation Forum)
- Jeff Campbell (Ford Foundation)
- Khagendra Sikdel (Swiss Development Cooperation)
- Indira Koirala (Institute for Integrated Development Studies [IIDS])
- Guna Kumari Ghimire (Gorkha)
- Tara Devi Thapa (Gorkha)
- Sita Ale (Gorkha)
- Asha Thapa (Gorkha)
- Sapana Pradhan Malla (Advocate, Supreme Court)
- Manohar Lal Shrestha (Training Section, Department of Forest [DOF])

Background of the Conflict

Sapana Pradhan Malla, chairperson for Group One, began her presentation by describing the setting and the initial situation of the conflict. Jalbire Women's Community Forest is located near Khaireni Bazaar in Gorkha district. It is bounded by the Khaireni-Gorkha road in the east and west and agricultural lands in the north and south; this location has led to rapid deforestation.

Save the Children Fund (SCF), an international NGO, started an adult education programme which generated awareness among women of the importance of forests and motivated them to develop conservation strategies. In 1989, the Jalbire Women's Community Forest Group (JWCFG) was formed from among women members of the households adjoining the forest. Its aims were to protect and develop the forest.

In 1991, the Department of Forests (DOF), HMG/Nepal began implementing community forestry in Gorkha by handing over public forests to community groups. SCF contacted the District Forest

Office of Gorkha and an Operational Plan (OP) to manage the forest area was prepared with SCF's coordination. This OP was approved by the DFO on 4th April 1992 and by the Western Regional Forestry Directorate (WRFD) on 16th June 1992. At the time the forest was handed over, JWCFCG included 44 households with 258 people and 179 livestock.

The conflict stemmed from work being carried out contrary to the OP. The OP stipulated the following.

- One sal tree was to be felled in 1992 for construction of a rest house.
- No timber producing tree was to be felled in 1993.
- Two trees were to be felled in 1994.
- Four trees were to be felled in 1995.
- Five trees may be felled in 1996.

Despite these restrictions, 966.21 cuft of timber was felled in January 1992; mature trees were cut to make space for new ones. The JWCFCG stated that this extraction was carried out under the supervision and direction of the DFO, but it had no proof since no written instructions were given. Accepting that this was proper forest management, DOF officials neither confirmed nor denied that the instructions were given and the concerned DFO was transferred shortly after the conflict arose.

The conflict was triggered by local timber contractors who wanted to buy the logs, whereas the JWCFCG wanted to sell these logs themselves in Kathmandu in order to generate more income. Because of the vested interests of local timber contractors, they mobilised opinion against the women's group, and no local administrative body tried to resolve the dispute.

On 23rd April 1992, the DFO requested the WRFD to take necessary action; seven months elapsed before they replied that it did not fall under their jurisdiction. In April 1993, an investigation team was formed in the Ministry of Forests and Soil Conservation. Although the investigation report was submitted on 5th May 1993, the final decision came only on 31st April 1994, over two years after the original felling of the trees. By this time, approximately 25 per cent of the timber had decayed.

The Decision of the DOF and Its Impacts

The decision of the DOF was as follows.

- All income generated from the disputed timber was to be used for protecting and conserving the forest. But, since the forest area is small, the extra income could not possibly be used in that way.
- Felling any trees was prohibited for the next five years.
- A revision of the original OP and reconstitution of the user committee was required.
 - ▶ The provision allowing the revision and renewal of the OP was deleted from the new OP.
 - ▶ Under the new OP, 75 per cent of all income from the forest was to be used for the preservation and conservation of the forest, whereas, according to the 1991 OP, the JWCFCG was to spend a minimum of 25 per cent on forest development and the rest according to their own choice.
 - ▶ The clause allowing the user group to spend up to Rs 200.00 as they chose had been cancelled.

The women's group now felt insecure and their confidence in the DOF declined. Despite their time, hard work, and effort at forest management, the decision prevented the women from earning income for many years, curtailing their plans to use forest-generated funds for community development and other beneficial social work. Moreover, the dispute led to a distinct loss of face for the women at the household and community level. Local men were using it to deride the women members.

The high level of interest and protection provided by the women's group resulted in rapid regeneration of the forest area. The dispute and related problems diluted their commitment. If the forest area reverted to an open access grazing area, it would hinder regeneration and lead to further degradation.

Legal Issues

- The DOF, which is empowered to form and register a user group, also has the power to dissolve it. In cases of disputes against the DOF, the Department functions both as a party to the conflict and as the decision-maker, which violates natural justice.
- The OP has no provision for solving disputes which may arise.
- The implementation date of the OP is confusing because three dates are involved: date of registration, date of approval, and date of handing over the forest.

Suggestions

- Conflict resolution decisions should be made in a timely manner.
- The date when the OP takes effect should be made clear and the time between the date of registration and actual handing over of the forest to the user group should be shortened.
- Any decision to spend money should be discussed carefully among the members.
- Nominal wages should be given to volunteers working on the project.
- Training to sensitise forest staff to conflicts and their resolutions should be arranged.
- When the DOF makes decisions about conflicts, it should probe into all aspects.
- The user group should draw up their OP carefully and should work according to it. When consulting the DFO for any decisions, these should be obtained in writing.

Group Discussion

JWCWG members elaborated upon their need for forest products and the various hardships they suffered as a result of the conflict. It was generally recognised that the main problem was that the DFO's instructions to harvest trees in contravention to the OP were not recorded in writing.

Proper record-keeping and written communications with the DFO, regarding the harvesting and sale of timber, are necessary to avoid this type of dispute.

The importance of careful consideration before developing an Operational Plan was emphasised. The DFO should gather all necessary information before drafting an OP. The OP for this forest area seemed to overemphasise conservation. The OP must be clear to all members of the user group. Provisions should be made for amendments as necessary.

Answering a general question regarding actual ownership of a community forest and whether the government is using communities by saying the forest is handed over, a participant from the Forest Department explained that, according to the Forest Act of 2018, the government owned the land and that 'handing over' referred to the management aspect. However, a forest is handed over to widen the scope of activities of the forest user group (FUG). The Forest Act of 2049

allowed an FUG to expand as an enterprise so that in the future FUGs could become major suppliers of commercial timber. Current law allowed for timber to be considered an asset which could be used as collateral for bank loans.

Discussion then focussed on the special problems facing women forest users and the need for their participation in community forestry to be appreciated, rather than denigrated.

Some participants felt the government was overemphasising the formation of user groups without sufficient study, evaluation, and consultation. This could lead to adverse situations which would cause peoples' trust in government policy to decrease. Handing over should be carried out in a timely and correct manner, and forest officials and rangers provided with training in the handing over process and participatory skills.

Operational Plans should be very clear and should include methods to resolve possible conflicts since disputes commonly arose when profit was generated. Attempts should be made to resolve conflicts at the local level. If this could not be done, conflicts should go up to higher authorities. Another participant suggested the involvement of third party mediators in conflict resolution.

Some members of the group considered the notion of departmental bias under circumstances in which the DOF was not only responsible for forming, supervising, and dissolving user groups, but also, at higher levels, for considering appeals. A DOF official strongly objected to this and compared the situation to the hierarchies in the court system in which there are district courts, zonal courts, and supreme courts for higher appeals.

Group Two: Buchhung Forest

Participants in this group were as follow.

Bishnu Raj Upreti (Mechi Hill Development Programme)

Kalpna Ghimire (Women Acting Togwether for change [WATCH])

Kanchi Mlon (WATCH)

Jagadish Chandra Pokhrel (Centre for Alternative Dispute Resolution)

P.B. Chhetri (CARE)

Hari Krishna Upadhyay (Centre for Environment and Agriculture Policy Research Extension and Development)

Netra Tumbahangphe (Nepal UK Community Forestry Project)

Drona K.C. (Nepal UK Community Forestry Project)

N.P. Yadav (Nepal UK Community Forestry Project)

Paul Kaplan (Asia Foundation)

Narayan Kazi Shrestha (Forests, Trees and People Programme [FTPP]/Nepal)

Laxmi Lama (WATCH)

Santosh Bikram Shah (Nepal Association of Foresters)

Husna Banu Sheik (Nepal Participatory Action Network [NEPAN])

Background

Jagadish Pokhrel, chairperson of this group, presented the group's case study in the plenary session. Buchhung forest is located in the hills approximately three hours' walk west from Baglung, in Nepal's western region, south of the Dhaulagiri range. Buchhung is a pine forest covering about 50 hectares, situated between two Village Development Committee (VDC) areas,

Sigana and Resha. Until 1961, the forest fell within a single administrative area and was under the supervision of a *Mukhiya* (village headman). The community employed forest watchers, and people had to obtain permits to collect forest products.

In 1961, the large administrative area was divided into five different VDCs, including Sigana and Resha. Since that time, they had been disputing their boundaries, each with the intention of including the forest within its jurisdiction. In 1988/89, fearing possible damage to the forest due to the conflict, the DFO brought the forest under his direct control. Despite the local administrators (both the DFO and the Chief District Officer) encouraging the communities to use the forest as common property, the VDCs failed to reach an agreement. DOF guards began patrolling the forest to protect it, and the community protection system of employing forest watchers broke down. The people's perception was that the forest started deteriorating from that time.

While VDCs and wards are the basic local development units in Nepal's decentralisation programme, Forest User Groups (FUGs) are the foundation of the Community Forestry Development Programme. In many places, the users of a particular forest, as well as the forest area itself, may overlap between two or more VDCs. This complex network of users and forests has caused many conflicts related to community forestry in Nepal. DOF field staff often face difficulties, particularly when trying to organise user groups in order to hand over the forest. The DOF policy is to hand over forests to user groups regardless of administrative boundaries.

Though Buchhung forest has not been legally handed over to a user group, a community of users already exists. Users dependent on the forest live in both Sigana and Resha, but not all households of either VDC are users. Only about one fourth of the total households from Sigana and Resha are actual users. Two villages from Sigana and one from Resha have no forests other than Buchhung from which to procure forest products and in which to graze their livestock. The situation is that users are dependent on the same forest resources that have been allocated to different local development areas, and this has created misunderstandings among them in terms of utilisation. The option was for user groups, as independent institutions, to coordinate community forestry development from the bottom up.

Impact of the Conflict

As a result of this conflict, DFOs made two major contradictory decisions. At first, permits to collect forest products could be issued only on the recommendation of the concerned VDC. Subsequently, this system was abandoned and the forest brought under direct control of the DFO. The second decision provoked the local users, who then stopped employing a forest watcher, breaking a longstanding traditional local system and bringing disorder to the use of the forest. From that time, outsiders, mostly from the district centres, started obtaining licences from the DFO to collect timber from Buchhung forest.

Local community members felt that the forest had become vulnerable. Nevertheless, they admitted that they always had to steal forest products from Buchhung to meet their daily needs.

DFO staff believed that handing over the forest to the users might resolve the conflict, but they were concerned lest the conflict hinder the user group organisation process. In 1993, the field staff informed the local people about the government's community forestry policy at different hamlet meetings. This process has not continued, although the staff is said to be discussing the revival of the process.

In changing the country's administrative structure, the consequences of reallocating natural resources were not carefully considered and thus conflict emerged. Local people felt that forest areas within a particular administrative area were not to be used by people from other areas. Possibilities of different types of use patterns for natural resources, in terms of interest groups and geographical areas, must be maintained with a view to prioritising meeting basic needs rather than earning profits.

Regarding forest resources, the policy was to hand them over to user groups for management. When this policy was explained, both contending communities agreed that handing over the forest to the local users, regardless of the administrative boundary, would solve the problem. Since the root of the conflict lies in government policy, the concerned line agency should mediate between the parties.

From the time the conflict began, community members had been visiting the administration in the district headquarters and Kathmandu in search of a solution. However, officials made the decisions themselves instead of facilitating and mediating between the parties. The officials' methods resembled those of a court that listens to both parties and reaches a decision, rather than a process of mediation and resolution.

The actual decision-makers for the resolution should be the parties in conflict. Politicising or personalising the conflict or resolution process by local leaders should be avoided. Interaction between the different factions, with full two-way communications based on awareness of the policy and law regarding community forests, is essential for the resolution process.

Discussion

This conflict reveals the need for old issues to be examined before new rules are made, and also that resource scarcity is not the only cause of conflict. Conflicts can also occur when resources are ample. This conflict started when the government drew administrative boundaries. The users themselves became suspicious of the government and politicians. Threats were made to officials, who were accused of being biased in favour of one side or the other. Local people say that, regardless of the arguments of politicians, they need wood and grass, which has become the main problem.

Problems arose due to lack of coordination between apparently contradictory HMG rules and regulations. Participants felt that HMG should use participatory approaches to make rules which would be simple and clear enough for all to understand.

Managing participation to resolve the conflict has itself become an issue. Women want to participate, but they are left out and do not know what is going on, even though they are the ones who suffer the most. Some people feel that the user group approach, in general, favours powerful groups. In the past, community members from Sigana and Resha got together for social functions, like religious ceremonies and fairs, but this no longer happens.

Group Three: Bokse Mahadevsthan Forest

The following persons were members of this group.

Mina Poudel (WATCH)

Devi Adhikari (Rural Women's Creative Family - Sindhupalchowk)

Maya Devi Khanal (Women Integrated Development Center -Chitwan)
 Binod Devkota (Ministry of Law)
 Keshab M. Shakya (Rural Development through Self Help Promotion - Lamjung)
 Purna Shobha Chitrakar
 Manohar Lal Shrestha (Training Division, DOF)
 Ramesh Khadka (ActionAid)
 Gopal Shiwakoti (International Institute for Human Rights, Environment, and development [INHURED])
 Jiv Bhakta Shrestha (Mahadevsthan, Kabhre)
 Hari Sapkota (Mahadevsthan, Kabhre)
 S.N. Chaurasiya (Mahadevsthan, Kabhre)
 Sabitra Koirala (Mahadevsthan, Kabhre)
 Tara Sapkota (Mahadevsthan, Kabhre)
 Sharada Kharel (Nepal Australia Community Forestry Project)
 Ghanendra Kafle (Nepal UK Community Forestry Project)
 K.B. Shrestha (Community and Private Forestry Division, DOF)
 Ukesh Raj Bhujju (World Wildlife Fund Nepal)

Sharada Kharel, chairperson for the group, made Group Three's case study presentation in the plenary session. This case study presented two conflicts which were resolved through the active persuasion and investigation of a District Forestry Officer (DFO) in order to facilitate the handing over of a particular forest area to a legally constituted FUG. One conflict was within the VDC from which the user group was formed and involved the question of whether individuals, who had not previously worked to manage and protect the forest, should be entitled to membership in the group. The other revolved around a boundary dispute and two different VDCs who were contesting ownership of eight hectares of forest land.

The Bokse Mahadevsthan forest is part of the Hokse-Bokse forest, a large tract of natural sal forest in Kabhre district, about 45km northeast of Kathmandu. Untouched for centuries, the degradation of the forest began in the early 1900s. Population pressure, rebuilding after the 1934 earthquake accelerated the forest's destruction.

By 1986, the forest was severely degraded and members of the Mahadevsthan VDC met to discuss how they could protect and conserve the remaining forest in their area. Requesting the DFO's assistance, they were informed that if they planted 20,000 saplings, the DFO would provide a forest watcher to protect the plantation for three years.

The Mahadevsthan Ward No 1 forest community undertook afforestation and protection activities. They planted 20,000 saplings in 1988 and formed an informal committee to manage their efforts. People in other wards did not participate in these activities, and the forest in their areas continued to deteriorate.

In 1991, the DFO began to encourage the handing over of Hokse-Bokse forest resources to actual users for management and control. Forest users were identified and sketch maps of the forests drawn. At a village-level workshop organised to discuss government policy, an agreement was reached that the forest should be divided into nine sections to facilitate the management process. As the people of the Bokse Mahadevsthan forest had already begun informal protection activities, the DFO ranger undertook the handing over of the forest in that area first. Conflicts which arose in the process, however, caused the handover to take over a year to complete.

The first conflict developed within Mahadevsthan VDC itself, after division of the Bokse forest. Until January 1992, when a meeting was held to begin legally handing the forest over, only members of Ward No 1 were involved in forest protection activities. When people from other wards learned that the forest was to be handed over to Ward No 1, they protested that they too were entitled to use the resources of that part of the forest. Ward No 1 members argued that, having made no contribution to management and protection of the forest, people from other wards should not be allowed to use its resources.

The ranger settled the dispute by explaining that community forestry management rules required that people lacking access to other forests should be given the right of access to nearby forest resources, if they were willing to use the resources and if they agreed to be responsible for forest management. Although members of other wards had previously been able to use resources from other areas of the forest, each area was not to be exclusively allocated to a particular community for its use.

While they initially agreed to the conditions set for future inclusion as users, visits to the area revealed that few people from the other wards were actually using the forest, and that they were not contributing the required fee to pay for the forest watcher. The current users have said that if others wish to use the forest they will first have to clear all back dues. This issue possibly contains the seeds of future conflict.

Conflict between Mahadevsthan and Anekot VDCs

Based on the different boundaries marked between Mahadevsthan and Anekot VDCs during different cadastral surveys, this conflict over eight hectares of forest area also erupted after the division of the Bokse forest and the decision to allocate the Bokse Mahadevsthan forest to villagers of Mahadevsthan VDC. Following many months of failed attempts to mediate between the two communities, the DFO ranger began exploring other ways to solve the conflict. He discovered a community of 60 households that had migrated into the area and which was living in the disputed area. Their names were registered on the voters' lists of both VDCs. Whichever VDC the migrants decided to join would receive the forest area on the border. They decided to join Anekot VDC, and the boundary was marked to give the eight hectares of forest to Anekot. The people from Mahadevsthan complied with this decision, the boundary dispute was settled, and the handover of the Bokse Mahadevsthan forest could be completed.

Group Discussion

Discussion about this conflict revealed that although the primary dispute was resolved through the ranger's initiative, some problems still remained. For example, certain households were not paying the fees established by the user group. Two types of membership categories had been established: one for those who used the forest regularly and another for irregular users who nonetheless required some forest products. This two tier system had not solved the problem of people's failure to pay their dues, and, since persons who did not pay continued to use the forest, there was the problem of how to pay the forest watcher.

Group members had different opinions regarding which ethnic groups were failing to pay as well as the reasons for their failure to pay. Various suggestions were made about dealing with this situation, ranging from exploring other possibilities of income generation to holding awareness-raising programmes. One user group member noted that awareness had been raised by a *chulo*

(cooking stove) training programme and that a meeting was planned to discuss the issue of collecting funds. Participants from the VDC as well as UG members were to be included.

Another problem concerned an army camp located in a small part of the forest area. Shooting by the soldiers in the forest had already caused three forest fires. The soldiers had apparently failed to confine themselves to their part of the forest. While some dialogue between the UG and the army had begun, there had been no follow up.

A UG member asked for advice from the plenary on how to resolve this issue. At what level could it be resolved, the UG level, the VDC level, or would it require ministerial-level intervention? A suggestion was made that the UG should start the process by documenting everything that had occurred so far and all the problems they had already overcome, and that it request the Forest Department to raise the issue at ministerial level.

Plenary

Following the group discussions and a brief break, all participants returned to the plenary for the remainder of the day. Two plenary presentations were made, followed by discussions in the plenary. This session was chaired by **Ramesh Khadka**.

Nepal Community Mediation Study
by **Paul Kaplan**, Asia Foundation

This study, conducted by the Asia Foundation by means of a grant from USAID, was meant to gather and analyse community-level information about existing methods of conflict resolution. Intended to collect materials across *jat* (caste and ethnic) groups, differing geographic terrain, gender, and economic class, the study was to address the following two primary questions.

- What is the current status of community conflict resolution in Nepal, including the concepts of 'justice', the level of knowledge of relevant laws, rights, and regulations?
- Can programmatic interventions be introduced to develop a more 'equitable' or 'just' system of local-level conflict resolution, and what are the implications for governance?

Twelve research sites were chosen: four in the mountains, four in the middle hills, and four in the *Terai*, with three each in eastern, central, western, mid-western, and Far-western Nepal. Research associates were chosen and trained, and they subsequently spent an average of six weeks at their sites. The cases collected by the research associates are not a random sample of ongoing conflicts. Rather, they represent what was discovered in the course of their fieldwork. Because of power relations in the villages, many cases can never be discussed. The cases of documented conflict possibly represent only one tenth of the actual conflicts. Nevertheless, this 'convenience sample' led most research associates to conclude that land, water, and forest resources' related conflicts were the most frequent kind.

A total of 107 cases of conflict were collected, of which 19 per cent were incomplete. Of the cases collected, 355 involved land or land inheritance; 10 per cent, water/irrigation issues; and four per cent, forest or forest products. The remaining cases were mainly related to crop damage by animals, theft, and money issues. Twenty-nine per cent of the cases were power related: sexual offenses, fighting, character defamation, superstition, and political arguments. Only 30 per cent of the cases involved women, and the outcomes did not seem different from other cases.

Country The was followed by a review of local government and a role in the process.

Women generally played a minor role in the resolution of these cases, their male counterparts taking the lead in most instances.

Major Findings

Space and Exposure Differences

Traditional patterns of conflict settlement tend to prevail in more remote mountain and hill areas. As people become more 'urban exposed' they may bypass or ignore traditional patterns.

Ethnic Differences, Traditional Institutions and Contentiousness

Tibeto-burman people value smooth interpersonal relations highly, whereas higher Hindu *jat* (caste) groups seem to thrive on contention, deriving value from maximising advantage. There is also a correspondence between the usual location of these different groups with remoteness and altitude. In general, Tibeto-burman majorities from various hill and mountain sites do not like to take their conflicts out of their villages to higher authorities. In contrast, the central and eastern *terai* reportedly have the highest number of court cases per capita in Nepal.

Alliances and Role of Social Networks

People lacking social support are likely to be victimised by others, creating conflict situations where 'justice' for them is unlikely. Conversely, merely being surrounded by many friends and relatives can lead to a resolution in favour of a contending party who may be completely in the wrong, especially when the second party's alliance system is weaker.

Jat, Status, and Education

No longer legal in Nepal, *jat* (caste) plays a role in all social transactions, helping establish who is up and who is down. Confusion only occurs when other status conferring factors (official position, higher education or power, etc) contravene. When higher *jat* Hindus are in conflict with one another, possible loss of status from the outcome is more prominent than when lower *jat* members are in conflict. Believing that they may be able to use connections to their advantage, these higher *jat* groups are more likely than others to take the conflict to higher levels.

The most important relationship between education and conflict resolution is literacy and written documentation of transactions. Time and again, where verbal agreements are not supported by written documents, the weaker and/or illiterate party loses out. This is even more true when the case goes to higher authorities, where written documents favouring the more educated and literate can even be purchased, effectively sealing resolution of the case. Such written documentation is especially important in matters related to land and its sale, division, and registration.

Power, Influence, and Connections

Power inevitably plays a major role in conflict resolution. Sometimes, in potential conflicts between the powerful and the powerless, the powerless cannot even raise the issue. In general, persons with power will take any case for resolution to a level where they believe their power will make the most difference in their favour.

Increasing Role of Political Allegiance

Allegiance to political parties is increasingly intruding into conflict resolution. Long-suffered grievances may be accumulated and raised to the level of a conflict simply because the individuals involved now belong to different parties. Party politics serve to focus power alliances which are an endemic part of Nepal's village life. Political allegiances may even override other more traditional bases for allegiance. This is more of a factor in open and less remote places and for higher caste Hindu groups.

Intervention of Outside Institutions

When outside institutions enter the village setting, conflict cases mushroom. In particular, HMG's attempts to have all land in Nepal registered has this effect. The placing of a new police checkpost can lead to more cases being taken to the police. Development programmes can give rise to conflicts when some villagers believe that their prior rights are being overridden. Misappropriation of project assets intended for general benefit is another frequent point of contention.

The Role of Mediation and How it Works

The most remote places, with Tibeto-burman majorities, have less mediation because of still-functioning cultural mechanisms for settling conflicts. Mediation is mostly used in village sites in the middle hills and western, mid-western, and far-western *terai*. Older, respectable, and trustworthy men do this work. They are not paid and rarely volunteer, rather they are called upon by one or both of the contending parties. Their return is honour and confirmation of their status. Their judgments are usually followed, but they have no recourse except to the moral persuasion of their fellow villagers. They cannot prevent the case from being taken to a higher authority, but such action by the contending parties will slowly undermine the efficacy of the traditional system.

Predictions for the Future

The consultants predict that traditional systems for conflict resolution will become increasingly weak, and more cases of conflict will be taken to levels higher than to the village. This will put weaker parties at a real disadvantage, as they lack the means to contend strongly at higher levels. The little 'justice' that now exists for them at the village level will disappear. More money will be changing hands in the conflict resolution system and 'source-force' will play a greater role.

Recommendations

The report concluded with various recommendations, primarily focussing on the production and dissemination of information promoting traditional conflict resolution mechanisms and explaining what people should expect when dealing with the police, district authorities, and the courts.

Community Forestry in Nepal: An Overview of Conflicts

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This presentation began with an overview of Nepal, her forests, and the history of community forestry. This was followed by a review of forest legislation and a note on the current status of

community forestry in the country. The main focus of the report was an analysis of the types of conflict arising in community forestry. The conflicts were categorised on the basis of the conflicting parties.

Conflict within a Forest User Group

Conflicts can arise at several different points.

- Identification of Users - Low caste or disadvantaged people may be excluded from user groups. Similarly, secondary users, who live away from the forest and are not regular users, may not be identified during the initial user-identification process.
- Sharing of Benefits - Should benefits be shared on the basis of need, i.e., larger families receiving a larger share; or on the basis of households regardless of family size, since voluntary labour contributions are based on the household?
- Participation - Differences in the active participation of members can be a cause of conflict. More active members may argue that inactive members should not enjoy benefits equal to active members. The less active members in turn may argue that social compulsions beyond their control should not bar them from benefits enjoyed by others.
- Leadership - Assuming a position of leadership in a user group committee elevates one's standing in village society. If two or more persons compete for chairmanship and consensus cannot be reached, conflict may result.

Conflicts between User Groups

Different scenarios causing conflicts are as follow.

- Location of forest - A patch of forest may be transferred from one VDC to another when boundaries are redrawn, or it may fall within two VDCs. This can lead to claims and counterclaims from traditional users, regardless of the administrative division.
- Forest Use Pattern - Villagers from one village may use more than one forest to fulfil their needs for forest produce. The user group formation process may fail to take this into account.

Conflicts between User Groups and Forest Division Office/Forest Department

Recent cases of conflict between UGs and forestry institutions include the following.

- Deviation from the Operational Plan - Deviation can result from a lapse or laxity on the part of the district forestry staff or the UG's zealous pursuit of additional income for their community fund.
- Deviation from the Objectives of Community Forestry - The purpose of community forestry is to enable villagers to meet their subsistence needs for forest products rather than to earn money.
- Unclear Policy - As community forests reach the harvesting stage, the question arises of whether the harvested timber may be transported to other districts for sale or used to create a local wood-based industry. Existing rules are silent on such issues.

New Policy

In enacting the Forest Act 1993 and the Forest Rules 1995, HMG has shown its commitment to institutionalisation of FUGs by recognising them as legal independent entities. The new rules also

allow farming of non-timber forest products and some cash crops which do not affect the growth of the community forest.

The government has made a provision to allow a UG to mortgage forest products on the community forest, on the approval of the DFO, if it desires to obtain a loan from a financial institution to develop the forest. The new rules also allow free marketing of the forest products obtained from a community forest. In addition, the rules have a provision to permit the establishment and running of forest-based industries by the FUG if the harvest is sufficient for such industries.

The other conflicts mentioned earlier arose partly as a result of ignorance of the existing rules. The Department of Forests has scheduled training on legal provisions for the district forestry staff, and this will help minimise this type of conflict.

Plenary Discussion

Following these presentations, there was a group discussion in the plenary session. Various issues were raised.

Lack of Clarity Regarding Forest Policy. Despite the recognition that clarity of policy leads to local people working more efficiently, forest policy remains unclear and copies of the Forest Act are not available. One reason for this is that the Forest Act was printed by HMG's publishing department and was not widely distributed. Even the Department of Forests received only 100 copies. It is only recently that the Ministry of Forests and Soil Conservation has printed and distributed 8,000 copies of the Act and rules and regulations.

Rapid Formation of User Groups. While the DOF has a certain target to meet, there are an insufficient number of rangers, and thus user groups are formed hastily. Although there should be five rangers in a district, at present, there is often only one ranger and one range post. One participant reported that, in some places, the groups were formed within a few days. The groups simply signed the plan. The handing over process was carried out hastily to meet the target. This resulted in conflicts. If the handing over is carefully carried out, there are fewer conflicts.

Other participants said that HMG should not be blamed for trying to meet the target. Target orientation is good; at the present rate, the target will be met in another 50 years. Maybe it should be a monthly instead of a yearly target. It is not correct to say that human resources are insufficient. Even one user group can help form another one. To meet the target of forming 800-900 user groups in a district, the user groups should be mobilised to share experiences and help in forming other groups. The ranger should focus on technical work and on the user group as an extension agent.

Opinions Regarding Conflicts and Their Resolution. One view held was that conflicts occur because of community forestry itself. HMG should not slow down its target just because conflicts arise. In fact, in the Department of Forests' work plan, conflict resolution is not on the agenda. When focussed on conflicts, the DOF's goal is hampered. Donor agencies should not stop trying to solve the conflicts. User group formation and conflict resolution should go hand in hand.

Another suggestion was that, instead of the government overlooking conflicts and NGOs or bilateral agencies trying to resolve them, the focus should be on how to reduce the conflicts. HMG, NGOs, and the local people should have regular meetings on conflict resolution through sharing their experiences. Preventive rather than curative measures should be emphasised.

Are the Forest Staff too Few? Concerning the issue of forest officers being too few, one participant expressed the opinion that forest officers were reluctant to hand over the forests, thinking that they were giving away their rights and powers. In the Rapti area, 10 per cent of the community forests have been handed over. At the national level, only three per cent have been handed over. But in Salyan, 40 per cent have been handed over because of the good work of the DFO. This indicates that handing over is slow not due to insufficient manpower but due to forest officers' reluctance to give up power. This attitude of forest officers must change.

A member of the Forest Department disagreed, noting that there were only a few exceptional cases of officers who were not willing to hand over forests. In handing over the forests, 90 per cent of the responsibility of the concerned officer is given away.

Another participant reminded the group that handing over the forest is not the only important factor, to whom it is handed over is equally important. When a user group is formed, all the group members should be clear about their Operational Plan. Otherwise, a few people tend to control and exploit the forest.

Some user groups don't know the name of their community forest, their own roles, and about their operation plans. This seems to happen when the community forest programme becomes target-oriented. Quantitatively the target is reached but qualitatively there are problems.

Sustainability of the Community Forestry Programme. Questions were raised about the sustainability of the community forestry programme, how long it would last, and whether it would fail without the donor agencies.

After fifteen years, the programme has gained momentum and now each user group is in a position to demand that the forest be handed over to it. The user groups can generate income from the forest and use the funds according to their own decisions. In this context, the various community forestry projects are only providing technical support.

Government policy is to emphasise the programme, and it has welcomed the support of different institutions, but the programme can still run even without them. To make it a qualitative programme, adequate time should be given when forming the user groups in order to avoid conflicts that arise due to misunderstandings.

Participation of Women. While the programme emphasises 50 per cent women's participation, in reality women's names are only included on the list of participants out of compulsion. At meetings, women are not present but are replaced by their husbands. This happens when, during their formation, the work and responsibilities of the user groups are not made clear.

Women, in particular, should be made more aware of their rights and responsibilities. Their advice should also be included when making decisions. One participant noted that women have more patience, giving an example of a conflict over an irrigation project in Sunsari. The male members of the user groups could not resolve it, but when women stepped in, the conflict was resolved to some extent.

Networking. The perception was that problems keep on arising. Each day the problems are different. But the main point is to find ways to tackle possible problems, for example, ways of solving a conflict that arises within the Operational Plan.

In India, there is a network among user groups to solve their problems, and they also get together to resolve the conflicts among themselves.