Introduction

Many countries throughout the world are decentralizing forest management responsibilities in one form or another. In general, decentralization provides a means by which local people can more actively participate in decisions affecting their lives.

In Nepal, many forms of decentralized forest management have been attempted. The evolution of community forestry legislation and policy over the last two decades has encouraged community-based initiatives in forest management. In particular, the passage of the Forestry Sector Master Plan (FSMP) in 1989 and the emergence of democracy after the 1990 revolution spurred the development of community forestry.

Following these shifts in policy and political orientation, the institutionalization of the Forest User Group (FUG) as the primary body for local forest management has proved essential to community forestry implementation and sustenance. While the demand for FUG formation and hand over of community forests is increasing, different initiatives for strengthening the position of forest users and giving due attention to the principles, practices, and policies of community forestry need to be considered.

This is especially true in light of the Local Government Act, which was passed in 1991 and devolves many powers from the national government to local government institutions such as the District Development Committee (VDC) and the Village Development Committee (VDC). Like the FSMP, the main objective of decentralization is to mobilize resources (both human and financial) effectively, and to distribute benefits more evenly. The scheme also emphasizes the formulation and implementation of annual plans at the local level. However, certain provisions in the Decentralization Act conflict with the Community Forestry Act. These conflicts potentially undermine the decision-making authority of the forest users (which was enshrined in the Community Forestry Act), concentrating it back within the local government.

The government decentralization policy provides for a representative style of democracy with decision making by a majority, while the community forestry policy mandates a participatory style of decision making based upon consensus. Because the final authority to make decisions regarding forest resources could now be interpreted to rest with both the FUG and the VDC (and since each group uses a different decision-making process), there is a great potential for conflict.

This paper explores the conflict between decentralization and community forestry policies, and possible ways to solve these problems. It does not argue against decentralization, but argues that decentralization could undermine community forestry as practiced in Nepal. It reviews the two policies that each process mandates and provides examples as to how this issue has been tackled by Women Acting Together for Change (WATCH) and the Federation of Forest User Groups in Nepal (FECOFUN), two Nepali NGOs active in community forestry.

Community Forestry Policy and Legislation

Forest protection and management by local people has a long history in Nepal. In 1957, the nationalization of forests created a disincentive for local people to collectively manage their forestland, which increased forest degradation. In the 1970s, to arrest growing fears that deforestation was occurring at an unprecedented rate, His Majesty's Government/Nepal (HMG/N) initiated a series of "community-oriented" forest legislation. At this time, several bilateral forestry projects began testing new approaches to forest management. However, for the most part they still focused on the technical aspects of reforestation, such as nursery establishment and planting of fast-growing species. Most of these initiatives did not look at traditional management regimes or local forms of management and use. The Forest Act of 1961 was amended in 1978 to allow the government to hand over primary and degraded forestland to the local government council (Panchayat). However, local people had only a limited role in the management of Panchayat Forests as most decisions were taken by the central government or local elite.
Towards the middle of the 1980s, community forestry professionals began to realize that local people had a very limited role in actual management of Panchayat Forests. At this time, the MPFS was being prepared by the Ministry of Forests and Soil Conservation.

Decision makers in the forestry sector and local leaders were convinced that further liberalization was essential for expanding the scope of community forestry. As a result, the MPFS of 1989 recommended that there should be no ceiling on the area of forestland handed over to communities and that these forests should be handed over to local users not local government units. In addition, the MPFS asserted that women and the poor should be actively involved in community forestry activities and that benefits should be shared among local users. The Plan emphasized that forest user groups should be established as the appropriate local institution responsible for the protection, development and sustainable utilization of local forests. Furthermore, under the Master Plan, Community and Private Forestry programs were given highest priority.

The Forest Act of 1993 and the forest regulations framed in 1995 have reaffirmed the government’s policy of assigning more responsibility to FUGs. According to this legislation, District Forest Officers can directly hand over forestland to user groups. Furthermore, FUGs are recognized as self-governing institutions with rights to acquire, sell, or transfer forest products. Thus, although the basic objective of the community forestry program is to fulfill the subsistence needs of local people, the new policy allows user groups to cultivate non-timber forest products (NTFPs) and perennial cash crops, and to commercially process forest products for sale. FUGs can use the income generated for managing and developing their community forests and for other community development activities.

The response to changes in forest policy has been immense. Within the revised framework, the area of forestland managed by FUGs is expanding and foresters are learning to work with, and through, user groups. Fifty-two of the 75 districts in Nepal have active community forestry programs. At present, nearly 500,000 ha of forest have been handed over to more than 7,000 user groups, with thousands of other user groups awaiting formal registration. While these figures are impressive, they are a fraction of the potential. It is estimated that as much as 3.5 million ha of forests, or 61 percent of the total forest area, can be handed over to more than 50,000 forest user groups.

However, the community forestry process is mostly confined to the hills, and has not spread to the Terai (southern plains of Nepal) where the richest and most productive forests are located.

**Decision-making processes in community forestry**

The FUG formation process is experiential and interactive. It is a process of generating consensus, and building confidence and commitment among the forest users and other stakeholders. Only those users who are aware of their legal rights and social responsibilities can make judicious and egalitarian decisions about forest management, responsibility taking, and benefit sharing. Thus, the process must enable users to make informed decisions and accommodate the diverse interests, and needs of various users. While the FUG formation process has been adapted by different NGOs, projects and government institutions, the general process includes the following steps.

1. **Preliminary investigation**

   The objective at this initial stage is to identify potential users, explore their interest in being involved in community forestry, and acquire a basic understanding of the local forest area and its users. For this, forestry and NGO staff talk to formal and informal leaders, forest guards and watchers, nursery foreman, and a cross section of women, men, the poor and minority groups.

   The extension activities at this stage include awareness raising and identification of traditional forest management regimes. On the one hand, the users need to be informed about community forestry policy and legislation. On the other, staff need to learn about the local community and their forest(s), and any existing forms of forest utilization.

   Extension has to address the needs and interests of various users. Some users may need to be instilled with confidence, others may need information, some may need empowering, and others may need to be kept in check. Thus, time is needed to build confidence, arrange negotiations between factions and groups, and come to an agreement by consensus.

2. **Investigation**
During this phase, the objective is to gain detailed knowledge about the forest and the users. Contacts must be made with all the types of users. Identifying actual users is essential to ensure that no one is excluded from the decision-making process. Users must be identified at the household level, not by political or social boundaries. A detailed forest assessment is also made at this point. For this, participants, in groups of four to five, undertake transect walks through the forest.

The process of user identification helps to build an understanding of the local socio-cultural and institutional context of community forestry. This understanding helps outsiders to facilitate discussions and build consensus among the users. Imposing views, preaching, or lecturing by outsiders (or local elite) undermines the confidence building process and the users' feelings of ownership.

3. Consensus building and negotiation

The objective of this step is to aid discussions and other negotiation activities so users develop a consensus regarding the FUG's constitution and operational plan. Various user groups must take part in the decision-making process. For this purpose, users are often categorized into sub-groups based on interest, gender, caste, or socio-economic status. Meetings of 10 to 15 members of these sub-groups are convened to discuss forest management, organizational and institutional issues. All decisions must be made by consensus to engender commitment and build group confidence. In essence, draft constitutions and mini-operational plans can be prepared at these group meetings.

While analyzing the draft constitutions and operational plans, facilitators identify contentious issues and challenges. These then are further negotiated by the sub-groups involved. All outstanding issues need to be resolved before proceeding to the next step.

4. Management and planning and hand over

The objective of this step is to prepare and pass both the FUG constitution and operational plan. When the previous step is complete, a users' assembly is called. The constitution and operational plan are re-drafted by the users as a whole. This provides everyone with a feeling of ownership over these agreements. The written constitution and operational plan are voted on and passed by consensus. These are then submitted to the District Forest Officer for approval. Once the plans are approved, the users have the right to manage and benefit from the forest according to the plan.

5. Post FUG formation support and implementation

The users may elect a committee to oversee and manage the implementation of the operational plan, or implement it as a group. Either way, they are responsible to implement activities outlined in their plan. They also need to develop a system of record keeping and monitoring. Monthly and annual progress reports need to be prepared and approved by the users' assembly. The FUG (and committee) require various kinds of support. However, care must be taken so that they stay self reliant and do not become dependent upon the government or other support organizations.

6. Review and Revision

If certain decisions have to be made or changed, this can be done at regular or specialty called users' assemblies.

Government Decentralization Policy and Legislation

The Local Government Act empowers local government units to make many decisions previously made by the national government, and provides the resources to implement these decisions. The process followed is outlined below.

The VDC develops its own plan and submits it to the DDC. These are reviewed by the district-level planning formulation committee where a meeting is organized and chaired by two DDC members. The annual program and budget proposed by the committee are then submitted to the meeting of a joint committee that represents all the line agencies in the district for discussion and information.

According to the Decentralization Act, budgets and programs must be submitted to the District Assembly for approval to provide the programs with legal validity. The programs approved by the District Assembly Meeting are considered final at the local level. The proposed programs and budgets are then sent to the National
Planning Commission (NPC) through related departments and ministries.

The NPC sends the programs and budgets to the council of ministries which then forwards them to the parliament. The minister of finance then presents the programs and budgets in front of both houses where approval is made and sent back to the district through the concerned departments and ministries.

**Contradictions and Potential Problems**

The main contradiction concerns who has the final authority over forest resources within the VDC. The Community Forestry Act (implemented through the forestry department) provides FUGs with the authority to manage the local forest resources they use on a daily basis. However, the Local Government Act provides locally elected VDC officials with the same powers. Thus, it is not clear who has the final authority over forest resources. Table 1 provides a comparison of the contradictions between the Local Government Act and the Community Forest Act. After the approval of the Local Government Act, conflict has occurred between local governments and FUGs. An example of this type of conflict is presented below.

**Case study**

In Arghakhanchi District in western Nepal, the Ghorabanda Community Forest (CF of Sitapur VDC was handed over in 1993 and the Guranse Masine CF of the same VD was handed over in 1995. However, there has been conflict between the traditional use of the forest and the "new" user committee that has been established.

The forest users of Ghorabanda CF had occasionally used the Guranse Masine forest to collect fuelwood. The Ghorabanda FUG is primarily comprised of Gurung and Magar people (two ethnic groups) who used the fuelwood from Guranse Masine to produce alcohol which is a primary source of income for them. Similarly the users of Guranse Masine CF, which is primarily comprised of the Brahman and Kshyatriya caste, traditionally collected Chiuree (Bassia butyracea) fruit from the Ghorabbanda Forest during the Dashain festival to produce ghee (butter). In neither instance were these groups identified as users of the forest and thus, were not allowed to collect the products they traditionally had harvested. Moreover, users from both FUGs did not fully understand the community forestry policy, legislation and process, and rigidly implemented their operational plan. As a result, this minor conflict turned into a major dispute. In order to solve the problem, they took their complaints to the VDC.

**Table 1: Contradictions between different government acts**

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<th>Act</th>
<th>Local Institution</th>
<th>Legal rights and responsibilities</th>
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| VDC Act, 1991              | Village Development Committee | • Provides control over forest resources  
|                            |                              | • Can transfer forest resources as their own property  
|                            |                              | • Can sell and supply forest resources.                                                             |
| Municipality Act, 1991     | Municipality                 | • Can protect forest, and transfer the resources as their property                                |
| DDC Act, 1991              | District Development Committee| • Can sell and supply forest resources.  
| Forest Act, 1993 and       |                              | • Can determine the rate of royalty for resource use                                               |
| Regulation, 1995           | District Forest Office        | • A users group shall be an autonomous and corporate body with perpetual succession. Furthermore the Act states that the users group may acquire, use, sell, or transfer or otherwise dispose of movable and immovable property like an individual. |

The VDC officials were also unclear about community forestry policies. However, they were intent to assert the VDC’s right to manage forest area as mandated by the VDC Act. Thus, it was decided that both FUGs had to pay a certain percentage of their income from the forest to the VDC as a royalty. Thus, instead of solving the original problem the VDC created a new problem. Now neither FUG has an interest to manage their forest area, nor can they reach a compromise regarding the original dispute. In addition, both FUGs refuse to pay the royalty and exchange products on an informal basis. The VDC officials have been just as intransigent by refusing to withdraw their decision.
Means for Potential Solutions: Making Government more Participatory

The way to solve these problems lies in finding opportunities for forest users and elected government officials to work together. Ideally, elected government officials make decisions based upon their constituents’ needs. However, many times VDC and DDC officials and FUGs are unsure about government policies and legislation and do not know how to solve the contradictions in them. As a result, conflicts are on the rise.

One way WATCH and FECOFUN have approached this problem is through raising the awareness of FUGs and VDC officials on community forestry policy, legislation and process. In one of WATCH’s field sites in Chhaimale VDC, a network of FUGs (the Community Forestry Action Committee) has been formed. They have been working closely with VDC officials to plan and implement community forestry activities within the VDC.

In another field site in Rupandehi, a network has been formed consisting of officials and ex-officials from four VDCs, forest users and WATCH field staff. This network approached the District Forest Office to stop the Timber Corporation of Nepal from harvesting valuable Sal (Shorea robusta) trees from community forestland. They demanded the land be handed over to FUGs that are now being formed. These actions have postponed the Timber Corporation's plans.

In a third area in Bara district, a Finnish multinational was on the verge of being granted a concession for 30,000 ha of Sal forest. Upon learning of this plan, WATCH and FECOFUN alerted VDC officials and forest users and facilitated their organization to protest the granting of this concession. They successfully promoted the concept that this forest be handed over to the users. The Finnish Company's request for a concession was not granted.

The successes in Chhaimale VDC and Bara district, and the potential success in Rupandehi helped develop the confidence of the users and local government to make a concerted stand against outsiders usurping their traditional authority over forestland. They have learned to work collectively to promote their own local development as well as keep control of their local resources. WATCH and FECOFUN have learned that once users and local governments understand their rights and responsibilities, they are able to pressure local and national-level government officials to ensure they are given what they are entitled.

Conclusions

The case studies presented have led WATCH and FECOFUN to the following conclusions:

- All forest users and local government officials must be made aware of the community forestry policy, legislation and process. Only by doing this can forest users and communities benefit from the opportunities offered by community forestry.
- Democratically elected government officials need to be active and seek out the opinions and aspirations of those in the community who are poor, oppressed, or exploited. They must become aware that they represent all of the people in their constituency, not just the elite. They need to take in a wider range of views before making decisions.
- When forests users and local government officials work together to manage their local forest resources both parties benefit. But when they fight for power and resources, there will be problems that negatively affect all.
- The role of outside facilitators is very important (NGOs, District Forest Officials and Project staff) to help solve potential conflicts between tile VDC and Community Forestry legislation.
- The overlapping legislation regarding roles and responsibilities needs to be clarified by the government so all forest users and VDC officials can understand what power and authorities they have.

Notes

1Village Development Committee refers to geographical sub-units of districts. Each VD is made up of nine wards, with each ward having on average 90 to 120 households. Wards are run by a five member board made up of local residents. VDCs are run by locally elected officials.