

Annex A

Papers Prepared for the Meeting

Note

While some light editing has been carried out on some of the papers presented in this Annex, most have been published as originally submitted for the Satellite Meeting. Two of the papers have been included in their original language, with an extended English summary.

Community Forestry and Forest Resource Conflicts: An Overview

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Summary

This paper reviews various dimensions of forest resource conflicts in the context of community forestry, and the strategies and tools developed to address such conflicts. There is more and more evidence that if forestry is to play a key role in sustainable development, forest-dependent communities must be fully involved in both the decision-making process and concrete actions concerning the land and resources they inhabit and use. In other words, sustainable forest development will not be achieved if it fails (1) to consider the needs and aspirations of rural and forest-dwelling communities, and (2) to acknowledge and deal, in an appropriate and timely way, with the conflicting situations created by competition for the use of forest resources. Participatory forest resource management is crucial in this context. It creates an environment in which all interested actors collaboratively plan and act together on how the resource should be used for the benefits of all partners, including the environment and future generations.

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Introduction

Conflicts over the appropriation, control and use of forest resources are an inherent condition of forest-dependent communities, whether such conflicts are acknowledged or not, and whether they are latent or manifest. What changes from culture to culture is the way conflicts are perceived, either as something to be avoided at all cost or as an opportunity to grow, and how they are used in a constructive or, too often, destructive manner.

Change and the way individuals and communities react to change are at the basis of all conflicts. At the dawn of the 21st century, change, increasing both in magnitude and speed, is one of the main dynamics active at all levels, from global/planetary to local, affecting the lives of everyone. Such changes are manifest in numerous global and local trends, such as increasing population and migration, incremental degradation of the physical environment, globalization and liberalization of economies, a growing inequity in the distribution of resources and economic benefits, and decentralization of authority over resources. All these factors have a significant impact, whether positive or negative, on access and use of natural resources by forest-dependent communities and outside parties coveting the same resources, thus creating tensions and conflicts. Individuals compete for scarce resources; socially defined groups perceive themselves as having incompatible interests; and those dependent upon a particular resource, but unable to participate in planning or monitoring its use, are marginalised. Conflicts also surface when local traditional practices are no longer viewed as legitimate or consistent with national policies, or when entities external to a community are able to pursue their interests while ignoring the needs and imperatives of local people (Anderson *et al.*, 1996).

In this document, various dimensions of forest resource conflicts are reviewed in the perspective of how they affect forest-dependent communities. The document includes an overview of the proposed typologies of conflicts occurring within communities; between communities; and between communities and the government, entrepreneurs or other outsiders. It also includes an overview of the strategies devised to deal with such conflicts, both traditionally, by the communities themselves, and in the 'modern' context of legal/formal approaches, including alternative conflict management approaches. This review will set the stage for identification of the main issues that need to be addressed to enhance the role of conflict management in community forestry with a view to enhancing community forestry's contribution to sustainable forest management.

Background

Community forestry is an umbrella term denoting a wide range of activities that link rural people with forests and trees, and the products and benefits to be derived from them (Arnold, 1992). If there is one dimension to be stressed above others, it is the range and diversity of these linkages and the span of different disciplines that are engaged in different aspects of community forestry, considering that trees and tree products are almost invariably imbedded in complex resource use and social systems. Of particular significance are the links between forestry and the basic needs of forest-dependent communities, such as nutrition, food security, off-farm employment, energy and the integration of trees in overall resources management and community development.

Since the publication of *Forestry for local community development* (FAO, 1978), there have been numerous documents emphasizing the vital role of trees and forest resources for rural and forest-dwelling communities throughout the world, and particularly in developing countries. Conversely, the potential and actual impact, both positive and negative, that forest-dependent communities have on forest resources is considerable and better understood. Forest lands in and around rural and forest-dependent communities are among the most critical areas where the ‘battle’ for sustainable forest management will be won or lost.

Yet, as De Montalembert (in Arnold, 1992) notes, “crucial issues of resource conservation and sustainable development can only be addressed if people enjoy a secure livelihood. Current development patterns and inequities increasingly force the rural poor to migrate in ecologically fragile and low productive areas where forests and trees play a critical role. A major challenge for forestry is to contribute significantly to solving the problems of environmental degradation and rural poverty. This requires that people are made full agents and beneficiaries of forestry activities.”

The concerns of community forestry go beyond strict economic interests, and address issues of equity, participation, and integration and of increasing the role of all groups (including ethnic minorities and women) in the decision-making process concerning natural resources management. In this context, the goal of conflict management processes may not necessarily be limited to reaching an agreement or to the strict sustainability of resource and income generation. Conflict management within community forestry may involve choices with substantial effects on groups that are diffuse, inarticulate and difficult to represent, including future generations and the environment. In these situations,

efforts need to be made to strengthen the skills of the weaker party. Indeed, the focus of community forestry is to empower people to manage the natural resources on which they depend and to use them for their benefit in a sustainable way (Anderson *et al.*, 1996).

The interest of community forestry practitioners in conflict management approaches began in the early 1990s. It was felt that adopting alternative conflict management strategies was consistent with such FTTP goals as integrating participatory approaches into forestry activities, addressing equity issues, building on local knowledge systems, and strengthening human and institutional capabilities in community forestry contexts (Hoskins, in Pendzich *et al.*, 1994). In 1991, the FTTP initiated a series of activities, including a literature search; preparation of case studies and training material; and regional workshops and training sessions in Latin America, Asia and Africa. In 1994, a working paper entitled *The role of alternative conflict management in community forestry* was published by the FTTP in order to share current information and solicit information and suggestions on the subject.

These activities and exchanges highlighted the importance of assessing the global standing of natural resource conflict management. Thus, the Community Forestry Unit of FAO's Forestry Department coordinated an Electronic Conference on Addressing Natural Resource Conflicts through Community Forestry, between January and May 1996. More than 460 conferees from 55 countries participated in the electronic conference, which helped to collect and disseminate information on practical and theoretical issues related to conflict management and community forestry and to present the diverging perspectives on this subject (Chandrasekharan, 1996). A similar electronic conference was organized by FTTP's Latin American group in the latter part of 1996.

Much of the material presented in this paper was freely drawn from the reports and publications prepared as a result of these activities.

Community Forestry and Conflicts

Conflicts

In the context of community forestry, the word 'conflict' is used to designate any relationship between opposing forces, whether marked by violence or not. The word encompasses not only the manifest aspects of the opposing forces

but also the underlying tension between them. Conflicts originate in the different perceptions of the parties involved regarding who should manage, use and benefit from the forest resources.

As such, conflictual situations are neither positive nor negative, but they can be used in a constructive or destructive way. Many authors consider that conflicts are crucial not only for social change but for the continuous creation of society by society itself. Therefore, conflict should not be viewed only as a dysfunctional relationship between individuals and communities that should be avoided at all cost, but also as an opportunity for constructive change and growth.

This does not mean that conflicts do not often have tragic consequences for people and societies, as evidenced in suffering, destruction, fear, pain, separation and death. If conflict is a daily reality that can neither be avoided nor buried, it is crucial to clearly establish the dividing line between the functional/positive and dysfunctional/negative aspects, although both are two faces of the same coin. We must learn to deal with conflicts in order to foresee and eliminate their violent and destructive manifestations and to channel them adequately so that they become a source of transformation, growth and development of individuals and societies (Guerrero Arias, 1995).

Change

In all conflicts, there is always an element of change. Although change is a fundamental aspect of life, individuals and communities react differently when confronted with change. All societies, even the most traditional, evolve and change. However, some may perceive change mainly as a threat to the established order and stability, and thus see it as something that should be resisted. On the other hand, there are individuals and societies that value change, have more flexibility to adapt to it and see in change an opportunity for growth.

Whether national or international, whether promoted by governments, development institutions or NGOs, all development initiatives propose change in one form or another. Such initiatives will thus contribute to the emergence of conflicts, as the proposed developments will be resisted by one or many parties. This is a fact that is seldom taken into account when new initiatives/projects are designed, promoted, implemented and evaluated.

Global factors with local impact

Many global factors contribute to the emergence of conflicts at the local level. The particular constellation of these factors often has a determining influence on the nature of conflicts that arise, on who is involved, on who manages them and on how they will be managed. They include:

- population dynamics, considering not only population increase at the global and national levels but also its distribution, and population migration or displacement;
- the degraded physical environment, providing increasingly limited resources for an increasing population, which results in the deterioration of the productive capacity of the ecosystems, the very base for the production of renewable natural resources;
- the historical inheritance of most countries, particularly the colonial period, with the creation of political boundaries on the basis of foreign criteria, the separation of large homogeneous ethnic and linguistic groups, and the replacement of (or superposition to) traditional, locally developed and time-tested land and resource management systems by centralizing administrative rules and institutions, foreign to the land and culture;
- the cultural, ethnic and religious diversity of resource users, which has implications for the way land and natural resources are managed;
- warfare and the displacement of populations (refugee camps) which have an enormous impact on forests and their use;
- the policy, legal and institutional context, which is often developed without the participation of forest-dependent communities and without due consideration of their needs and aspirations; and particularly the drastic changes that this context is presently undergoing in most countries as a result, among others, of structural adjustment programmes;
- economic factors, which include globalization and liberalization of economies to which forest-dependent communities are vulnerable and which threaten communities' identities and interests; and
- communications, which are presently undergoing a revolution that is transforming a planet that used to be considered fairly large into

a ‘global village’ where what happens in the remotest corner of the Amazon or Sahel can instantaneously be known in Rome, New York or a small village in the Himalayas.

Cultural values

Cultural assumptions and values about nature, particularly about land and forest resources, are among the firmest and most strongly defended beliefs that people hold. In many societies, the relationship of the group (family, lineage, clan, caste) with the land, including trees and forests, is at the core of its very identity. It is also through the connection with nature that the sense of continuity and unity of present generations with ancestors and those yet to be born is maintained. Changes in the environment, or proposals to organize, use and exploit it in different ways, often threaten the integrity of a group and its way of life. According to Ross (1995), conflicts that directly challenge a group’s beliefs about nature, and pit groups with contradictory core values against each other, are likely to be particularly difficult to address constructively. Land and forest resources are rarely regarded as simple resources to be put on the bargaining table. They are often imbued with sacred significance or are regarded as resources that do not come under human control and cannot be parcelled or traded. In other societies, they gain such overwhelming economic or strategic importance as to render land-use negotiations equally intractable. It is crucial to recognize the role of identity needs in intercultural and environmental disputes and to make sure that any conflict management process puts these matters at the centre of the process rather than setting them aside.

Hidden conflicts

One particularly insidious and destructive aspect of conflicts occurs when they remain hidden or latent, either because of cultural values or because of the unequal distribution of power and its use to repress and silence less powerful parties in the conflictual situation. As noted by Sarin (1996), conflicts related to community forestry are embedded in the nature of communities themselves. Communities are not homogenous but differentiated by caste, class, tribe, religion, ethnicity and gender, with each group often having a specific pattern of interaction with the local resource endowment. The extent to which conflicts become manifest or remain hidden or latent tends to be a function of the relative access the parties have to available institutional mechanisms for conflict management and for making their voices heard. However, the structure and functioning of community

institutions are often a microcosm of the existing hierarchy of power and authority, with cultural norms determining which groups are included or excluded.

Here, we must also consider those latent conflicts over forest resource control and use that endure through time, with only periodic eruption into public disputes. Such enduring conflicts are dynamic and often involve a range of actors who appear and disappear through time as the conflictual process unfolds. Members of local communities are often keenly aware of such legacies.

Power

Under its various forms, which may be political, economic or social, power, which also includes the power of information and organization, plays a crucial role not only in keeping conflicts hidden or latent, but also in the emergence and evolution of conflictual situations. The distribution of power among conflicting parties and the relative access each party has to it are key factors to consider in all conflicts. It should also be noted that the distribution of power is not static. On the contrary, the distribution of power between parties can evolve considerably, as the conflictual situation develops, in various ways that include information-gathering, networking and alliance-making.

The issue of where the control lies, and power relations between forest-dependent communities and other stakeholders, have been emphasized recently by examples from East Africa (Castro, 1995), West Africa (Ribot, 1997), Tanzania (Wily, 1997) and India (Nagothu, 1997). Too often in the past, participatory forestry initiatives have devolved only limited responsibilities and benefits to forest-dependent communities, and even then to commercially interested, non-representative groups and individuals, as well as to largely unaccountable state and non-state local authorities. This is one of the fundamental questions that must be addressed if community forestry is to contribute to sustainable forest management.

Women and marginalised groups

Marginalised groups, including landless or land-poor villagers, migrant workers, refugees, pastoralists and other shifting populations that lack a formal voice in community institutions, are located at the lowest rungs of existing power hierarchies. The position of women, defined by the nature of gender relations in patriarchal societies in all regions of the world, is similarly disadvantaged. Cultural values and norms may vary dramatically across cultures, but institutional structures perpetuating women's gender-based subordination and exclusion from

ownership and control over resources are in place in all patriarchal societies. Any community forestry intervention changing the existing resource use pattern will tend to have a different impact on its different constituent groups. Due to the relative voicelessness of the marginalised, and due to women's subordinate position, determined by patriarchal gender relations, resource conflicts related to both groups often remain latent or hidden (Sarin, 1995).

Human factors

Few authors dealing with natural resource conflict management mention the human factors that are at the origin of conflicts. Yet attitudes, perceptions, fear and the reactions they generate, including polarization and projection, are fundamental elements in the emergence of conflicts. When fear, prejudice, myths, stereotypes and reductionist/simplified versions of the others are prevailing, it is not possible to find a viable way of dealing with the conflict. (FAO-FTPP America Latina, 1996). Or as Mercurieff (1995) states, "Fears, coupled with a lack of connectedness to (or separation from) the sacred in all creation, form the fundamental basis of all human conflicts. Understanding what this means is the first critical step towards understanding what to do to resolve conflicts."

Classifying conflicts

Recently, there have been various attempts to develop a typology of community forestry conflicts as a means to better understand their nature and develop approaches and tools to address them (Amtzis, 1995; Thieba, *et al.*, 1995; Chandrasekharan, 1996; Traoré and Lo, 1996; Villarreal, 1996). Thus conflicts have been classified on the basis of different but complementary perspectives. They include:

- the space where conflicts occur, according to different property regimes (private, state, common, open access) or to the various perceptions of the same land, for example, land officially classified as forest land but traditionally used for swidden agriculture;
- the actors involved in the conflict and the levels of conflict: (a) within communities, (b) between communities, (c) between community and government, (d) between NGO and government, (e) between entrepreneur and community, (f) between NGO and community, and (g) between government agencies at the same or different levels; and

- the issues at stake, which can be of different natures: subsistence, economic, environmental, social and cultural.

Whatever their nature or origin, the actors involved, the stakes, the environment in which they occur, whether they are acknowledged or remain latent, conflicts that are not adequately handled have a negative, often devastating impact, socially, economically and environmentally. It is thus of the utmost importance for communities and agencies to acknowledge conflicts and to learn how to address conflictual situations.

Addressing Conflicts in Community Forestry

There is a wide range of approaches and tools to deal with conflicts in the ambit of community forestry. They include the mechanisms developed by forest-dependent communities themselves, and also a range of approaches and tools developed or adapted by professionals involved in community forestry and conflict resolution specialists. Some of these approaches are presented under the label of ‘conflict management’ and others under ‘dispute resolution’. Some aim at preventing conflicts, others at resolving open disputes, while still others inventory and classify conflicts occurring in forest-dependent communities. The following is a review of some of the main mechanisms presently used to address conflicts in the context of community forestry.

Traditional approaches to conflict management

According to Castro and Ettenger (1996), not only have communities developed ways of dealing with conflicts, but they continue to develop/adapt these mechanisms as new situations arise. The mechanisms may be formal or informal, violent or peaceful, equitable or not. While specific mechanisms vary, communities rely to varying extents on the same basic procedural modes to handle disputes: avoidance, coercion, negotiation, mediation, arbitration and adjudication.

While various approaches and tools are fully recognized as part of the array of techniques of conflict management, many other community forestry tools, indigenous knowledge and traditional skills are not specifically acknowledged as such. ‘Musalaha’ in the Bambara of Eastern Sénégal (Grigsby, 1996), ‘relation de cousinage’, in West Africa and many other parts of the world (Guèye, 1995), ‘daga shida’ in Eastern Africa (Thuveson, 1996), ‘sacred tests’ (Khadka and Sharma, 1996), ‘rituals’ (Valarezo, 1992), and ‘oral poetry’ (Rirash, 1992) are

only a few in the wide range of traditional ‘tools’ developed over centuries by local communities to deal with conflictual situations.

It is crucial for people engaged in community forestry to understand and to formally recognize the role that local institutions play and the mechanisms used to deal with conflicts within and between communities. Such traditional institutions and mechanisms are rooted in tradition; they are flexible, readily accessible and locally recognized. However, it is also essential to recognize the limits of the application of such mechanisms, particularly when they exclude or prejudice some segments of local populations, when they ignore or avoid dealing with certain types of conflicts and when they contribute to create latent conflicts.

There is still much to be learned from indigenous knowledge. Many indigenous skills arising from traditional wisdom are used daily to deal with conflicts but are not known outside their immediate area of implementation, simply because they are efficient in preventing conflicts or addressing them before they reach crisis proportion. As a result, they do not draw attention (RECOFTC, 1996; Thuvesson, 1996).

Yet, at the same time, contemporary pressures induced through population movement, globalization, liberalization and market economy have considerably eroded the authority of local institutions and the efficiency of traditional conflict management mechanisms. As new actors enter the scene, the issues at stake become broader in scope, and different kinds of conflicts emerge.

A continuum of dispute resolution mechanisms

According to Delli Priscoli (1996), the main dispute resolution techniques can be placed on a continuum comprising six main categories: (1) informal procedures, (2) cooperative decision-making, (3) third-party assistance with negotiation or cooperative problem solving, (4) third-party decision-making, (5) non-violent coercion, and (6) war. Most have some elements of relationship building, procedural assistance, substantive assistance or advice-giving as a means of facilitating resolution, but they differ significantly in degree and emphasis. As we move from one end of the spectrum to the other, the power and authority to settle is gradually handed out to outside parties. With assisted procedures, the facilitator and/or mediator seeks to encourage a primary and direct communication pattern between the parties. With third-party decision-making or judging, the primary communication pattern is between parties and the arbiter, panel or judge.

The 'alternative conflict management' approaches described by Pendzich, Thomas and Wohigenant (1994) belong to this first group. They refer to a variety of collaborative approaches that seek to reach a mutually acceptable resolution of the issues in a conflict through a voluntary process. In this way, the parties can jointly diagnose problems, create alternatives and own agreements. In developed countries, particularly the USA, such approaches are used as an alternative to adversarial or non-consensual strategies such as judicial or legal recourse. The voluntary problem solving and decision-making methods most often employed in alternative conflict management are conciliation, negotiation and mediation.

The approaches to address conflict can also be classified as process-oriented or result-driven. Some authors emphasize the opportunity conflictual situations provide for personal and societal growth. They include, among others, Maser (1996) who promotes transformative facilitation, and De Leener and Sow (1995), who argue that the difficulty in conflict management is in emphasizing conflict as a problem to be resolved instead of using the situation to develop the capacity of the actors to manage conflicts. Others, such as Pendzich (1994) and Recharte (1996), stress the pressing need in many conflictual situations to achieve concrete results and even warn of the danger of overemphasizing the process to the detriment of concrete results (Salem, 1995).

In most cases, both process and results must be given due consideration. As Delli Priscoli (1995) notes, the final content of a dispute resolution can be meaningless without proper relationship building. To manage conflicts, new partnerships are required, and the process is about building partnerships that provide a space for the creative development of options and decision-making. Durable agreements depend on achieving procedural and psychological as well as content satisfaction.

Legal and formal approaches

In many countries, legal/formal approaches and processes have been inherited from the colonial period and were superimposed on or replaced (or tried to replace) traditional mechanisms. Cabarle and Lynch (1996) note that legal/formal systems and mechanisms tend to favour the rights of political and economic elites over those of forest-dependent communities. National legal systems and policies that recognize and reinforce community-based rights and management systems help provide some balance of political power. Such policies can also contribute towards a reduction in the frequency and intensity of conflicts and in creating a more favourable environment in which to pursue sustainable management of forest resources. In most countries, forest-dependent communities

are not major players in the legal arena. As a result, their interests are still largely unreflected in national laws and judicial decisions pertaining to forest management. Yet there are examples, in Bolivia, among other places (Thomas *et al.*, 1996), where forest communities and their allies can invoke or reshape legal interpretations to advance their causes.

Although the recourse to legal/formal mechanisms is generally considered to favour the elites, Nader (1995) argues that the weaker parties to a conflict often prefer to refer their cause to formal institutions. Also, Ochieng Odhiambo (1996) and Cabarle and Lynch (1996) note that women and marginalised groups within communities seek, whenever possible, access to legal or formal venues, which they feel better protect their rights, as they fear they cannot obtain justice from traditional mechanisms.

Participatory planning as a means of dealing with conflictual situations

Participatory Rural Appraisal (PRA) or Rapid Rural Appraisal (RRA) are tools that have also been used in relation to conflict management. Freudenberger (1996), for instance, posits that PRA/RRA tools can be very useful in learning more about the dynamics, causes and consequences of resource conflicts. Participatory Assessment, Monitoring and Evaluation (PAME) can assist communities in identifying conflicts, in dealing with them, and in monitoring the implementation of agreed-upon solutions (Ortiz, 1995). Participatory mapping is another PRA tool that has been used successfully in conflict management processes (Josayma, 1996). The use of video for building up participation and planning, or as a tool to provide a space for the spoken word in communities where written communications are not traditional, has been discussed in many documents, particularly with reference to N'Gorongoro National Park in Tanzania (see, among others, Giltrow, 1996 and Johansson, 1996; for more information on participatory planning and PRA, see Chambers, 1997).

On a national scale, various participatory planning frameworks have been proposed to address issues related to forest lands and forest resources, including National Forest Programmes and Forest Partnership Agreements. One of the main objectives of these frameworks is to provide a forum where all stakeholders can identify and voice conflictual issues related to sustainable forest management, devise solutions together and cooperate in their implementation. Joint forest management in India; Forest User Groups in Nepal; and model forests in Canada, Mexico, Russia and elsewhere are other initiatives that aim to build a partnership to better manage

forest resources and thus provide a space to address conflicting views regarding management, use and benefits of forest lands and resources.

Recent experiences illustrate the potential and also the difficulties in implementing participatory approaches to prevent conflicts or address existing conflictual situations. Pratiwi (1997) discusses the importance of holistic and integrated approaches in preventing conflicts in Indonesia. In India, Berry (1997) proposes planning models as a mean to analyse and resolve conflicts. Participatory forest management on the basis of contractual arrangements and benefit-sharing agreements has provided good results in Mali (ILO, 1997). Jain and Kalpana (1997), basing their conclusions on a case study from South Rajasthan in India, emphasize the need for capacity building, village organization, collective action and networking, while Rastogi (1997), discussing the implementation of joint forest management in India, stresses the need for the training of field officers in conflict-management approaches and techniques. Acknowledging the potential of incorporating indigenous knowledge into innovative structures and mechanisms for the resolution and management of resource-related conflicts, Castro and Ettenger (1996) caution that state co-option of local practices can lead to the creation of ineffective joint management bodies that tend to undermine local resource management systems.

Thus, there exists a wide range of approaches and tools to address community forestry conflicts. However, it is important to stress that there is no single recipe or magic formula applicable to all conflicts. Each conflict is a unique situation, involving real people with their own interests, needs, aspirations and feelings. It is an element of a social dynamic that can not be reduced to a mere problem in need of a technical solution. Conflict management, therefore, cannot be restricted to the blind implementation of ready-made tools by an external agent. Tools are useful, but they remain tools. De Leener and Sow (1995) remind us that there is a need to demystify tools; good conflict management tools do not necessarily make good 'conflict managers'. Paradoxically, tools can easily become real obstacles to conflict management when used without genuine commitment to communication, participation, change and equity.

Conclusion and Recommendations

Ways and means to address conflicts are relatively new additions to the community forestry 'tool box'. However, activities undertaken so far in many countries, under the FPHP and other local, national and international initiatives, have demonstrated that forest-dependent communities have a crucial need to address forest resource conflicts in order to achieve sustainable forest management. Results are encouraging, but this is only the beginning. More work remains to be done to fully integrate the dimension of conflict management in community forestry interventions. The following list is by no means exhaustive. It includes some priority issues to be addressed and is proposed here merely to stimulate reflection for the preparation of an action agenda that will lead us into the 21st century.

Policy and legislation

- Review policy and legislation concerning the use of forest land and resources, removing ambiguities and overlaps.
- Officially acknowledge traditional means of dealing with conflicts and remove overlapping and competing areas of application of formal and traditional mechanisms.
- Enhance participatory policy development and legislation.
- Adopt frameworks that promote participatory planning at all levels.

National and international institutions

- Develop ways and means to integrate conflict management programmes within national and international institutions.
- Empower forest-dependent communities so that they can address intra- and inter-community conflicts in a more efficient and effective way, through community organizing and networking.
- In forestry training institutions, introduce conflict analysis and resolution techniques as a regular part of the curriculum.

Development programmes and projects

Develop approaches and tools to integrate the ‘conflict dimension’ in programme and project design, implementation, monitoring and evaluation.

Awareness-raising

- Raise awareness at all levels, from community to international, of the ‘conflict dimension’: how conflicts are generated; how they can be avoided, addressed, managed, mitigated and resolved.

Capacity building

- Develop the capacity of institutions at all levels, from community to international, through training in conflict resolution skills.

Approaches and tools

Develop approaches and tools to:

- reconcile and better harmonize local interests with national public interests;
- accommodate and resolve overlapping rights and claims in order to promote sustainable forest management and equity and to reduce conflicts;
- deal with intercultural values, norms, institutions and mechanisms for conflict management within communities, between neighbouring communities, and between forest-dependent communities and outside stakeholders such as government institutions, private enterprises, international development organizations and NGOs;
- monitor conflict settlement;
- identify and address latent conflicts;
- address gender and marginalised group issues; and
- assess the impact of development initiatives on the emergence and evolution of conflicts.

Research

- Document indigenous knowledge regarding conflict management; incorporate indigenous knowledge into innovative structures and mechanisms to address natural resource conflicts; assess the real

potential and limits of indigenous knowledge, to deal with intra-community conflicts, for example, or with the new kinds of conflicts generated by liberalization and globalization.

- Identify and document case studies on the emerging variety of approaches of conflict management in community forestry and on their impact on improving sustainable forest management.
- Develop criteria and indicators to allow for conflict anticipation and to use in monitoring and impact assessment.

Human factors

- Research and assess the role of human attitudes and behaviours, as described in the fields of social sciences, in conflicts affecting forest-dependent communities.
- Assess the relevance of conflict management approaches developed in the field of human sciences, draw lessons, and whenever possible, adapt to the community forestry environment.

In conclusion, our rapidly changing world challenges even the remotest forest-dwelling community, and none is immune to the stresses and ensuing conflicts brought about by such changes. The increasing number and diversity of interactions generated by the proximity of our ‘global village’ will multiply a hundredfold the ‘opportunities’ for conflicts.

Considering that most armed conflicts are fundamentally conflicts over the appropriation, control and use of natural resources (the same type of conflicts, though in a different magnitude, that are considered in community forestry), managing and successfully channelling the destructive energy of conflicts towards positive resolution and growth at the community level takes on a different meaning and a much broader perspective. Forest fires start with just one spark. And if the burning coals of a small fire are put out before the winds of dissension, greed, separatism and fear blow, many large, destructive conflicts could be avoided.

Our efforts may seem hopelessly limited and result in minute impacts when we are in the field, whether in Thuong Lo Commune in Central Vietnam, Río Chiquito in Honduras, Kolda in Sénégal or in other rural or forest-dwelling communities; they may seem to be a mere drop of water in the ocean, yet, as the poet says:

*“N’oublie pas que ce sont les gouttes d’eau
Qui alimentent le creux des ruisseaux
Si les ruisseaux savent trouver la mer
Peut-être trouverons-nous la lumière” (Jacques Michel).*

(free translation)

Remember, that mere drops of water
Join together in the mightiest of rivers,
And if rivers find their way to the sea
Maybe the light will we be able to see.

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Integrating Gender and Equity Sensitive Conflict Management in Community Forestry Policies

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Summary

The increasing incorporation of community forestry in national forest policies has been accompanied by commitments by many states to empower forest-dependent villagers to gain greater access to and control over the management of forest resources. This is now considered particularly important for ensuring sustainable use and management of common pool forest resources, often critically important for meeting the survival needs of the poorest women and men. However, there continue to be wide gaps between policy goals and actual outcomes for the poor. These emanate from the inadequate attention given to the design of congruent institutional arrangements for translating policy goals into practice.

In contexts of dynamic social change already riddled with overt and latent conflicts within heterogeneous communities, new conflicts are generated by community forestry interventions with no clear parameters or mechanisms for addressing them as they arise. Even where frameworks such as ‘stakeholder analysis’ or ‘actor oriented analysis’ (Skutsch, 1997) are used for analysing conflicts, these often disempower the already marginalised and voiceless groups by treating them as the equals of those wielding enormous influence and power, due to their being used in an ahistorical, and power- and gender-neutral manner.

This paper suggests that for community forestry to genuinely empower poor individuals dependent on common pool forest resources to improve their livelihoods, conflict analysis and its

management, focused on promoting gender equality and increasing the voice of the voiceless, needs to be explicitly integrated in the formulation and implementation of national community forestry policies. Some steps and procedures required for doing so are also outlined.

The Context: Communities and Natural Resource Conflicts¹

The essence of community forestry lies in enabling those dependent on forest resources for subsistence and livelihood security to participate in resource management. The underlying assumption is that those most directly dependent on the resource and living close to it, often with customary or legal use rights, will have the greatest stake in sustainable resource use and management.

The remarkable spread of community forestry during the last two decades reflects the growing acceptance of this basic philosophy. A very large number of countries across the globe today have community forestry as an important component of their forest policies.

Unfortunately, implementation of community forestry in most countries continues to be dogged by ambiguous, ahistorical and romantic notions of the static, homogeneous and conflict-free idyllic 'community'.

Conflicts, however, are embedded in the nature of communities themselves. Communities are not homogeneous entities but consist of diverse groups differentiated by caste, class, tribe, religion and/or ethnicity and, within and between each of these groups, by gender and age. Each constituent group may have a specific and possibly unique pattern of interaction with the local resource endowment. Each group is also positioned in a dynamic hierarchy of social relations that determine its relative ability to exercise power and authority in community affairs.

Because of the lack of homogeneity within communities, depending on the nature of relationships between their constituent groups and the differences in the nature and levels of dependence on forest resources they represent, conflicts

1. The first part of this paper has drawn considerably on the paper written by the author for the Electronic Conference on Addressing Natural Resource Conflicts through Community Forestry, January-May 1996, FAO/FTPP (see Sarin, 1996).

may arise due to internal dynamics of change triggered by changes in the larger context. For example, increasing market value of timber may provoke the least forest-dependent, but more powerful, groups or individuals to advocate restrictions on use and access to common pool forest lands. The justification may be to increase their 'productivity', but the real objective is to appropriate the ensuing income from increased timber production. The resulting conflicts with highly dependent grazer user groups, due to their consequent displacement from the resource itself, are common in most regions of the developing world. The growing influence of conservation movements percolating into rural communities may also trigger unforeseen, largely invisible conflicts within and between communities. Overzealous rural youth club leaders, motivated by environmental campaigns in some tribal areas of eastern India, for example, have imposed strict forest protection rules without taking into account their impact on the marginalised groups and women dependent on the same forests for survival.

Community Forestry Policies and Conflicts

Many conflicts, both within and between communities, are generated by community forestry policy interventions, particularly those for publicly owned common pool forest lands. Such community forestry interventions invariably alter the often complex diversity of different groups' existing use of and access to forest resources through bringing open access lands under common pool resource management regimes. In most developing countries, where large sections of the population continue to have direct dependence on common pool forest resources for some or most of their survival needs, often with the most disadvantaged having the greatest dependence on the commons, conflict is inherent in situations implying changes in forest access. While some groups gain from it, others lose. It is really at this stage of the policy formulation process that potential conflict analysis needs to be incorporated to ensure that the most critically resource-dependent do not end up being worse off than before due to the proposed community forestry interventions. Unfortunately, present policy formulation tends to be ad hoc with little awareness among remote policy-makers of the stakes involved for the resource-poor and the nature of conflicts their interventions may trigger.

Privatization of state-owned forests or decentralization of their management through a variety of partnership arrangements between state agencies and local community institutions has become a significant trend in forest policy changes. The two best-known South Asian examples of the latter category are user group forestry in Nepal and the joint forest management (JFM) approach in India.

Several types of conflicts are inherent in such partnerships between small, scattered and diverse community institutions and state forest bureaucracies.

- Conflicts are embedded in the inevitably asymmetrical and unequal relationships between powerful state bureaucracies and small local institutions.
- The internal structures and cultural norms of both sets of institutions determine the extent to which both are effectively accessible to marginalised groups and to women, often representing the largest categories of resource users. The formal or informal exclusion of such groups from interinstitutional dialogue may trigger subterranean conflicts that are not easily discernible.
- Despite the acceptance of participatory approaches at policy levels, state forestry institutions of most countries continue to be strongly oriented to conventional forest management. Developing management alternatives based on balancing satisfaction of diverse Forest User Groups' needs with sustainable forest use and management has received limited attention from them. The resulting equation of community 'participation' with communities helping forestry institutions to improve forest condition only through protection can generate acute conflicts with user groups that have no alternative to their immediate, albeit unsustainable, forest use.
- Due to the general absence of a social science perspective in forestry training, community partnerships with forestry institutions often trigger conflicts because forest officials inadvertently change the balance of power between different groups within communities, and/or between communities or distant users, by their insistence on conforming to standard silvicultural prescriptions. The gender and equity implications of such 'technical' interventions, presumed to be socially neutral, have yet to be analysed adequately.

Thus, conflicts related to marginalised groups and women within the enormously broad ambit of community forestry cannot be addressed without an analysis of where they are situated in the complex and intertwined hierarchies of power relationships based on class, ethnicity and gender in their specific contexts, and of how these are entrenched in the institutional structures and cultural values of both community and state that reproduce and sustain them.

Marginalised groups, which lack a formal voice in community institutions, often a microcosm of the existing hierarchy of power and authority in the larger society, are located at the lowest rungs of the power ladder. The position of women, defined by the nature of gender relations in patriarchal societies in all regions of the world, is similarly disadvantaged. Cultural values and norms may vary dramatically across cultures, but institutional structures perpetuating women's gender-based subordination and exclusion from ownership and control over resources are in place in all patriarchal societies. Due to the relative voicelessness of the marginalised, and to women's subordinate position determined by patriarchal gender relations, resource conflicts related to both groups often remain latent or hidden (Sarin, 1995).

A Framework for Making Community Forestry Policies More Gender and Equity Sensitive

Experience makes it evident that generalized policy statements of intent of empowering resource-dependent marginalised groups to participate in common pool forest resource management are inadequate in themselves in the above context (Sarin *et al.*, 1996). Conflicts related to the interests of such groups can be minimized, and made more visible when they do occur, through proactively incorporating the following elements in community forestry policy frameworks and their implementation.

Creating inclusive institutional spaces

Despite the rhetoric of participation becoming commonplace, limited attention has been paid to the consequences of continued adoption of the household as the unit of participation at the community level. In most societies, by tradition, a male member is perceived to be the 'head' of the household and is expected to 'represent' the interests of all household members in community affairs. This single institutional norm, of one person representing other household members, often effectively excludes women as a category from the participatory process even before it has begun. Thus, in Nepal, although all users are supposed to be involved in community forestry, the norm of eligibility of only one representative per household for user group membership excludes the country's predominant women forest users from direct participation in the programme's decision-making processes. The same was the case, in the beginning, with India's Joint Forest Management (JFM) framework. Although some Indian states have now revised their JFM orders to make one man and one woman per household eligible for the partner community institution's

membership, this still excludes significant numbers of both male and female adults, with potentially the greatest dependence on the resource, from a legitimate right to participate on their own behalf.

Such institutional norms not only impact the individual's right to participate in decision-making but also their rights to legal entitlements and benefits. A national network looking at gender and equity issues in JFM in India has been lobbying for opening access to community institution membership to all adults. Several studies have indicated that JFM continues to be riddled with major latent as well as overt gender-based conflicts due to such systematic exclusion of women forest users, and to the fact that their current needs and long term interests receive limited, if any, consideration (Sarin *et al.*, 1996).

Similar norms about the minimum number of households required to be willing to participate in such programmes can inadvertently exclude entire forest-dependent subcommunities within communities. Thus, a norm that at least 50 percent of the village households must be willing to participate may mean that the remaining silent or dissenting households, who may have the greatest resource dependence, either disagree with the management priorities of the vocal majority or are not even aware of the programme. Major conflicts may erupt when the existing access regime to the common pool forest starts being changed in consultation with only the participating majority.

Such household-based norms tend to be highly gender-insensitive, as it is, again, mostly the men who are consulted as presumed household 'representatives'. Changing the norm to 50 or 60 percent of the 'adults' can facilitate women's inclusion in the consultation process.

Norms for access to higher decision-making forums, such as the local institutions' management committee or presidentship, are often similarly discriminatory, resulting in the exclusion of the very women and men who should be there to give substance to the basic goal of community forestry. Alternative norms, such as one stating that "membership of management committee or presidentship shall be open only to women and men forest users", can be both empowering and inclusive for those intended to be reached.

Although access to formal membership at different levels is inadequate in itself for ensuring active engagement of the resource-dependent, it is a precondition for their gaining access to rights, entitlements, visibility, information and empowerment.

Developing need-focused management plans

As with institutional norms, despite the rhetoric of community forestry being centred on combining increased livelihood security with sustainable forest management, often the specification of the rights and responsibilities in the partnership agreements have implicit management objectives more oriented to resource conservation rather than use. Alternatively, continued and unquestioned use of silvicultural management models designed for maximizing commercial timber production during earlier times presume timber-centred management even under community forestry. In one sweep, the imposition of such prescriptions can delegitimize a diversity of long-standing use regimes on which many groups' livelihood security actually depends, thereby generating acute conflicts with such resource users. Thus swidden cultivation, nomadic pastoralism or even livestock rearing based on grazing, are labeled as undesirable or unsustainable activities. Even the gathering of many non-timber forest products, both for direct consumption and earning income, such as lopping leaves and branches, collecting gum, raising silkworms on tree leaves, and cutting coppice shoots for firewood, are classified as unacceptable due to their potential harm to the timber value of the tree's trunk. Rather than increasing livelihood security, such interventions decrease it, with the greatest opportunity costs being transferred to the very women and men who cannot bear them, and who are the intended beneficiaries of community forestry. Many conflicts involving marginalised groups and women are rooted in the imposition of such silvicultural norms and cannot be adequately addressed unless issues of poverty, survival, gender and equity are directly incorporated in the designing of management plans and silvicultural prescriptions.

Implementing methodologies for increasing visibility, voice and participation of the marginalised

Inclusive institutional norms and management planning focused on improving livelihood security of long-term and also recent users dependent for day-to-day survival needs to be supplemented by implementation methods and guidelines that prioritise their participation. For this, an ethical norm of initiating community consultation with the most marginalised needs to be incorporated in attitudinal change and training processes. Identifying absent users (nomadic grazers, seasonal migrants away for wage work, or those needing to spend long hours on gathering NTFPs for survival) with the help of those present, can also help ensure that temporary absence does not result in the exclusion of such resource users, thereby minimizing future conflicts with them.

Once the diverse user groups are identified, they need to be consulted separately in their own spaces and time. Facilitating organization of homogeneous user groups of women and men, in which they can articulate their priorities in a tension-free environment, can enable such groups to gain a stronger voice in larger forums where the traditionally dominant are also present. In cultures where traditional practices favour women's seclusion or purdah, the men need to be encouraged to create space for the participation of women users. Finding progressive local male allies in such situations may be one of the most effective means of facilitating women's participation.

Unless such strategies, suitable for each specific cultural context, are integrated in implementation, community forestry may continue to exclude the voiceless and marginalised, to increase existing inequalities in resource use and access and to generate more conflicts than existed before.

Differentiating stakeholders

Both policy frameworks and implementation strategies also need to articulate clearly the parameters on which conflict management between new, powerful and external interest groups, such as multinational corporations and international conservation lobbies, and Indigenous Peoples or traditional users with legal or customary rights, will be based. Can such powerful, recent but non-local interest groups be treated as equal stakeholders in relation to those for whom the forests possibly represent their ancestral domains in a stakeholder analysis exercise?

Conclusion and Recommendations

It has been seen that many conflicts within and between communities are generated by community forestry policy intervention, which may alter the often complex diversity of the use of and access to forest resources by different groups. Potential conflict analysis needs to be incorporated into the policy formulation process at this stage. In addressing conflicts related to marginalised groups and women within the broad ambit of community forestry, it is necessary to make an analysis of their place in the complex hierarchies of power relationships based on class, ethnicity and gender in their specific contexts. It is also necessary to create institutional spaces. Although access to formal membership at different levels is inadequate in itself for ensuring active engagement of the resource-dependent, it is a precondition for their gaining access to rights, entitlements, visibility,

information and empowerment. Many conflicts involving marginalised groups and women cannot be adequately addressed unless issues of poverty, survival, gender and equity are incorporated into the design of forest resource management plans. Inclusive institutional norms and management planning need to be supplemented by implementation methods and guidelines that prioritize participation. Policy frameworks and implementation strategies must clearly articulate the parameters of the management of conflicts between powerful external interest groups and Indigenous Peoples or traditional users.

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Consideraciones Generales para la Prevención de Conflictos en los Proyectos de Desarrollo Económico de los Pueblos Indígenas Amazónicos¹

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Summary

This paper (A Regional Process of Local and Indigenous Organization – The Case of Amazonian Countries), written by the coordinator of the indigenous organizations of the Amazon Basin (COICA), recalls that one of the most urgent challenges for the Indigenous Peoples is to reach self-development. Considering this challenge, a study has been carried out on the economic strategies of subsistence, autonomous development and sustainable use of the Indigenous Peoples' lands. The study analysed the changes that took place in the local economies over the last 30 years and evaluated 25 indigenous economic projects in five countries (Bolivia, Brazil, Colombia, Ecuador and Peru). The study's goal was to obtain a baseline to stimulate a debate on the conditions required to meet the challenge of the autonomous development of the Indigenous Peoples.

The paper presents the results and recommendations of the study, focusing on the issue of sustainability from an ecological, economic, socio-cultural and political perspective.

With respect to ecological sustainability, the possible environmental impact of the projects should be considered from the conception phase. It is highly recommended that the Indigenous Peoples define comprehensive plans for the management of their own resources, focusing on their cultural values and on the traditional systems of land tenure. The formulation of these plans requires, among other aspects, preparing appraisal studies, collecting information,

1. The abstract is presented in English, followed by the original language version of the paper.

building on the traditional knowledge of the environment, and fully involving the communities and obtaining their consensus. The paper suggests that one way of securing the sustainability of market-oriented projects is to include a special management plan for the care and use of the natural resources.

With respect to economic sustainability, several factors are considered:

- *Diversity of the subsistence strategies and market-oriented activities. These activities and projects should not weaken the subsistence strategies but be combined with them.*
- *Financing economic initiatives. There should be a focus on training, market information, technical support for feasibility studies, etc., rather than on financing businesses, which can lead to distortions in the indigenous economy and values. Credit and saving schemes are preferred.*
- *Organizing the initiatives. These can be carried out at the community level or by small groups of relatives. Each kind of organization has its advantages and disadvantages.*
- *Specific policy for the management of businesses. Clear and transparent rules should be established from the outset (fiscal, administrative measures, credit rules, etc.). Also, capacity building is necessary to strengthen the initiatives (through extension, services, networking, etc.).*

Socio-cultural sustainability is also critical, especially in light of the contradiction between traditional values and the norms required in the modern economy. This should be discussed within the communities in order to combine successfully subsistence and market-oriented activities.

With respect to political sustainability, it is crucial to evaluate whether the projects and activities are stimulating or weakening the process of autonomous development. The indigenous communities should be made accountable for their own social and economic development. It is also necessary to discuss the relationships and roles of the different actors involved: the Indigenous Peoples, their organizations, the NGOs and the support agencies. The Indigenous Peoples have to accept the importance of receiving external technical support.

The author suggests that the Indigenous Peoples might be able to overcome the conflicts existing in the sector of their economic development in the Amazon Basin by considering the different factors presented in this paper.

Breve Presentación Institucional de la COICA

La Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica (COICA) es una organización indígena internacional sin fines de lucro, con sede en la ciudad de Quito, Ecuador. Se ocupa de coordinar las organizaciones indígenas amazónicas para impulsar la reivindicación de los derechos indígenas en general.

Las siguientes son las organizaciones indígenas amazónicas integrantes de la COICA:

- Coordinadora de las Organizaciones Indígenas de la Amazonía Brasileña (COIAB)
- Confederación Indígena del Oriente, Chaco y Amazonía de Bolivia (CIDOB)
- Organización de Pueblos Indígenas de la Amazonía Colombiana (OPIAC)
- Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana (CONFENIAE).
- Asociación de Pueblos Amerindios de Guyana (APA)
- Federación de Organizaciones Amerindias de Guyana Francesa (FOAG)
- Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESP)
- Organización Indígena de Surinam (OIS)
- Consejo Nacional Indio de Venezuela (CONIVE)

La población indígena amazónica se calcula en un número cercano al millón y medio de personas, distribuidas en alrededor de 400 localidades.

Introducción

Un de los más preciados anhelos de los pueblos indígenas es alcanzar el desarrollo autónomo en el marco de los Estados nacionales.

Por ello, el análisis y debate sobre el desarrollo indígena orientado a precisar las condiciones que permitan el establecimiento de procesos autónomos, es una tarea urgente, que atañe en primer lugar a nuestros pueblos, pero también a los organismos nacionales e internacionales cuya acción incide en los procesos de desarrollo indígena, ya sea mediante su apoyo, o a través de la definición de políticas específicas y/o globales que nos afectan.

Asumiendo este reto, la COICA, junto con Oxfam América (con sede en Boston, EE.UU), realizamos un estudio sobre “Estrategias económicas de subsistencia, desarrollo autónomo y manejo sustentable de los territorios de los pueblos indígenas de la Cuenca Amazónica”, enfocado a analizar los cambios que se han dado en la economía indígena en los últimos 30 años, y a evaluar iniciativas y proyectos económicos, con la finalidad de tener una base más objetiva para auspiciar el debate sobre las condiciones necesarias para el desarrollo autónomo de nuestros pueblos.

En el mismo sentido, he recogido algunas reflexiones realizadas por nuestras organizaciones, tendientes a precisar los contenidos de nuestras propuestas sobre los derechos de los pueblos indígenas. Estas propuestas constituyen el marco necesario para garantizar el desarrollo autónomo, y a la vez pueden contribuir a la prevención de conflictos en los bosques tropicales de los pueblos indígenas.

Desarrollo Autónomo: Condiciones Internas

Principalmente en las dos últimas décadas, a partir del fortalecimiento de nuestras organizaciones, los pueblos indígenas hemos incursionado en actividades económicas en pos de nuestro desarrollo, ya sea mediante proyectos financiados con recursos externos, o por el impulso de iniciativas propias.

A continuación retomo algunas de las reflexiones y recomendaciones formuladas por el estudio “Estrategias Económicas”, sobre la base de la evaluación de 25 proyectos o iniciativas económicas indígenas en cinco países: Ecuador, Colombia, Perú, Bolivia y Brasil. Debo recalcar que estas ideas no constituyen la última palabra, requieren aún ser discutidas y analizadas, pero son válidas para impulsar el debate y la reflexión.

Estas reflexiones hacen referencia a la viabilidad de los proyectos, entendida como la posibilidad de un proyecto o actividad de sobrevivir y desarrollarse bajo las condiciones existentes. La viabilidad de un proyecto depende tanto de factores globales externos, como de factores internos. Los factores externos – es decir las condiciones políticas y económicas – están dados por la adopción de políticas, básicamente por parte de los Gobiernos, razón por la que a continuación me centraré en los factores internos, que residen en las propias comunidades.

Viabilidad ecológica

Todas las iniciativas económicas tienen algún nivel de impacto sobre los recursos naturales. Sin embargo, al diseñar los proyectos no siempre se reflexiona sobre su posible impacto.

Una iniciativa económica se considera ecológicamente viable cuando la base de los recursos puede sustentar actividades productivas o extractivas sin un serio deterioro de los mismos.

Para enfrentar este reto es necesario que la moderna economía indígena esté basada más en el concepto de uso y manejo de recursos, en lugar de aquel de explotación de recursos.

Entendemos por manejo al sistema en el cual se combina el cuidado de los recursos con el uso de los mismos. Los recursos no son explotados, sino manipulados de tal forma que su uso no amenaza su existencia.

En este sentido, los pueblos y las comunidades debemos definir planes globales para el manejo de los recursos comunitarios. Estos planes deben estar enfocados a fortalecer los valores tradicionales indígenas, basados en la reciprocidad, moderación y equilibrio para el manejo de las relaciones con el mundo natural.

En la medida de lo posible, estos planes deben incorporar y resguardar los sistemas tradicionales de tenencia, los cuales gobiernan los derechos de usufructo, que definen quién puede usar qué recursos; cuándo y con qué propósitos; quién hereda de quién, y qué derechos sobre los recursos. Las organizaciones debemos codificar este sistema tradicional para lograr un reconocimiento oficial de estas prácticas.

Un plan de manejo global requiere además de:

- Inventarios de recursos renovables y no renovables disponibles;
- Conocimiento y comprensión de la interacción entre estos recursos;
- Estimaciones de las necesidades de recursos para satisfacer la base de la subsistencia de la comunidad;
- Estimaciones de las tasas de cosechas disponibles o de uso por familia, basadas en el análisis de las reservas disponibles.

Para fundamentar estos planes se deben realizar estudios de diagnóstico y recolección de información. Los indígenas debemos continuar valorando todas las fuentes de conocimiento tradicional sobre las especies de plantas y animales, ya que es un recurso muy importante para el manejo de nuestro desarrollo económico. En este sentido, es necesario luchar por un orden jurídico que reconozca los derechos de propiedad intelectual de estos conocimientos ancestrales.

Estos planes deben alentar una diversificación de las actividades y de los recursos extraídos. Finalmente, hay que tomar en cuenta que para que este plan de manejo sea viable, debe ser realizado por la comunidad, y aprobado por consenso.

Adicionalmente, los proyectos orientados al mercado deben comenzar con un estudio de factibilidad para saber cuál va a ser su impacto sobre la base de los recursos. Y cada iniciativa económica basada en el uso de un recurso debería tener también un plan de manejo específico para el cuidado y uso de ese recurso. Este plan debería estar en concordancia con el plan global.

Orientados de esta manera, los planes de manejo son una herramienta importante para el desarrollo sostenible a largo plazo de los pueblos indígenas y sus territorios.

Viabilidad económica

Factores que influyen en la viabilidad económica:

a) Diversificación de las estrategias

La viabilidad de la economía tradicional se deriva de la gran variedad de alternativas de subsistencia disponibles, aprovechando la alta variedad de recursos existentes. Es de suma importancia que los indígenas mantengamos y desarrollemos esta diversidad de posibilidades. Los proyectos no deben debilitar las estrategias de subsistencia por poner énfasis en otra actividad; deben combinar diversidad de actividades de subsistencia con actividades de mercado. De esta manera se cubren las necesidades de alimentación/nutrición y de dinero. Debemos hacer un cálculo económico para saber, por ejemplo, cuánto estamos perdiendo al sólo producir para el mercado y tener que comprar para la alimentación.

Es necesario también diversificar las actividades para el mercado, para disminuir los riesgos que pueden darse, ya sea por efecto de plagas o por la fluctuación de los precios.

b) Financiamiento de una iniciativa económica

Las donaciones pueden jugar un papel muy importante en el apoyo a empresas locales con actividades como capacitación, información sobre el mercado, apoyo técnico para estudios de factibilidad, etc. Pero en relación al financiamiento directo de las empresas o iniciativas económicas tendientes a producir ingresos monetarios, las donaciones producen graves distorsiones en la economía indígena y su relación con el mercado, por lo cual se ha demostrado que no constituyen una garantía para un desarrollo autónomo y a largo plazo de nuestros pueblos.

Así, en la evaluación de los proyectos, se observó un contraste significativo entre aquellas iniciativas económicas que se inician con pequeños capitales -basadas en el esfuerzo de la gente- y aquellas financiadas con donaciones. Las primeras son diseñadas como negocio en un sentido estricto – para obtener ganancias – ; se desarrollan con poco financiamiento, y avanzan hacia una capitalización propia y paulatina. En estos casos, quienes impulsan estas iniciativas se sienten dueños del negocio, y por tanto están atentos a cualquier problema que pueda surgir, ya que están arriesgando sus propios recursos.

Los proyectos basados en donaciones, o de beneficencia, dependen de recursos externos para sobrevivir en el contexto del mercado. A los beneficiarios de estos proyectos generalmente no les importa la productividad pues no han invertido su capital; no arriesgan, no se sienten dueños. En muchos de estos

proyectos nunca se plantea como meta la creación de un fondo de capitalización, por lo que, cuando se acaba la donación, generalmente quiebra el proyecto. En la donación no hay intercambio igualitario entre donantes y beneficiarios, ya que el primero generalmente impone las condiciones, y no hay tampoco expectativas de recuperación de los fondos.

Las comunidades no siempre han desarrollado una ética de responsabilidad colectiva que permita ejercer un control social sobre el uso de las donaciones. En estos casos, las donaciones escapan de formas internas de relación y control, y dan por eso muchas veces paso a la corrupción y a la consecuente división de la comunidad.

Desde esta perspectiva, las donaciones distorsionan la economía tradicional y violan las normas de reciprocidad. Además, distorsionan las relaciones económicas no tradicionales y afectan la viabilidad económica de esas iniciativas.

Pero entonces surge la pregunta: ¿Cómo se pueden financiar las iniciativas económicas orientadas como negocio, para producir ganancias? El estudio presenta algunas sugerencias al respecto:

■ **Recursos locales.** Incentivar a las familias interesadas en generar una iniciativa económica. Esto puede hacerse de dos formas: uso de los recursos, bajo acuerdo con la comunidad, y según un plan de explotación de algunos de los recursos disponibles. Desarrollar prácticas de ahorro, por ejemplo mecanismos de ahorro grupal, que permitan generar pequeños capitales iniciales propios.

■ **Crédito.** Para complementar los esfuerzos locales se puede recurrir al crédito. Este puede tener mayor relación con los mecanismos tradicionales de devolver las deudas, y ayuda a asumir responsabilidades.

Al respecto se requieren programas de crédito específicos para los pueblos indígenas, que tengan como meta vincular los ahorros locales a posibilidades de préstamo, y también asesorar a los prestamistas, para que puedan realizar buenas inversiones. Estos mecanismos específicos de crédito deben cuidar de no poner en riesgo los territorios, ya que las instituciones generales de crédito requieren de garantía, y existe un grave riesgo cuando la garantía es la tierra. Este aspecto se vuelve aún más peligroso con el interés neoliberal de abrir los territorios indígenas al libre mercado de tierras.

c) Organización de las iniciativas

Es necesario determinar si una iniciativa debe ser organizada a nivel comunitario y cuando se debe hacerlo a nivel de pequeños grupos familiares.

El estudio, por ejemplo, demuestra que en los casos de los proyectos evaluados, en general las empresas colectivas o comunales no han sido viables, sobre todo por la ausencia del sentido de propiedad personal. Como la propiedad es común nadie se siente personalmente responsable de la empresa, o su dueño, por lo que muy pocos están dispuestos a tomar iniciativas y a esforzarse más.

Esto puede explicarse por el hecho de que la unidad básica de la organización económica en los pueblos indígenas amazónicos es o era, según los casos- la maloca, es decir, asentamientos basados en el parentesco y el linaje. Las comunidades actuales no siempre coinciden con estos asentamientos. La comunidad tradicional no fue organizada en términos económicos, sino más bien para defender los territorios, y por tanto no siempre funciona como unidad económica.

Algunos proyectos han desarrollado mecanismos más adecuados a esta realidad. Por ejemplo, han promovido la organización de iniciativas colectivas sobre la base de grupos más afines al interior de las comunidades. Los grupos, al asumir el apoyo del proyecto, se comprometían a aportar a un fondo comunal con una parte de sus ganancias, que permitía a la comunidad prestar servicios para todos. Este mecanismo, a la vez que apoya el fortalecimiento económico de las bases de la comunidad, refuerza la solidaridad y el sentimiento de pertenencia a un grupo mayor, en tanto que redistribuye una porción de las ganancias acumuladas.

Muchos proyectos que se organizan a nivel colectivo se orientan a impulsar una sola actividad económica para el mercado, con el riesgo de poner en situación de fragilidad y dependencia a la economía de la comunidad. Existen algunas experiencias que han tratado de impulsar actividades económicas complementarias entre los grupos al interior de una comunidad, lo que permite reforzar la diversificación de las actividades orientadas al mercado.

d) Políticas económicas específicas para el manejo de las empresas o negocios

En la evaluación de los proyectos realizados por el Estudio se observó la existencia de una contradicción entre los valores tradicionales con las necesidades del manejo de empresas o negocios. Los valores tradicionales establecen principios de reciprocidad y generosidad, mientras que el manejo de negocios requiere de valores como la eficiencia, la productividad y la obtención de ganancias.

El proyecto sugiere que las normas y valores tradicionales son muy importantes para regular las actividades relacionadas sobre todo con la subsistencia, pero que los proyectos formulados en tanto negocios tienen que funcionar

necesariamente con otras normas y desarrollarse con un criterio empresarial acompañado de destrezas administrativas.

Para evitar esta confusión, todo proyecto debe establecer junto con los participantes, desde el principio, reglas claras. Por ejemplo, cómo se van a manejar los recursos, o cómo va a funcionar el crédito. Deben aplicarse formas de administración transparente y de control fiscal capaces de informar a los participantes sobre las condiciones financieras del proyecto y sobre el uso del capital de la empresa. Estos mecanismos no deben responder de manera exclusiva a rendir cuentas a las entidades financieras o donantes, como usualmente se hace, sino que ante todo deben responder a las necesidades del manejo de la empresa y de sus participantes.

El éxito de una iniciativa depende de las destrezas técnicas del personal responsable. Muchos proyectos tuvieron buena capacitación en aspectos técnicos del proyecto, pero no en los administrativos.

Un agravante en este sentido es que, en muchos casos, son los dirigentes los que asumen la conducción de los proyectos económicos, lo que los convierte en políticos y técnicos a la vez. En estos casos, generalmente fracasa el proyecto por falta de una dirección técnica, al mismo tiempo que debilita a la organización porque el dirigente abandona sus funciones como tal. Por ello creemos que estas dos funciones no deben mezclarse: las iniciativas o proyectos económicos deben ser manejados por técnicos, y los dirigentes deben centrarse en sus funciones políticas.

Para fortalecer las iniciativas económicas de las bases, las organizaciones, más que ejecutoras directas de proyectos económicos, deberían orientar su actividad a prestar servicios complementarios, como capacitación, información sobre el mercado, establecer redes de relación entre los productores, y contar para ello con personal técnico especializado.

Viabilidad socio-cultural

En los anteriores puntos ya he tratado algunos aspectos de carácter socio-cultural, sin embargo cabe hacer la siguiente precisión: la viabilidad socio-cultural de una iniciativa es difícil de satisfacer por la incompatibilidad que existe en muchos aspectos entre la economía de mercado y las normas de vida y los valores indígenas.

Por eso, estos factores deben ser discutidos en las comunidades para decidir por qué camino optar, mirando las ventajas o desventajas: ¿Qué tipo de desarrollo y forma de vida es la que quiere la comunidad?; ¿cuál es la relación que quiere tener con el mercado?; ¿qué compromisos están dispuestos a realizar para

desarrollarse económicamente en el mercado?; ¿hasta dónde pueden comprometer su forma de vida a cambio del éxito económico sin poner en peligro sus características propias como pueblo y la coherencia de su vida social?

Las experiencias demuestran que cuando las cosas se planifican bien, el desarrollo económico mixto -de subsistencia y de orientación hacia el mercado- puede ser compatible con los patrones locales de organización social y económica.

Viabilidad política

Para saber si las actividades o proyectos que impulsamos están fortaleciendo o debilitando el proceso de desarrollo autónomo, es muy importante que los pueblos y las comunidades indígenas nos hagamos las siguientes preguntas:

- ¿Tiene la comunidad el control sobre la concepción, el diseño, la planificación y la implementación de las iniciativas o los proyectos económicos?
- ¿Ejerce la comunidad control sobre su territorio y sobre los recursos que en él se encuentran?
- ¿Los programas de desarrollo que se llevan a cabo dentro de la comunidad o pueblo crean condiciones para su autosuficiencia e independencia económica?
- ¿Robustecen estos programas los lazos sociales y culturales de los miembros de la comunidad y afirman sus sentimientos de identidad histórica y dignidad cultural?

De lo que estamos hablando es de un proceso de desarrollo social llevado adelante por los pueblos indígenas dentro del marco de su propio desarrollo histórico, y no de un tipo de desarrollo impulsado para nosotros por instituciones externas.

En este sentido, cabe reflexionar sobre las relaciones entre los pueblos indígenas y sus organizaciones, y las instituciones de apoyo. Es urgente definir los diferentes papeles con claridad: las organizaciones no gubernamentales deben superar el paternalismo y aceptar su función de asesores técnicos y no de ejecutores de proyectos. Por otro lado, los pueblos indígenas debemos aceptar la importancia del asesoramiento técnico para asumir nuestro rol en la ejecución de programas y actividades.

Sólo a través de este respeto mutuo, y tomando nota de las consideraciones expuestas, estaremos realizando esfuerzos para superar los conflictos que se dan en torno al desarrollo económico en los pueblos indígenas de la Cuenca del Amazonas.

La Experiencia Latinoamericana en torno a la Construcción de Capacidades Locales a través de Procesos Participativos¹

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Summary

This paper (An Action-Training-Research Process in Building Institutional Capacity through Participatory Management - A Latin American Network) reviews the Latin American experience of the Forests, Trees and People Programme (FTPP/FAO) in applying participatory approaches for the design of a methodology useful for dealing with forestry resource-related conflicts. It also examines two examples of conflicts in the Amazon Basin and makes recommendations as to how to create a favourable environment to manage socio-environment-related conflicts.

Considering the absence of sustainable strategies to manage these kinds of conflicts, FТПP/Ecuador established different working groups (Ecuador, Bolivia, Peru) to analyse the main existing conflicts and their impact on rural communities and the environment. It emerged that the most vulnerable actors in society had no strategic, methodological and instrumental options to deal with the conflicts. The aim was then to evaluate, on a collaborative and participatory basis, the environment-related conflicts, jointly with the rural communities, by giving them the opportunity to re-value their traditional knowledge, experience and skills. The methodological strategy used was participatory appraisal, planning, monitoring and evaluation.

The goal was to strengthen the community organizations, enabling them to deal with their environment-related conflicts, with their

1. The abstract is presented in English, followed by the original language version of the paper.

traditional knowledge and skills being considered as an important input. The participation aspect was essential for the communities to better understand their own conflicts, evaluate possible solutions and design strategies of alternative management.

The results obtained by the working groups show that, in Latin America, there are growing conflicts related to natural resources that are mainly the result of shortages and degradation of these resources. Recognizing the existence of conflicts and the diverging interests of each party is crucial. Also, the unfair access to and use of the scarce resources required for subsistence often lead to conflicts. However, a conflict is not necessarily 'bad' as it can be considered as an opportunity for change, to be creative, etc.

The paper describes two experiences that illustrate how state structures and the decision-making processes about natural resources are linked to the demands and expectations of rural people. The examples show that there is almost no participation, if ever, of the local actors in the definition of the national policy and that the power relationships remain vertical, ethnocentrist and top-down. In this context, when a conflict emerges, it is difficult for the weakest actors to respond adequately and legitimately.

The first example relates to the Candoshi (Amazon of Peru) where there has been a conflict concerning Lake Rimachi since 1991 between the Federación de Comunidades Nativas Candoshis del Distrito de Pastaza (FECONADIP, a federation of Indigenous Peoples) and the Ministry of Fisheries and a North American company. The second case is situated in Ecuador and regards the conflict between the Indigenous Peoples, the Quichuas, another North American company and the Government of Ecuador.

These two cases show that it is crucial for states to develop mechanisms and rules to respond to conflicts, and which can lead to democratization processes and institution building. Strengthening the local communities and building into their knowledge and experience represent another important step. The Latin American experience is focused on the strengthening of the existing capacities and ancestral practices of conflict management and on the development of new skills.

The methodological proposal for dealing with environment-related conflicts is linked to an alternative proposal of development and management of the environment. It is based on three capacities to be strengthened: appraisal of conflicts; evaluation of the possible solutions, and designing and planning strategies of action, all based on participatory approaches.

The author concludes that the active participation of rural communities is still to be promoted, as well as building their capacities in appraisal, evaluation, planning and implementation in order to better deal with conflicts. It is also crucial to integrate the issue in the policy sector and in the scientific, methodological and instrumental orientations. Still to be encouraged in the region is the development of institutional capabilities to manage the environment-related conflicts through participatory approaches, the exchange of experience, continuous training, etc.

Introducción y Antecedentes

El Programa Bosques, Árboles y Comunidades Rurales (FTPP), de la Organización de las Naciones Unidas para la Agricultura y la Alimentación (FAO) en América Latina, dentro de su proyecto de análisis, sistematización y gestión alternativa de conflictos socioambientales en comunidades rurales, a través de la forestería comunitaria, ha impulsado desde 1994 una experiencia colectiva de trabajo, de diagnóstico participativo con las comunidades y organizaciones de campesinos, como base principal para el diseño de una propuesta metodológica aplicable a los conflictos relacionados con los recursos del bosque.

El primer antecedente -que a la postre resultó ser el estímulo para el desarrollo de un proceso de características regionales- lo constituyó el “Primer Seminario sobre Resolución de Disputas en Comunidades Forestales”, celebrado en Costa Rica en septiembre de 1993, con el coauspicio de RESOLVE, la Universidad para la Paz y el FTTP. Allí se constataron las potencialidades y limitaciones de las opciones alternativas (no necesariamente procesales) para el manejo de conflictos ligados a los recursos forestales y las comunidades locales. De hecho, la inquietud fundamental giró en torno a la falta de estrategias viables de gestión de los conflictos socioambientales en un contexto político, cultural y social tan complejo como el latinoamericano.

La inquietud en referencia fue asumida por el FPHP-Ecuador y, a finales de ese mismo año, en conjunto con la Unión Mundial para la Naturaleza (UICN) y el Instituto Latinoamericano de Investigaciones Sociales (ILDIS), se crearon ‘Grupos de Trabajo’ (Ecuador, Bolivia y Perú).

En su primera fase, estos grupos se propusieron sistematizar y analizar los principales conflictos y sus impactos comunitarios y ambientales. Después de algo más de un año de trabajo, se pusieron en evidencia dos aspectos muy importantes en relación con las limitaciones que restringían el desarrollo del manejo alternativo de conflictos socio-ambientales: por un lado, la escasa atención que las ciencias sociales y las agendas políticas de América Latina han dado al análisis de este tipo de conflictividad; y por otro, como corolario obvio, la inexistencia de propuestas viables que representaran las opciones estratégicas, metodológicas e instrumentales necesarias para que los actores más vulnerables en un conflicto relacionado con los recursos naturales puedan recurrir con éxito a canales legítimos, pacíficos, alternativos y participativos.

En la experiencia desarrollada, que se planteó como desafío central el diseño de una propuesta metodológica de gestión participativa de conflictos socio-ambientales, hemos podido constatar que los intereses y necesidades de las comunidades rurales están condicionados a la satisfacción de demandas diversas, que se encuentran debidamente expresadas en las demandas comunes y generales. Las organizaciones comunales y los principios que las justifican deben premiar en alguna medida a quienes creen en ellas. Cuando las organizaciones de base se plantean la necesidad de comprender mejor de qué tipo de conflicto se está hablando, es muy probable que también se planteen las salidas y las estrategias frente al mismo.

Los objetivos propuestos en este sentido, por el trabajo de FPHP-América Latina, han girado en torno a desarrollar un trabajo colectivo y participativo de evaluación y diagnóstico de los conflictos socioambientales desde una perspectiva de comunidades rurales de base. También se propuso poner al alcance de las comunidades herramientas y métodos para el diagnóstico y la evaluación de sus conflictos, así como potenciar el uso de sus propias experiencias y herramientas, con el fin de revalorizar sus conocimientos o experiencias y fortalecer las destrezas de los miembros de las comunidades para enfrentar los conflictos y transformarlos en experiencias constructivas y beneficiosas.

Para lograr aquello, el Programa FPHP optó -como estrategia metodológica- por el sistema de Diagnóstico, Planificación, Seguimiento y Evaluación Participativos (DPSEP), que se centra en la relación y comunicación recíproca

entre facilitadores y comunidades o entre agentes externos y los actores comunitarios rurales. Frente a los conflictos socioambientales, dependiendo de su magnitud, tipo, intensidad o duración, se analizan y evalúan las posibles salidas y se planifican las respectivas estrategias. Para ello, de forma planificada, se combinan tanto elementos conceptuales y metodológicos como instrumentales.

La implementación de estos instrumentos ha posibilitado un intenso intercambio de experiencias entre los miembros de las organizaciones y comunidades participantes. Incluso, en fases de negociación, ha permitido que, entre los actores involucrados en la contienda, se promuevan nuevos climas de acercamiento, confianza y diálogo. Las experiencias en estos años se han desarrollado a nivel de los Andes y especialmente en la Cuenca Amazónica de Perú, Bolivia y Ecuador.

Esas experiencias han sido el principal insumo de la propuesta metodológica de FTTP/FAO. La propuesta se planteó en función de la necesidad que tienen, en especial, los actores estructuralmente más débiles (comunidades rurales), de fortalecer sus organizaciones y de enfrentar o manejar adecuadamente sus conflictos socioambientales (Ortiz-T., 1995b). No se ha tratado de diseñar una propuesta al margen de esos procesos de conocimiento de las comunidades rurales, sino a la inversa, partir de esos saberes y prácticas, tomarlos como insumos importantes, que pueda ser reforzado/complementado o ampliado con aquellos conceptos y herramientas metodológicas provenientes de un amplio espectro de disciplinas académicas.

De allí que las metodologías participativas como opción frente a estos conflictos, ha posibilitado una reflexión y aproximación no sólo a su conocimiento y evaluación, sino que -en tanto instrumento y herramienta transferida para uso de las comunidades-, ha potencializado sus propias capacidades de conocimiento de los conflictos, evaluación de posibles salidas y modelos de tratamiento, diseño de estrategias y propuestas de manejo alternativo.

Breve Apunte Sobre los Supuestos Conceptuales

Junto con las experiencias de campo en Perú, Bolivia y Ecuador, en los grupos de trabajo la preocupación común por el fenómeno de los conflictos socioambientales requería de un trabajo teórico sobre conceptos básicos de análisis, de modo tal que diferentes perspectivas y observaciones pudiesen ser puestas en forma conjunta. En los actuales momentos la tarea sigue pendiente, a

pesar de numerosos avances en lo concerniente a la relación entre la escasez, el deterioro o la privación de recursos naturales y el desarrollo de los conflictos.

En síntesis, los conflictos llegaron a ser entendidos como una situación social y un proceso en el cual un mínimo de dos partes pugnan al mismo tiempo por obtener el mismo conjunto de recursos escasos. Esta definición significa para los países de América Latina que los conflictos en torno a los recursos naturales son fenómenos sociales que involucran condiciones mínimas tales como: la escasez, el deterioro o la privación. Y en la actual coyuntura histórica del orden mundial, de expansión del mercado y la respectiva incorporación de territorios, está llevando a una agudización de las presiones en torno a los recursos naturales, incidiendo en su escasez, deterioro y privación y por lo tanto, en las condiciones propicias para el desarrollo de nuevos conflictos.

En ese sentido, hay tres requisitos básicos para que esta escasez, deterioro o privación de recursos naturales, particularmente forestales, se traduzca en un conflicto manifiesto, de tal manera que represente un serio desafío para la vida de las comunidades rurales, la propiedad o el control sobre bienes y recursos: la presencia de actores, la existencia de ciertas salidas o alternativas de solución variables y la acción o conducta de los actores (Orellana, 1995; Ortiz-T., 1996). Dicho en otros términos, el conflicto incluye así intereses opuestos entre individuos o grupos en una situación de suma cero. Estos intereses opuestos deben ser reconocidos para que exista el conflicto, e involucrar la creencia, por cada actor, de que su oponente obstaculizará (o ya ha obstaculizado) sus intereses. Con frecuencia estos motivos se superponen y actúan simultáneamente.

El desigual acceso y aprovechamiento de los recursos escasos necesarios para la supervivencia de las comunidades locales, junto con las contrapuestas percepciones e intereses alrededor de los mismos, son en ese sentido fuente de conflictos como los socioambientales.

Por último, se consideró que la resolución o transformación de estos conflictos se desarrolla por dos vías posibles: la agonal (del griego *agon*, conflicto no violento, formal, negociado) y la polemial (del vocablo *polemos*, confrontación violenta o guerra). Cualquiera que sea la vía, el tratamiento de un conflicto implica cambio en la voluntad de los oponentes, bien que uno se imponga y cambie totalmente la voluntad del otro, o bien que cambien, de manera variable ambas voluntades. La calidad de resolución del conflicto dependerá de la modalidad de cambio elegida.

Si el conflicto se lo asume como inevitable y consustancial a las relaciones sociales, no necesariamente su connotación será negativa. Puede ser entendido como un componente clave de la vida y una necesidad fundamental de las personas y las sociedades. Por ende, puede verse como una oportunidad para el cambio y motor del mismo, sin negar sus consecuencias negativas. Visto desde otra perspectiva entonces, el costo personal, familiar y social, la frustración, la hostilidad, el gasto de energía, la destrucción y/o ruptura de las relaciones, el debilitamiento y/o fraccionamiento de las organizaciones rurales de base involucradas en conflictos, son el resultado de la forma de participar en los conflictos. En contraste con esas experiencias hay la posibilidad real de que los actores puedan adquirir conocimientos y apropiarse de las herramientas necesarias para asumirlos y resolverlos de manera creativa, dialogal, democrática y no violenta. De esa manera se pueden identificar algunas consecuencias funcionales del conflicto, como por ejemplo, el incremento de la innovación y de la creatividad, la realización de los cambios necesarios, el aumento de la motivación y la cohesión de grupo, el restablecimiento del equilibrio de poder y la concordia en las relaciones, el desarrollo de habilidades hasta la reasignación de recursos.

Dos Experiencias Comunitarias y Varias Lecciones

Con resultados distintos y en contextos estatales diferentes, en las regiones amazónicas de Perú y Ecuador se pueden conocer varias experiencias en torno a la forma cómo las estructuras estatales y los procesos de tomas de decisión sobre los recursos naturales, particularmente forestales, están relacionados con las demandas y expectativas de las comunidades rurales, especialmente indígenas. Al respecto, cabe destacar que la participación de estos actores locales en la definición de las políticas nacionales es muy limitada y escasa, cuando no nula. Estructuras de Estado y de relaciones de poder centralistas, etnocéntricas, verticales y asociadas a determinados modelos de uso, gestión y control de los recursos naturales y territorios, son las que generan un tipo de escenario conflictivo, carente de canales adecuados y legítimos para procesar las demandas de los actores más débiles.

A pesar de ello, las experiencias comunales de indígenas amazónicos que enfrentan conflictos han puesto en evidencia y sobre el tapete del debate político, por un lado, la débil estructura de los Estados nacionales para procesar esas demandas, fijar normas, regular disputas y garantizar el respeto de derechos civiles, económicos y sociales. Y por otro, han colocado en la agenda política, de cara al nuevo siglo, varios desafíos y posibilidades, tales como: creación de marcos

normativos adecuados para procesar los conflictos, re-estructuración de unidades y procesos de tomas de decisión tendientes a garantizar una mayor participación ciudadana en la definición de las políticas públicas y una mayor transparencia en su ejecución. Lo que sucede en los contextos amazónicos de Perú y Ecuador son una buena muestra de ello.

El caso de los Candoshi, Amazonía de Perú

Al norte de la Amazonía peruana, cerca de la frontera con Ecuador, el lago más importante de la selva peruana, llamado en lengua candoa Musa Karusha, más conocido como Lago Rimachi, ha sido hasta la actualidad el punto de referencia central del conflicto que involucra desde 1991, a la Federación de Comunidades Nativas Candoshis del Distrito de Pastaza (FECONADIP), al Ministerio de Pesquería del Gobierno Peruano, así como últimamente a la empresa petrolera norteamericana Occidental. Rodeado de bosque húmedo tropical, al Lago Musa Karusha, fluyen los ríos Chapuri y Rimache, que a su vez alimentan al río Pastaza antes de su desembocadura al Marañón. La zona que circunda al lago es un extenso bosque húmedo, territorio del pueblo Candoshi que ocupa un área de 10 000 km. cuadrados entre los ríos Morona y Pastaza, refrescada por palmeras, agujajes y ojé. La población formada por 2000 personas aproximadamente se asienta en su mayoría a orillas del río Chapuri, otros en el río Chuinda, afluentes de Musa Karusha y algunos en el mismo lago.

Sin pretender ahondar en el aspecto etno-histórico o etnográfico, hay que señalar como referencia que los Candoshi están emparentados cultural y lingüísticamente con los shapra y, en menor medida, con el resto de los grupos jíbaros con los que comparten principios de identidad. Los Candoshi junto con los jíbaros de esta región son los únicos hablantes de lengua candoa, siendo descendientes directos de los antiguos Maynas.

Para los Candoshi el lago es un espacio sagrado y fuente permanente de vida. Sus cantos, ritos, mitos, adornos, pinturas, conocimientos medicinales nos hablan de un pueblo profundamente integrado con su espacio. Los árboles, las cochas, las plantas y los animales poseen un valor mágico dentro de su cosmovisión. Su territorio y la naturaleza en general, es entendido por los Candoshi como espacio de vida, como elemento central de su identidad. La naturaleza, al igual que los otros casos de los Quichua-Canelos y de los Yuracarés, es concebida como un conjunto habitable hombre-espíritu-naturaleza, como un todo entramado interactuante.

En 1945, el territorio Candoshi, fue declarado Zona Reservada por Resolución Suprema del Gobierno Peruano con un área aproximada de 810.548 Has. De acuerdo a la legislación peruana, en este tipo de zonas está limitada la extracción o aprovechamiento de los recursos hidrobiológicos. Sin embargo de esta declaración jurídica, en el referido cuerpo de aguas se estaba dando una deficiente gestión gubernamental sobre los recursos de fauna y flora silvestre. Y de hecho, según los Candoshi, las hostilizaciones y litigios permanentes de parte de los funcionarios públicos formó parte central de la relación de las comunidades Candoshi con el Estado desde la creación de dicha Reserva.

En 1991, cuando deciden intervenir los Candoshi, señalaban a la prensa que “la depredación ha afectado al Lago Rimachi, siendo los principales responsables los empleados del Ministerio de Pesquería, quienes por un lado han dejado operar en el área a lanchas rederas, y por otra han reprimido a los Candoshi del libre aprovechamiento ancestral de los recursos hidrobiológicos del Lago” (Donayre, 1995). A ello se añaden el tipo de relación excluyente que los Candoshi han tenido con el Estado peruano, que les reconoció legalmente apenas en 1975, luego de varias resoluciones administrativas que determinaron que su territorio oficialmente sea catalogado como propiedad comunal en una extensión de cerca de 86 mil hectáreas.

Según un testimonio de Alberto Chirif, en torno a este conflicto “el Estado al declarar zona reservada el área del Lago Rimachi no tuvo en cuenta la presencia del pueblo Candoshi. El presumible interés de explotación racional de los recursos no tuvo en cuenta los derechos comunales. Los vigilantes del Estado, lo único que han hecho es sacar plata. Con las toneladas de sal, todo lleno con las barbacoas. Cantidades de peces muertos y todo lleno con mosca, eso era la vigilancia. Cada día se pagaban a los vigilantes por abajo y pescaban con redes de banda a banda. A ellos no les importaba que las crías del paiche y del pazo, gamitanas, sungaros quedaran sin su madre y se los comían los fasacos. Por eso se fueron los paiches y las gamitanas. El pescado ya no había. Eso sí a los Candoshi nos quitaban los anzuelos, las flechas, la sal para nuestras casas. Por eso no hemos vivido tranquilos, porque Musa Karusha ya estaba vaciando. Pobres nuestras señoras y nuestros hijos, ya no se puede.”

Con esos antecedentes, en agosto de 1991 las comunidades del pueblo Candoshi entraron en la base del lago Rimachi y tomaron control del mismo, argumentando que “nosotros nos hemos tomado Musa Karusha para devolver al lago su antigua capacidad productiva, es decir, aquella que tuvo antes de su declaración como zona reservada. Además queremos que se reconozca al

Lago Rimachi como parte del territorio tradicional del pueblo Candoshi, el mismo que lo ha usado racionalmente durante siglos” (Voz Indígena AIDSESEP, 1992).

Una vez que tomaron el control directo del Lago Musa Karusa, solicitaron la intervención de la Asociación Interétnica de Desarrollo de la Selva Peruana (AIDSESEP) para apoyar sus demandas al gobierno. Tanto la FECONADIP como AIDSESEP plantearon el cambio de status del Lago Rimachi, de zona reservada a reserva comunal de acuerdo a la Ley Forestal y de Fauna Silvestre. Las autoridades seccionales y los funcionarios del Ministerio de Pesca hicieron caso omiso de las demandas indígenas. Fue a fines de 1991, cuando el presidente Fujimori viajó a esa zona, dada su afición a la pesca deportiva, que el problema Candoshi adquirió una mayor dimensión. Los esfuerzos de Fujimori por pescar en el lago Rimachi fueron infructuosos debido a que no había peces. Esa situación fue aprovechada por los Candoshi para informar de la situación. Fujimori en ese entonces les respondió “que nos es posible desalojar al dueño de su propia casa.”

Hay que señalar que el Perú en ese entonces vivía un fuerte proceso de regionalización y ciertas facultades incluso legislativas las asumían los gobiernos regionales. Esta coyuntura permitió que la Gobernación de Loreto facultara el control directo de los cuerpos de aguas a las organizaciones indígenas, lo cual fue rechazado por el Ministerio de Pesquería, quienes argumentaban la nulidad de dicha resolución, en vista de que las leyes expedidas por las instancias nacionales señalaban que “la creación de la zona reservada en el concepto de dominio público da al Estado la facultad para el control sobre los cuerpos de agua.”

La negociación, luego de la toma del Lago Rimachi y del encuentro casual de los Candoshi con Fujimori, siguió un procedimiento formal que involucró al Gobierno Regional de Loreto y a la Oficina Pesquera del Ministerio en esa Región. En mayo de 1994, se realizó un informe oficial sobre el problema de la Zona Reservada del río Pastaza en la que se señala lo siguiente: “La Dirección Regional de Pesquería reconoce la presencia y los derechos de las comunidades nativas ‘Candoshis’ y Jíbaros asentadas dentro de la Zona Reservada del Río Pastaza. Dicha presencia permitirá asegurar la preservación de sus prácticas, usos y costumbres tradicionales adquiridas.” Plantearon la necesidad de concertar con la FECONADIP, a fin de lograr una solución pacífica de la actual situación de posesión, sobre la base de definir las siguientes alternativas: a) tomar un acuerdo para que la administración y vigilancia de la Zona Reservada del Río Pastaza (ZRRP) sea compartida con participación activa de las comunidades nativas Candoshi; b) organizar las unidades de pesca comunitaria a cargo de los nativos; c) ejecutar un estudio ecológico y socioeconómico rápido

de la ZRRP para elaborar su plan de manejo y de desarrollo; d) crear una oficina pesquera en San Lorenzo a fin de que brinde asistencia técnica a las comunidades nativas de la zona reservada.

Sin embargo, el problema de los Candoshi no concluyó ahí. A inicios de 1995 el gobierno firmó un contrato con la empresa Occidental Petroleum Corporation, Occidental del Amazonas, oficina en Perú para que desarrollen actividades exploratorias en el denominado Lote 4, de cerca de 400 mil hectáreas. Las zonas más afectadas por dichas actividades de sísmica han sido las del río Chapuri. Frente a estos hechos, los Candoshi manifiestan su desconcierto: “lamentablemente el desarrollo económico nos trae una nueva amenaza, al autorizar a la empresa petrolera Oxy a perforar nuestras tierras en busca de petróleo. Es como si no existiéramos. Aquí hemos visto pasar por nuestras comunidades las brigadas y los helicópteros en acción para sus operaciones, tala de árboles para las trochas, rozo y construcción de helipuertos y detonación de explosivos que afectan la caza y la pesca. Hacemos este llamado para que sepan que los indígenas candoshi no queremos que suceda lo peor para nuestros hijos.”

*El caso de los Quichuas de Pastaza,
Amazonía de Ecuador*

Otra experiencia ilustrativa en torno a la participación comunitaria frente a los conflictos, la encontramos en el centro-oriente de la Amazonía Ecuatoriana, en la región de Pastaza, donde se ubican los territorios de los pueblos Quichua, Achuar, Shuar y Záparo y concretamente en el llamado bloque 10, donde opera la compañía Arco Oriente Inc (AOI), subsidiaria de Atlantic Richfield Company (Arco) de Texas, Estados Unidos. El área de operaciones comprende una extensión de 200 mil hectáreas y está localizado entre los ríos Curaray al norte y el río Bobonaza al sur.

La exploración sísmica en el proyecto del Bloque 10 se llevó a cabo entre el 10 de noviembre de 1988 hasta julio de 1989. Según Arco (1992), el programa de adquisición de datos sísmicos estuvo acompañado de acciones para asegurar que todos los habitantes de la localidad fueran informados sobre la naturaleza de las operaciones sísmicas. Estas acciones eran básicamente asistencialistas, como dotación de víveres, ropa, y construcción de aulas escolares, que involucraban a los líderes de las comunidades locales. El trabajo de dicha compañía fue suspendido en las líneas 33 y 35, así como segmentos de la 16 y 18 que atravesaban el territorio de la comunidad de Sarayacu (McCreary, Kondolf, *et al.*, 1992).

En las tierras de esta comunidad quichua compuesta por 5 centros (650 familias en total) se produjo una primera paralización en el período comprendido del 3 al 12 de mayo de 1989 y luego una segunda en junio, concluyendo en julio de ese mismo año. De acuerdo con la información de la Arco, en la exploración sísmica se abrieron 1.207, 7 km. de trocha de 3 metros de ancho, repartidos en 36 líneas sísmicas. Las acciones de sísmica al interior del territorio Quichua, especialmente en las comunidades de la Asociación de Sarayacu, provocó la reacción de éstos. Los indígenas incluso intervinieron en abril de 1989, paralizando las actividades sísmicas que Arco realizaba en la cuenca del río Rutunu.

Entre el 28 de abril y el 10 de mayo de 1989, en un incidente separado, según un informe de la Universidad de Harvard (EE.UU.), el jefe de operaciones de Arco llegó en un helicóptero a la comunidad de Sarayacu con (US\$ 1000) para comprar el consentimiento de la comunidad. Pero la comunidad rechazó la oferta y retuvo a los emisarios de la empresa, que estaban junto a funcionarios de gobierno, a menos que firmaran ciertos acuerdos indicando que se suspenderían las actividades sísmicas en los territorios de las comunidades de la Asociación de Sarayacu y en la cuenca del Bobonaza hasta que las tierras reclamadas sean adjudicadas por el gobierno.

Según Andrés Malaver, dirigente de la OPIP, “las autoridades han tergiversado totalmente los hechos. Que fueron secuestrados es una gran mentira. Si incluso esos días pasaron bailando, y conversando de los temas del documento que se firmó.” El documento firmado y llamado “Acuerdos de Sarayacu”, de 9 páginas, contiene un total de 50 puntos divididos en 8 capítulos. Leonardo Viteri, dirigente de la OPIP afirmaba que “para obtener el permiso de los pobladores para las actividades de la ARCO, el IERAC adjudicó a las familias de otras comunidades (Jatun Molino y Moretecocha) 26 mil hectáreas de tierras, provocando un enfrentamiento entre ellas. A esto se añadió la labor de las misiones evangélicas en esas comunidades, que abrió el camino a la presencia de la compañía” (entrevista personal, nov/1993).

Uno de los compromisos adquiridos por el Gobierno, numeral 7 de los indicados, señala la “indemnización por los daños ecológicos y socio-culturales causados por las actividades petroleras al interior de los territorios indígenas.” Incluso para determinar la magnitud de los daños ambientales, se nombró una Comisión Evaluadora conformada por expertos del gobierno y delegados de las organizaciones indígenas, que presentó un borrador del informe que se archivó al detenerse el proceso de evaluación ambiental, a raíz del Levantamiento Indígena de junio de 1990. Las principales conclusiones del estudio destacaban un profundo deterioro por pérdida de vegetación, deforestación; presencia de desechos tóxicos

descargados directamente sobre suelos y aguas; contaminación de aguas por manejo inadecuado de desechos en los campamentos; altos niveles de ruido causados por perforación, plantas eléctricas, explosiones, entre otros impactos ambientales. También recogía testimonios de miembros de las comunidades indígenas quichuas sobre la escasez en caza y pesca causada por la actividad exploratoria; introducción de enfermedades estomacales y de la piel; malas condiciones de trabajo para los obreros de la compañía, entre otros impactos directos.

A partir del conflicto que se desató por la demanda de delimitación de los territorios quichuas de Pastaza en agosto del 90, las organizaciones indígenas, al ver cerradas las posibilidades de maniobra en el escenario político nacional, transitaron y se movilizaron a otros escenarios internacionales -especialmente estadounidenses y europeos- desconocidos e inciertos para muchos grupos locales, pero fundamentales en la estrategia asumida frente a un actor transnacional. Estas iniciativas de la OPIP, la CONFENIAE y de la Coordinadora de Organizaciones Indígenas de la Cuenca Amazónica (COICA), revelaron la alianza producida y la presencia destacada de otros actores, como las redes de ambientalistas europeos y algunos organismos no gubernamentales de cooperación.

El debate acerca de las actividades exploratorias de ARCO Oriente, había llegado a un punto polarizado y conflictivo entre los círculos petroleros y ambientalistas de Estados Unidos. En septiembre de 1993, la OPIP planteó a Arco la reiniciación de los diálogos directos y, en noviembre de ese año, decidieron convocar a las 11 asociaciones indígenas de base para una concentración en la comunidad de Villano, centro principal de operaciones de Arco. Mientras tanto, a nivel global, la campaña internacional implementada por las redes y grupos ambientalistas internacionales se intensificó, y llevó a la compañía Arco a revisar sus posiciones y estrategias, ya que, de otra forma, su imagen dentro del mercado petrolero y de los accionistas se habría puesto en riesgo.

Estas serían una de las razones que llevaron a los ejecutivos de la matriz de Arco en Texas a decidir la reapertura del diálogo directo con la OPIP, manteniendo como lugar de encuentro las oficinas centrales de la compañía en Estados Unidos, hasta culminar, en marzo de 1994, con la firma de un acuerdo en que la compañía se compromete a realizar una evaluación ambiental del período de exploración en el Bloque 10, independientemente de la declaratoria de comercialidad de ARCO/AGIP, así como a asegurar la participación de los indígenas en el desarrollo de un Plan de Manejo Ambiental para los territorios indígenas de Pastaza, y la creación de un Fondo de Desarrollo Social, Control Ambiental y Conservación de la bio-diversidad en los territorios indígenas de Pastaza.

También se acordó la creación de un Comité Técnico Ambiental (CTA) con tres representantes del Estado, tres de Arco y tres del Frente Indígena (OPIP, FIPRA y ASODIRA), cuyo funcionamiento hasta la actualidad ha permitido que temas como la construcción del oleoducto, la no apertura de vías terrestres al territorio indígena, la movilización de equipos de trabajo, la realización de estudios de impacto ambiental en dichas zonas de operación y el financiamiento de los planes de desarrollo local presentados por los indígenas, sean discutidos abiertamente y de manera más equitativa. En mayo de 1997, el gobierno ecuatoriano, mediante un acuerdo ministerial, reconoció la existencia del CTA, lo que constituye una experiencia inédita de gestión más participativa y transparente que incluye al Estado y a empresas y comunidades rurales.

Metodologías Participativas y Su Impacto en la Definición de Políticas Públicas

Si los conflictos socioambientales tienen una estructura y una dinámica más o menos previsible, que va de fases embrionarias o potenciales hasta aquellas donde se amplían e intensifican, incorporando a nuevos actores y transitando incluso a otros escenarios, se puede plantear que los Estados desarrollen mecanismos y reglas adecuadas para responder a la dinámica de la conflictividad. Fortalecer su rol regulador y procesador de conflictos, así como sus capacidades, en última instancia significará garantizar, por un lado, procesos de democratización, y por otro, de fortalecimiento institucional (entendidos como mayor gobernabilidad y legitimidad).

¿Cómo aportan en ese proceso las experiencias de comunidades locales que enfrentan sus conflictos? Fortalecer capacidades locales y revalorizar conocimientos y experiencias constituyen sin duda un paso importante en la formación de ciudadanos que cumplen deberes y demandan sus derechos. Las experiencias metodológicas desarrolladas en América Latina en ese sentido, apuntan a reforzar capacidades existentes y prácticas ancestrales de gestión de conflictos, desarrollar destrezas y habilidades, sin desconocer ni promover el debilitamiento de los canales convencionalmente establecidos. Se trata de complementar y reforzar un proceso continuo de ciudadanía. De crear y consolidar espacios públicos estatales y no estatales; y establecer una cultura política que gire alrededor de la tolerancia, el diálogo, la comunicación y el respeto a las diferencias de todo tipo.

En ese sentido, una propuesta metodológica de tratamiento de conflictos socioambientales está articulada a una propuesta alternativa de desa-

rrollo y gestión ambiental. No se trata de una simple sumatoria de herramientas y técnicas. Estas facilitan, apoyan, constituyen un puente y hasta un pretexto para que las comunidades y sus miembros asuman un rol activo, donde recuperan su derecho a hablar, a pensar, a tomar decisiones, a diseñar su futuro. Cuando una comunidad rural que depende de bosques enfrenta conflictos, no piensa al bosque de manera reducida a una de sus partes (los árboles) sino que lo integra en el conjunto del espacio vital.

En ese marco, la propuesta metodológica de tratamiento de conflictos desarrolla tres aspectos centrales: capacidad para elaborar diagnósticos participativos de los conflictos, desde la perspectiva de las comunidades; capacidad para evaluar de manera participativa las posibles salidas a un conflicto; y, finalmente, capacidad para diseñar y planificar estrategias de acción (por cuenta propia y de los otros).

El primer momento implica que las comunidades puedan reconocer adecuadamente la relación entre los problemas y los conflictos, los actores con sus posiciones, intereses y necesidades, las percepciones en disputa o las acciones desarrolladas; que puedan responder, en suma, a las preocupaciones del por qué se da el conflicto, entre quiénes, dónde y cómo.

El segundo momento obliga a desarrollar un ejercicio de evaluación y simulación de posibles salidas, en función de analizar costos-beneficios (sociales, políticos, organizativos, ambientales, culturales, económicos) de las distintas opciones a la vista (sean jurídicas, forzadas o alternativas no violentas). Sea esto con la participación de terceros (facilitadores, conciliadores o mediadores) o no.

El tercer momento implica planificar acciones, previa fijación de objetivos, reconocimiento de debilidades y fortalezas propias y de los otros, así como de los desafíos propios y de los demás actores involucrados, que pueden eventualmente aliarse alrededor de un objetivo compartido.

La tarea de los facilitadores y de los conciliadores se ha centrado así en crear condiciones de mayor equilibrio de poder -por ejemplo, vía apertura en la toma de decisiones- entre las partes involucradas en el conflicto (como es el caso de la conformación del Comité Técnico Ambiental -CTA- en Pastaza, Ecuador), para que primen los elementos consensuales, en los cuales se sacrifican algunas de las demandas, a cambio de la satisfacción de otras. En donde, por encima de las divergencias prevalezcan las convergencias. O en los cuales el interés común cons-

truido subordine los intereses y posiciones particulares. En definitiva, la construcción de un escenario colaborativo, de establecimiento de compatibilidades en reemplazo de otro confrontacional, atravesado por las incompatibilidades.

Esta desactivación o encauzamiento del conflicto a niveles de manejo y diálogo entre las partes, puede ser muy parcial y temporal si no apunta a las percepciones y demandas de los actores, como lo ilustra la experiencia de los Candoshi, en Perú. El objetivo básico de la metodología, en ese sentido, está en centrarse en un manejo duradero, consensual (que no implique una renuncia total de las demandas e intereses básicos de los actores) y de cooperación entre las partes.

Conclusiones y Recomendaciones

- La participación de las comunidades rurales de cara a los conflictos socioambientales constituye aún una tarea pendiente. En las actuales estructuras estatales latinoamericanas, y sus respectivos sistemas políticos, los procesos de toma de decisión en la gestión de los recursos forestales aún son restringidos, centralizados, ineficientes y excluyentes.
- El fortalecimiento de las capacidades de las comunidades rurales a través de procesos participativos de diagnóstico, evaluación, planificación y ejecución de acciones, ayuda a crear un escenario óptimo para la prevención, desactivación, manejo, resolución y transformación de los conflictos.
- Los otros actores (estatales, no gubernamentales y empresas) pueden encontrar en los interlocutores comunitarios fortalecidos, escenarios más adecuados para procesos de concertación y gestión de conflictos. Actores comunitarios débiles han constituido en ese marco, un factor de inestabilidad en las fases de post-negociación, al no contar con instrumentos institucionales adecuados que le den legitimidad a un acuerdo o a un proceso de co-gestión de recursos naturales.
- Es importante, además, considerar la ausencia o presencia marginal del componente de tratamiento de conflictos en la definición de políticas, y en la planificación y gestión ambiental de los recursos

forestales. En América Latina, dichos procesos, manejados por los Estados, aún carecen de pautas científicas, metodológicas e instrumentales adecuadas que les permitan contar con insumos adecuados para el diagnóstico, la planificación y el tratamiento de conflictos socioambientales. El manejo de conflictos, su tratamiento, la capacidad de prevención y transformación de situaciones de disputa, está todavía lejos de ser un indicador de niveles aceptables de eficiencia en la gestión de los recursos naturales.

- El desarrollo de capacidades institucionales y de personal calificado para la gestión de conflictos socioambientales, con enfoques participativos, es una tarea que apenas ha empezado en la región. Se pueden enumerar iniciativas dadas en 1996 por Ecofondo y la Unidad de Parques Nacionales del Ministerio del Ambiente en Colombia, al igual que el Ministerio del Ambiente en Ecuador que, en junio de 1997, decidió promover un proyecto de monitoreo de conflictos ambientales, con el apoyo de la Cooperación Alemana y en convenio con una organización privada. En Perú, la Dirección de Hidrocarburos del Ministerio del Ambiente ha tratado de fortalecer sus relaciones con la Red Ambiental Peruana, el Foro Ecológico y el Grupo de Resolución de Conflictos de Lima. En el escenario peruano, aún queda camino por recorrer en la materia, mientras que en Bolivia, en Cochabamba y Santa Cruz, si bien se han desarrollado iniciativas en torno al monitoreo, el diagnóstico y la evaluación de propuestas metodológicas, éstas no han tenido eco en las instancias estatales.

- Los desafíos inmediatos se centran en dar seguimiento a los procesos de fortalecimiento de las capacidades de las comunidades locales, a promover intercambios de experiencias, a incorporar las propuestas metodológicas en escenarios de capacitación y formación permanente (tal como se ha iniciado en Ecuador en una universidad privada que trabaja bajo modalidades a distancia con promotores campesinos, facilitadores, extensionistas y dirigentes de organizaciones de base).

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Conflict, Law and Community-Based Natural Resource Management: A Summary of Existing and Proposed Policies

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Summary

The conditions required for sustainable development cannot be said to be in place when hundreds of millions of people in developing countries who are directly dependent on environmentally important and threatened natural resources, including forests, have no nationally authorized legal incentives for sustainably managing those resources. Sustainable development is even less likely when national laws actually serve as disincentives for long-term management. Yet in many, if not most, developing countries, national laws and policies still fail to provide and promote local incentives for sustainable management.

The weak bargaining leverage of forest-dependent communities makes it difficult, and all too often impossible, for them to participate effectively in the management, let alone resolution, of conflicts over forest resources. (Most Pacific Island nations, by contrast, recognize community-based property rights to forest resources, and local peoples play key roles in conflict management.) The failure of most national governments to recognize the rights and important roles of local communities in sustainable forest management, however, has not necessarily terminated communities' management and local tenure of forest resources. Despite expansive claims of ownership, national governments exercise relatively little control over many forest areas.

The simple fact is that involving local populations, especially long-term residents, in forest management makes good sense. It provides those most knowledgeable about the local resource base with official

incentives for sustainable use. It likewise empowers them to police the forest and prevent outsiders and members of their own communities from overexploiting forest resources. For indigenous and other long-term occupants the best strategy is to delineate the perimeters of their traditional areas in a participatory manner and formally recognize their community-based property rights.

Introduction

National legal systems and governmental institutions that control the ownership and use of forest resources often determine the frequency, intensity and outcomes of conflicts between competing groups. Since these systems and institutions frequently favour political and economic elites over local communities directly dependent on forest resources, these elites often benefit from and actually promote conflicts in order to gain control over forest resources and to profit therefrom.

Governmental institutions that control the ownership and use of forest resources traditionally have had little or no incentive to manage conflicts or support local communities. National legal systems that recognize and reinforce community-based rights and management systems, by contrast, are predisposed towards more equitable management of conflicts. Such systems can also make important contributions towards long-term reductions in the frequency and intensity of conflicts, and to a more sustainable and fair management of land and forest resources.

Colonial Legacies and National Laws

The conditions required for sustainable development cannot be said to be in place when hundreds of millions of people in developing countries who are directly dependent on environmentally important and threatened natural resources have no nationally authorized legal incentives for sustainably managing those resources. Sustainable development is even less likely when national laws actually serve as disincentives for long-term management. Yet in many, if not most, developing countries, national laws and policies still fail to provide and promote local incentives for sustainable management. Perhaps most troubling is that few efforts are currently under way to address this shortcoming.

The transition from colonies to nation states in Asia, Africa and Latin America resulted in little change in state laws, policies and practices for allocating power and wealth among the national citizenries. Instead, most of the new nations still largely continue to mirror the policies and designs of the former colonial governments, especially in their laws concerning the management of and rights to natural resources. Indeed, as was documented in *Balancing acts: community-based forest management and national law in asia and the pacific* (World Resources Institute, 1995), national laws concerning the use and management of forest resources in at least six Asian countries have actually become more hostile towards forest-dependent people than was the case during the colonial era. (Even Thailand and Nepal, which were not colonized, mimicked their neighbours in adopting similar legal frameworks.)

Colonialism, of course, was not instituted on behalf of forest-dependent communities or other native constituencies. And the following critique is not meant to focus blame on the colonizers, years after political independence was acquired in most developing countries. Rather, it is meant to raise questions about why colonial laws hostile to the cultures and property rights of rural majorities in many developing countries still provide the legal foundation for management and control of forests and other natural resources. It also is meant to highlight the unfortunate fact that many former colonies have yet to be reconstituted in ways that factor in the interests and well-being of rural constituencies, including Indigenous Peoples.

Political and economic elites who profited under the auspices of the colonial states continue to profit under the auspices of the successor republics, and rural majorities continue to be politically and economically marginalised. Ironically, legally sanctioned usurpation and profiteering by domestic elites are often rationalized in the name of nationalism, the unstated premise being that rampant exploitation by co-citizens is a desirable alternative to rampant exploitation by foreigners.

After decades, and, in the case of Latin America, well over a century, of political independence, substantive continuity between the colonial and politically independent nation states, especially in terms of natural resource laws and policies, raises a host of questions. Perhaps foremost is the question of when, if ever, has there been any substantive democratic commitment to community-based sustainable development that reflected the aspirations, rights and potentials of the rural citizenry that still comprises an overwhelming majority of the population in most developing countries.

Legal Elites and Rural Peoples

Lawyers are a dominant policy-making group within nation states. Yet many lawyers manifest disdain and indifference towards rural cultures and people. Few lawyers in developing countries have yet to produce any in-depth critiques of laws and policies that pertain to natural resource rights or other important legal issues related to sustainable development. Similar studies by political scientists, historians and other social scientists, meanwhile, have been largely ignored or prevented from being incorporated into the prevailing ideology of many national legal systems in developing countries.

An inevitable outcome of this inaction and inertia is that the undemocratic origins, evolution and effects of many contemporary laws and legal concepts are neither known nor understood by lawyers and other policy-makers. It is no exaggeration, therefore, to characterize the legal profession in most developing countries as permeated by a political economy of ignorance that enables the profession to overlook the conservative and elitist nature of national legal systems, as well as the local disincentives for sustainable management of natural resources that these systems perpetrate.

This ‘ignorance’ tends to preclude serious debate as to why many laws emanating from the colonial era have become even more undemocratic since political independence. In a more profound sense, ignorance blinds otherwise well-intentioned policy-makers to the need for a broad-based inquiry as to how colonially constructed nations can develop the conceptual and structural capacities, as well as the grandness of vision, to encompass their indigenous heritages as well as the values, rights and aspirations of their materially impoverished majorities. Simply stated, legal professions, as currently constituted in most developing countries, are an obstacle in the path to sustainability.

Instead, lawyers tend to focus (often for good reasons) on national laws and urban issues, especially in capital cities where wealth and power are concentrated. There is little thought and even less research devoted to rural issues, particularly as related to local incentives for sustainable development. As such, there is an urgent need to generate some creative tension that balances prevailing national legal tendencies by giving greater emphasis to rural peoples and environmental issues, particularly those pertaining to local incentives for sustainable development.

National Laws and Community-Based Forestry

Despite increasing understanding of and emphasis on the virtues of community-based forest management, as well as growth in the number of programs, projects and, in some instances, even national laws and policies, few nation-states in developing countries, that is, the majority of the world, legally recognize or appreciate community-based management systems and property rights or other contributions made by forest-dependent peoples to conservation and sustainable management. Likewise, few developing countries have yet to involve local communities substantively in decisions over conservation and forest resource management. (While international legal protections are becoming more defined, their impact remains minimal.)

These facts reflect the ongoing political and economic disenfranchisement of most forest-dependent communities in Asia, Africa and Latin America and their concomitant weak bargaining leverage in relation to political and economic elites who, almost by definition, control national and local governments. The weak bargaining leverage of forest-dependent communities makes it difficult, and all too often impossible, for them to participate effectively in the management, let alone resolution, of conflicts over forest resources. (Most Pacific Island nations, by contrast, recognize community-based property rights to forest resources, and local peoples play key roles in conflict management.)

The failure of most national governments to recognize the rights and important roles of local communities in sustainable forest management, however, has not necessarily terminated communities' management and local tenure of forest resources. Despite expansive claims of ownership, national governments exercise relatively little control over many forest areas. Few can pay, train or maintain the forest department staff needed to survey, patrol, and effectively manage the vast areas classified as public forest land.

The Imperative of Community-Based Forest Management

The simple fact is that involving local populations, especially long-term residents, in forest management makes good sense. It provides those most knowledgeable about the local resource base with official incentives for sustainable use. It likewise empowers them to police the forest and prevent outsiders and members of their own communities from overexploiting forest resources.

Of course, not all community-based management systems are sustainable. Nor are they by definition operated by noble, ecology-minded Indigenous Peoples living in symbiotic harmony with nature, or by self-centred exploiters seeking to maximize short-term gain. Like participants in other sustainable systems, successful community-based forest managers are typically rational, strategic-minded individuals who assess existing conditions and act in their own best interests. The more they depend upon the surrounding resource base, the more incentive they have to protect it. If their very survival is predicated upon maintaining it, they will do so unless prevented by ineluctable forces.

In many areas, only a legitimate, mutually enforceable, and secure balance between governments and local communities can arrest and, only later, reverse current deforestation trends. This requires that communities understand their options, rights and concomitant duties; that the legal framework provides support for all claimants; and that a mutually acceptable, secure, and balanced agreement should be the outcome of efforts to address forest resource conflict.

From an environmental perspective, the challenge is to identify ways to surmount existing legal obstacles and to promote effectively the implementation of viable solutions that will lessen long-term prospects for conflict over natural resources. More specifically, the challenge is to develop and promote legal, regulatory and economic relationships between local communities and formal governmental institutions on state, local and international levels that support local incentives for sustainable management of natural resources. This includes policy research as well as institution building within governments and civil society, including NGOs, research institutions, and business communities.

Legal Characteristics of Community-Based Property Rights

Community-based management and property rights are especially ripe for multidisciplinary inquiry and legal support. In legal terms, the most significant characteristic of community-based forest management, particularly in terms of local peoples' relations with external actors, pertains to property rights. Community-based property rights are often distinguishable from Western property concepts, which are based largely on state-created, private and individual rights. Community-based property rights, including areas that are covered by common property, are not the equivalent of 'open access' regimes. They typically include

individual and group rights, and often derive from long-term relationships established between local peoples and the natural resources that sustain them.

Unlike their state-sanctioned individual counterparts, community-based property rights often derive from the precept that the present generation holds the natural resource base, including forests, in trust for future ones. The privileges of the individual are thus generally subservient to the rights of the greater community (a situation that likewise prevails among most governments and their citizens). In addition, an individual's freedom is often predicated upon the productive use of natural resources. Community-based property rights that ensure that forests and other natural resources are carefully managed and that the rights to them are equitably allocated, contribute both to cultural and national continuity and well-being.

In functional terms, community-based management systems and the property rights that they establish and support draw their fundamental legitimacy from the community in which they operate rather than from the nation state in which they are located. Community-based management in this paper, therefore, is invoked only in reference to initiatives that are primarily controlled and legitimated from within a community. Externally initiated activities with varying degrees of community participation should not be referred to as community-based, at least not until the community exercises primary decision-making authority.

Where Are the Lawyers?

Unfortunately, there are still very few public-interest lawyers addressing issues related to community-based property rights. This dearth is important and must be addressed, as lawyers are uniquely equipped to challenge prevailing legal perspectives, draft laws, policies and regulations, and develop legal alternatives.

Recognition of community-based property rights and institutions is arguably the most important legal issue confronting forest-dependent communities in much of the world. The arbitrary, yet all too often 'legal', usurpation of community-based property rights, meanwhile, is a primary cause for the loss of indigenous cultures and for forest degradation.

One strategy to address these problems is to help foster the formation of enabling environments where national metamorphoses can and will occur. The Law and Communities project at the Center for International Environmental Law attempts to do this by conducting joint research with host-country partners on legal aspects of government-community relationships and on helping to build long-term domestic capacities within governments and civil societies to examine and address issues related to community-based property rights and sustainable forest management

The project identifies and develops partnerships with lawyers interested in developing careers in public-interest environmental law and community-based management in Asia and the Pacific, and more recently in eastern and southern Africa. It encourages partner-attorneys, when appropriate, to create and/or strengthen public-interest environmental institutions, particularly those which are sensitive to and supportive of rural populations, especially of disenfranchised peoples and communities.

As part of this work, project partners reflect on the role of nation-states and their legal relationships with forest-dependent peoples and communities. Collaborative research focuses on developing alternative legal perspectives that are based on existing national laws and policies but are also supportive of peoples and communities directly dependent on forest resources.

Project partners can be found in the Philippines, Indonesia, Bangladesh, Kenya and Tanzania, and Papua New Guinea. New relationships are developing in Thailand, Malaysia, Vietnam, Uganda and India, and preparations are under way to expand efforts into southern and central Africa. The project has also contributed to the development of an informal regional network of groups interested in developing legal connections on issues of importance to the human rights and environmental communities.

Besides fostering the formation and strengthening of environmental law organizations, the project strives to help catalyse debate, clarify thought, and generate interest in, and support for, community-based management of forest-zone resources, particularly in terms of national laws and policies and donor conditionalities. Technical assistance in drafting environmental laws, policies and regulations has also been provided.

Conclusion and Recommendations

National laws and legal systems are key factors in the prevalence, frequency and intensity of conflicts over forest resources. Actual and/or threatened conflicts are especially likely between parties who have overlapping claims over forest resources. This situation is worsened when the conflicting parties are not equitably empowered to access legal mechanisms to manage these conflicts.

National legal systems that recognize and support community-based forest management and property rights provide a means for a more equitable handling of conflicts. Increased legal support for community-based management regimes and property rights creates a more favourable environment for reinforcing and creating local incentives for more sustainable management of forest resources. It also facilitates the development of processes for developing appropriate cost/benefit sharing arrangements between governments, private entrepreneurs and forest-dependent communities.

For indigenous and other long-term occupants the best strategy is to delineate the perimeters of their traditional areas in a participatory manner and formally recognize their community-based property rights.

Legal and Institutional Constraints to Community Participation in the Management of Natural Resource Conflicts in Africa: The Case of Kenya

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Summary

This paper argues that the legal and institutional framework for the management of natural resources in Kenya, which was introduced by the colonialists, is inappropriate for and hinders the participation of resource-dependent communities in the management of natural resource conflicts. This, it is argued, is unfortunate given that the peaceful and sustainable management of natural resource conflicts is not possible without the active and meaningful participation of resource-dependent communities. Resource-dependent communities possess an array of traditional natural resource management systems and institutions that they have used from time immemorial to manage natural resource conflicts, and modern institutions are founded on values that are not always appropriate to the sustainable management of these conflicts.

The author recognizes that not all traditional institutions and systems are necessarily appropriate to the current realities of natural resource conflicts in Kenya, but argues that their wholesale rejection is also not in itself beneficial to the sustainable management of these conflicts. The author therefore urges the recognition of what is good and useful in both systems and the creation of a policy and legal framework that gives effect to those values. This will ensure a system that is effective and with which the people are familiar.

Introduction

Natural resource conflicts are inevitable in a country like Kenya, whose economic fortunes depend so substantially on natural resources. The competition for resources between and within communities, coupled with the competing resource demands of individuals and communities, results in conflict as each party seeks to satisfy its needs from the resource base. This creates a need to put in place a policy and institutional framework that will promote the management of those conflicts within society in a manner that ensures that the conflicts do not tear society apart. This need has been recognized for a long time in Kenya, and there exists in the country both the policy and legal framework for the management of natural resources and of resource conflicts.

However, it is increasingly being appreciated that the existing framework does not support the sustainable management of conflicts within the context of sustainable natural resources management. One principal failure of the existing framework relates to the place of communities in this process of conflict management. This presentation examines the extent to which the existing policy framework promotes or impedes public and community participation in the management of natural resource conflicts. It argues that the existing policy framework, inherited from the colonial regime, is inappropriate for and hinders the effective participation of the public and communities in the management of natural resource conflicts. It advocates the recognition of the important role of communities and community institutions, and their empowerment through the national resource management legislation and policy so that they can make a meaningful contribution to the management of natural resource conflicts.

Kenya: The Resource Base

Kenya has total area of about 649 049 km² of which 571 416 km² is dry land, while 77 633 km² is surface water. The largest mass of surface water is Lake Victoria, shared between Kenya, Uganda and Tanzania. The remainder of the surface water comprises Lake Turkana, 7 500 km² in area; Lake Naivasha, 10 km²; Lake Baringo, 129 km²; and Lake Elementaita, 15 km².

Out of the dry land portion of the land mass, the country is commonly divided into six agro-ecological zones. Virtually 80 percent of the country lies in the semi-arid to very arid zones that are unsuitable for rainfed agriculture. In fact, only the medium and high potential zones are suitable for rainfed

agriculture. As this area covers less than 20 percent of the land, it is under immense pressure to satisfy the food and other needs of the country's large and fast-growing population. Worse still, not all of this high- and medium-potential zone is dedicated to agriculture. It includes forest and nature reserves and virtually all of the country's productive forest plantations.

The economy of Kenya is based on its natural resources. Both the livelihoods of the people and the national income and wealth are substantially dependent upon the natural resource base. Yet inherent in the manner in which the natural resource base is organized is the potential for natural resource conflict. Agriculture, tourism and forestry compete among themselves and with other natural resource uses, both in terms of their respective contribution to the country's economic fortunes and as to preferences relative to national economic policy.

Agriculture and tourism have continued to be the main sectors of the economy. Agriculture accounts for more than 27 percent of the GDP and 70 percent of the country's foreign exchange earnings. The sector employs more than 70 percent of the country's working population; both in the cash crop and subsistence sectors. The success of agriculture depends on the availability, use and management of natural resources, including soils, water and plant genetic resources. Tourism, for its part, has developed into a major industry, with annual income of about US\$ 450 million. The industry provides about 10 percent of the total employment in Kenya and has potential for substantial expansion. The basis of this industry is wildlife, which, apart from being a natural resource in itself, depends for its survival on other natural resources such as water and foliage.

The forests of Kenya generate revenue and employment for the economy and provide a wide range of ecological services. A total of 95 percent of energy used in rural Kenya comes from wood and other forest products. Earnings from value-added products within forests are estimated at US\$ 200 million per year, equivalent to 1.5 percent of GDP. In 1990 some 389 000 tonnes of wood materials from forests were used by pulp and paper industries to manufacture paper, cardboard, bags and other related products. Domestic production of wood and paper is estimated at US\$ 100 million per year and more than 100 000 people are employed in wood-based enterprises. Forests are also a habitat for about 40 percent of Kenya's animal species, 30 percent of bird species and 35 percent of butterfly species and are also important for the preservation of endangered species of flora and fauna. Coastal forests, which account for less than 0.1 percent of the remaining closed-canopy forest area, support 50 percent of the threatened plant species.

The importance of forests to the Kenyan economy has been recognized for a long time. Apart from being sources of fuelwood, raw materials for building, tools, medicine and forage for both domestic and wild animals, forests are a significant cultural resource, as a large number of cultural events are held within forest environments. They are also important other than as sources of raw materials in that they act as carbon sinks and have critical functions relative to prevention of soil erosion, protection of water catchments, and conservation of biological diversity.

Although the government acknowledges the importance of forests in themselves and also in their linkage with the agriculture and livestock sectors, which comprise the backbone of the economy, the land area under forest cover has consistently declined over the last few years. The government concedes that this decline is likely to continue “due to the opportunity cost of competing land uses.”

The Policy Framework in Kenya

The policy framework for the management of natural resources has been identified as comprising the policy instruments that inform the thinking of society in the management of its natural resources for purposes of the collective benefits. Such policy instruments include non-binding international agreements, such as Agenda 21, and national policy statements; plans, such as national development plans and environmental action plans; and governance approaches, such as decentralization or the district focus for rural development in Kenya.

The national policy framework for the management of natural resources determines and will ordinarily provide the policy framework for the management of natural resource conflicts. Indeed, even where no specific provisions are made for the management of natural resource conflicts, such failure will in itself be a statement on how such conflicts will be handled within such a framework.

In the context of Kenya, one recognizes three different epochs in the evolution of the policy framework for the management of natural resources. The colonial regime put in place a policy framework that, apart from informing the manner in which natural resources were managed during the colonial era, has had significant implications for the postcolonial era natural resource management arrangement. Then the independence government sought to put its own stamp on the natural resource management regime. This framework governed natural resources for the better part of two decades. Finally, the collapse of communism,

the emergence of the USA as a single superpower, and the imposition of political and economic liberalization have brought in their wake new thinking on governance and natural resource management. This has given rise to the third epoch in the evolution of a policy framework for natural resource management. It is this epoch that prevails today.

The colonial experience of Kenya was founded on its natural resources, principally land. The British colonists who came to Kenya in the 1890s were drawn to the country by its perceived agricultural potential. As a result, the acquisition, distribution and control of natural resources became the major focus of colonial policy and administration in Kenya. The evidence of this focus is the large number of policy papers and legislative instruments that were promulgated by the colonial government concerning land and other natural resources. As the purpose of colonialism was to ensure that the colonial power benefited from the resources of the colony, to justify the investment in colonialism and advance the imperial designs of the colonial power, the policy framework put in place by the colonial government sought to give effect to these very objectives.

The policy framework put in place by the colonial power in Kenya therefore sought to achieve two simultaneous objectives. On one hand, it sought to wrest control over natural resources from the Indigenous Peoples of Kenya and place it in the hands of the settlers. Only by doing so could the colonial government be in a position to attract settlers into the territory by granting them access to natural resources on terms favourable to the settlers. Simultaneously, the colonists and the settlers sought to neutralize the influence of the indigenous communities and their institutions on the management of natural resources. Apart from thereby strengthening their own hold on the livelihoods of the Indigenous Peoples, this also made the Indigenous Peoples of Kenya squatters dependent on the settler economy for their survival. Elaborate policy and legislative formulations were put in place to ensure that the Indigenous Peoples had no choice but to service the settler economy.

Clearly, the success of the colonial natural resource management policy required that indigenous communities lose their say in the management of natural resources, especially in those in which the colonists and the settlers had an interest. Thus the high-potential agricultural land in the central highlands was entirely taken over by the settlers, and the communities of Indigenous Peoples previously living there were either displaced and resettled elsewhere in the territory, or grouped together into camps spread along the periphery of the land as a source of labour for the settler farms. In such areas, the framework for the management of natural resource conflicts would also be changed to one that the white settlers were

comfortable with. The result was the establishment of a dual natural resource management framework. The framework that served and applied to the white settlers was participatory, while the one that governed the Indigenous Peoples was authoritarian. Naturally, this dual framework only applied to those aspects of natural resource management that were important to the settler economy.

The Indigenous Peoples of Kenya were pretty much left alone in areas in which the settlers had no interests. Thus in the arid and semi-arid parts of the territory, populated by pastoralists and other resource-dependent communities, the colonial administration did not interfere with the communities and their institutions relative to natural resource governance. In such areas, the communities continued to regulate their access to natural resources and to resolve conflicts over their resources in accordance with and through the agency of indigenous institutions and systems. It is for this reason that in such communities the colonial era is remembered with nostalgia as the time when the Indigenous Peoples were left alone to govern access to natural resources in accordance with their traditional laws and mores.

The fallacy of this perception is that the participation and effectiveness of communities and community institutions was limited to those resources and areas over which there was no conflict with the settlers or the settler economy. Otherwise, the settler system would prevail and the indigenous precept would be totally ignored.

Moreover, the duality of the system meant that such community-based resource management systems were of a marginal character and effect and did not affect or comprise the mainstream policy framework. One consequence of this duality and the deliberate objectives that informed it was that the indigenous sector of the economy stagnated and remained backward, as little investment was made in it by the colonial administration. This meant that development and progress was perceived as moving from the indigenous into the settler sector of the economy. As a result, when the independence government came into power, it would seek to modernize this native sector by incorporating it into what had previously been the settler sector, with disastrous consequences for the indigenous natural resource management regime.

The independence government came into power with a promise of modernization that unfortunately was interpreted in practice to mean the absolute discarding of traditional values and the wholesale imposition of values born out of what had previously been the settler sector of the economy. The country's leadership sought to transform the country into a modern free enterprise state, and for

this purpose institutions of modernization were created, and a lot of power over access to and control of natural resources was vested in those institutions. Sessional Paper 10 of 1965 (Government of Kenya, 1965) became the creed upon which the modernization of the postindependence economy would be based. As far as the management of natural resources was concerned, the individualization of land tenure that had been commenced in the middle of the 1950s was elaborated upon by the free enterprise drive of the Sessional Paper. Individualization had been recommended by the Swynnerton Plan (Swynnerton, 1955), which became the basis of the transformation of traditional land tenure to the modern tenure system that prevails in Kenya today.

The policy and institutional framework that governs conflicts within the individualized land and resource tenure system that has characterized the postindependence era is one that is state-centric, linear and adversarial. The public and resource-dependent communities have a very limited role in this conflict management system. They appear in it as ‘victims’ rather than as active participants. It is founded on a win/lose paradigm that is strange and foreign to the resource management ethic of the communities. The judicial system that oversees the functioning of the conflict management process is itself foreign to the communities. Apart from the strange language, forms and processes involved in the court system copied from the English, the cost of legal services is prohibitive for most of the population, particularly for the resource-dependent communities. In addition, the system has over the years become so clogged that the average time a dispute takes to go through the courts is such that most people are dissuaded from making use of the court system to address conflicts or resolve disputes, particularly those relative to natural resources.

The inadequacy of the formal judicial system as a mechanism for addressing natural resource conflicts has been recognized for a long time. Various attempts have been made to remove the problem of natural resource conflicts from the mainstream judicial system; but these efforts have come to naught because of the reluctance to break away from the judicial system altogether. Even where statutes have created mechanisms for addressing resource-specific conflicts, the same statutes have invariably provided for the use of the courts to give effect to the determinations of any institutions within those frameworks. This has been justified on the grounds that the courts are the custodians of rights and freedoms and that this jurisdiction and function cannot be ousted in favour of any institutions outside the framework of courts. While this is a valid argument and concern in a democratic society adhering to the rule of law, the unfortunate consequence of this reluctance to break away from the court system in the management of conflicts is that

the institutions for the management of natural resource conflicts have, in the end, been hijacked by lawyers, and their procedures and processes have progressively been made to approximate those of the formal courts. As a result, the advantages anticipated in creating these mechanisms are lost altogether.

Another factor that has undermined the effectiveness of institutions for the management of natural resource conflicts created outside the formal court system is the fact that their membership is ordinarily top-heavy with government officials and functionaries whose impartiality is usually suspect, especially where the government or some government official or institution is party to the conflict. Given the nature of the resource conflicts, and given a tenure system that endows the government with immense powers over natural resources, especially forests and land, it is inevitable that a large number of conflicts over natural resources should pit individuals or communities against some government official or institution. In these circumstances, institutions or mechanisms that are deemed to have been brought into existence by the government, and that are manned by government appointees, are unlikely to engender confidence and a sense of impartiality.

The third epoch in the evolution of the policy framework for the management of natural resource conflicts in Kenya started during the second half of the 1980s. This period has been characterized as the period of the second liberation of Africa. The momentous events that occurred during this period both within and outside Africa, and their impact on governance mechanisms and structures in Africa, have been compared with the wind of liberation that swept across the continent in the early 1960s. Whereas in the 1960s the people of Africa rose up against colonialism, in the second half of the 1980s, they rose up against internal repression and oppression.

A number of events at the global level caused or contributed to the demands by Africans for more transparent and accountable governance mechanisms and structures. Principal among these was the end of the Cold War and the emergence of the USA as the single global superpower. The Cold War had shielded dictators and repressive governments in sub-Saharan Africa as they played off one superpower against the other, explaining away repression as containment of communism. With the end of the Cold War also came economic and political adjustment programmes, the effect of which was to reduce the size of governments and also curtail the involvement of government in the private sector. The enlargement of political space that came with these adjustment programmes has seen the empowerment of communities and community groups for greater involvement in the management of natural resources.

This development has had important implications for community participation in the management of conflicts over natural resources. With greater democratization, communities now have a chance to organize and mobilize themselves to protect their interests over the resources on which their livelihoods depend. Community-based systems and institutions of natural resource management that have existed under the shadow of formal and statutory systems are growing increasingly vocal and are seeking to have their views taken into account in the formulation of the policy framework for the management of natural resources and of natural resource conflicts.

Yet the opportunities arising from these developments have also served to illustrate the constraints that impede the integration of conflict management considerations into the national policy frameworks. Apart from the macrolevel legal and institutional constraints born of a political system in which all authority is centralized in individuals and institutions controlled by the state, and a legal system that is structured to give effect to this centralization of political power, it is also being observed that there are certain microlevel constraints that need to be addressed in order to truly empower resource-dependent communities for effective participation in conflict management, specifically, and natural resource management, generally. Principal among these constraints are:

- the weakening or collapse of traditions, natural resource management systems and institutions;
- ignorance of formal conflict management methods and processes;
- inability or failure to mobilize around natural resource issues;
- limited political influence of resource-dependent communities;
- and
- the conflict between national imperatives and local dictates in natural resource management.

Conclusion and Recommendations

These constraints must be addressed if communities are to participate meaningfully in the management of natural resource conflicts. Yet it is clear that these constraints are a result of a long process and history that has seen the resource-dependent communities marginalised and their institutions of governance rendered ineffective. As a result, a long-term approach is necessary to address the

constraints. It is recommended that in order to address the constraints, the following, among other interventions, shall be necessary.

- Policy and practical research should be undertaken on the nature, functions, potential and constraints of traditional natural resource management institutions and systems, in order to understand which of their components can be useful in the management of current and emerging natural resource conflicts.
- Resource-dependent communities should be empowered through education on the formal methods and processes that exist for the management of natural resource conflicts.
- Resource-dependent communities should be empowered through education on civil and political rights to enable them to mobilize themselves and the rest of society on natural resource issues that are critical for their survival.
- There should be capacity building within resource-dependent communities for purposes of mobilizing public opinion in favour of policy and legal reforms to give effect to the communities' rights.

These interventions call for a concerted effort on the part of resource-dependent communities and institutions that articulate their interests, but it is a challenge worthy of the best efforts, as their very survival depends on it.

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National Forest Policy Frameworks and Conflict Management: An Overview

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Summary

In most of the developing countries, the forests are owned by the government and are used by communities. When the owners are different from the users, the system does not work. In Nepal, the communities are poor, and they depend on forest resources for their subsistence. The result has been loss of valuable trees; hills became naked and forests became unproductive. The conflict between the owners and the users in Nepal continued from 1957, when forests were nationalized, to 1978, when community forest policy was first introduced. Accessible forests are being handed over to Forest User Groups. This policy was further strengthened when the Master Plan for the forestry sector was enforced in 1989.

Despite many positive impacts, there are some conflicts. The conflicts are related to institutional, policy, legislative and attitudinal issues. Most of the attitudinal and field-level institutional conflicts are managed at the community level whereas policy and legislative conflicts are being addressed at the ministerial (government) level. However, more conflicts are expected once the Forest User Groups become rich and non-users become poor. They may also become politicized. Positive impact is very high in the community forestry programme of Nepal. Government has to take possible conflicts very seriously, and in time.

Introduction

National policy for management of forest resources is always determined by the socio-economic, physiographic and political situation of a country. Like other countries, Nepal was also rich in forests. Local people were using much of these forests sustainably. There was a common saying, “Green forests are the wealth of Nepal.” Thus the forest resources were protected by the people themselves for the collective benefit. However, most of the forests have recently been directly or indirectly affected by growing human and livestock populations.

While some countries were focused on developing the socio-economic conditions of the people, the policy in other countries was to convert as much forest land as possible into agricultural land to increase food production to meet the growing needs of the ever-increasing population. Similarly, until the recent past, Nepal’s policy was to convert forest land into cultivated land, because the forest did not give quick and direct return to the nation. With this, the government launched several resettlement programs in the Terai Region.

In most cases, the forests are managed either by the government or by private individuals. In some cases they are managed by a group of people. But in most of the developing countries the resources are owned by the government, and the government cannot be an effective manager when the majority of the users are poor and dependent on the forest resources for their subsistence. Most of the government-owned forests are misused, degraded and encroached, resulting in the shutdown of forest-based industries. In the early 19th century, most of the developing countries followed the European system of forest management by using guards to keep people out. Though it seemed effective at the beginning, this system did not work, however, as the need of the users increased rapidly. Trends towards misuse of forests, illegal cutting and corruption grew for many decades. In Nepal, the trend towards mismanagement led to degraded and naked hills and loss of valuable trees from the productive forests of the Terai. In early 1970s, some declared that Nepal would be converted into desert in 10 to 20 years.

In the meantime, India introduced a social forestry policy that involved planting fast-growing trees in private lands. It did not help forest management as such. Similarly, Indonesia also initiated a social forestry policy using people to deal with cutting rain forests and planting fast-growing trees on government land to meet industrial needs. Neither of these approaches considered management of natural forests or empowering the local forest users. Germany and Austria have a policy of joint community ownership of forests, which are managed by groups of people.

Nepal learned very good lessons from those countries, as well as from the local practice of managing village forests. This encouraged the Department of Forests to put in place new policy to empower the users to manage the forests, on the basis of the indigenous practices existing unofficially in many parts of the hills of Nepal. Identification of the indigenous practices brought a drastic shift in the forest policy of Nepal in the late 1970s.

After passing through the phase of nationalization of forests (1957), to avoid the domination of de facto elite owners, the government went into the protection phase by using armed guards. In the meantime, some of the internationally important forests and wilderness areas were converted into protected areas by using regular army forces. Then the pressure on the natural forests became stronger. As a result of these pressures, the entire policy has shifted to planting in degraded lands and encroached lands by using heavy fencing. The planting was not very successful because the government was doing it in an isolated manner, using easily available seedlings, irrespective of local peoples' will.

The entire process of policy changes took many decades. However the final policy became open, community-oriented, flexible and well-taken by the people. Successful indigenous practice and empowerment of local people are the main ingredients of community forestry policy.

General conflicts in forestry

In the past, the forests of Nepal were used for different purposes, such as fuelwood, timber, fodder and compost for agriculture. However forests are also supposed to give environmental benefits. Use of forests for different production purposes and environmental purposes resulted in considerable conflicts on forest use.

The conflicts mainly arise from the relationship between peoples' needs and degradation, harvesting and biological diversity, utilization and desertification, economic growth and environmental disaster, industrialization and pollution, conservation and communities' needs, and so on. Those problems are mostly solved on the community level, due to traditional managerial skill and conservation use practices. However, the conflicts originated mainly after enactment of different Forest Acts.

Forest policy

To achieve the objective of sustainable management with the participation of local people, the community forestry strategies (based on 1978 regulations and series of amendments) have mainly focused on:

- handover of accessible forests to the Forest User Groups;
- Forest User Groups getting all income generated by the community forests; and
- orientation of the entire forestry staff toward changing its traditional role to that of extension workers.

In the meantime, the Master Plan for the forestry sector (1989) was prepared to give a clear statement of forestry sector policy.

Forest policy includes several main features.

- The first priority is to meet peoples' basic needs while managing forests.
- Accessible forests will be managed by empowering users.
- The primary task of the forestry field staff is to assist and advise communities in their efforts to manage and utilize the forests on a sustained-yield bases
- Forest resources will be managed on a long-term basis, according to the ecological capacity of soil, water, flora, fauna and also scenic beauty.
- Tourism will be regulated within the carrying capacity of the local ecosystem.
- Community forestry will have priority over other forest-management strategies.
- Women, the main forest users, will be involved in forest management.
- Emphasis will be given to strategies of the multiple use of land, through integrated farming systems, by strengthening soil conservation and watershed management, and through research, extension, agroforestry and other activities.

- Establishment of private forests on leased and private lands will be promoted to meet the substantial requirement of forest enterprises.
- In general, no more forest land will be released for cultivation.

The policy led to a very successful community forestry programme, which became popular even outside the country. However, despite many positive impacts, some conflict issues may be discussed here.

Conflicts

Institutional conflicts

Several factors enter into institutional conflicts.

- At the beginning, many senior bureaucrats did not like the policy of giving ownership to the local users.
- The training institutes had produced more non-community forestry technicians, the government can not increase staff, and the community forestry programme needs more field staff.
- Many remote districts are progressing very slowly, due to a lack of enough communities and their involvement, because of very low economic status and illiteracy.
- Biological diversity management is not considered in community forestry because poor local people can not sacrifice their benefits.
- It has been proved that 1 ha of agricultural land needs 2 to 3 ha of forest land to maintain agricultural productivity. The forestry sector policy has become very open and community-oriented, whereas recent agricultural policy (the Agricultural Prospective Plan) does not give much attention to the role of forestry in biological composting, fodder development (70 percent of fodder comes from forests), livestock supports, the increase in integrated productivity of the lands, and so forth. As discussed earlier, the conflicts arose due to inconsistency in the legislation.

Policy conflicts

Several factors give rise to policy conflicts.

- Government is exercising a decentralization policy that will empower the elected village leaders, whereas the community forestry legislation empowers users themselves, which is one step ahead.
- Surplus funds can be spent for any community development works. In the meantime, political development funds are channeled through VDC and DDC, which in most cases is not sustainable.
- Community forestry for forest development or for community development: the surplus funds are channeled into improvement of education, irrigation, drinking water, roads, health and many other sectors. The concerned district agencies raise conflicts as regards the implementation.
- The forest resources of the community forestry programme are growing faster, but the industrialization and taxation systems are discouraging.
- There is no clear future policy for using forest resources produced by establishing community forestry, as, for example, establishing more industries and utilization of more funds.
- Similarly, the Terai forests are becoming neglected and are managed neither as community nor as government production forests, due to lack of clear policy in community forestry in the Terai. The community forestry programme was first formulated for the Hills and was then applied throughout the country. Community forestry cannot be well implemented in the Terai unless the national forests are managed simultaneously.
- The empowering process could not progress faster because the government's general policy was to reduce employees, and, on the contrary, the community forestry programme needs more field staff.

Legislative conflicts

Several considerations can be made regarding legislative conflicts.

- Implementation of leasehold forestry is also a mandate of the government. But, as community forestry is given priority over leasehold forestry, the leasehold forestry programme could not be promoted either for industries or for poor families.
- The communities get only forest resources, not the land ownership.
- If the Forest User Group's land has very high quality minerals, such as slate for roofing, they are not allowed to quarry because they own only the forest resources, not the land.
- The definition of users is not clear. There are many places where the communities are settled illegally, without a landholding certificate. They may not become members of Forest User Groups, but they play a significant role in protection or destruction of the forests.
- The District Forest Officer can take forests back when the Forest User Group makes mistakes, even if they were made by an influential person. There is no provision to punish an individual, nor is there any intermediate provision to have the community alerted by the District Forest Officer.
- The District Forest Officer's unfavourable decision regarding a Forest User Group is heard by the Forest Regional Director, who is also part of the forest bureaucracy.
- Punishment of non-Forest User Group members is not provided for either in the new Act or in the new Rules. The Forest User Group can punish only Forest User Group members.
- The forests handed over before the new Act was enacted should be revised within one year, as per the new law, which was not practical in increasing demand of handover.

Attitudinal conflicts

Some attitudinal factors also give rise to conflicts.

- Many donors are attracted by the popular community forestry policy giving low priority to leasehold and national forestry.
- Indigenous practices are disturbed in some areas because the government has set procedures.
- Law permits transport of forest products freely from one place to another, but this is banned by issuing order.
- Forest-based industries can be established, but the Forest User Groups are discouraged by the authorities.

Conclusion and Recommendations

Most of the conflicts mentioned above are resolved at local, community or field level.

The policy level conflicts are not very major or serious at the moment. However, many conflicts are expected in the near future, once the communities become wealthy. There is a danger of Forest User Groups becoming money-oriented, once forests start producing more products. There is a danger of Forest User Groups becoming politicized. The authorities need to work efficiently to make the Forest User Groups capable; to keep them aware of legislation; to amend legislation as needed; and to continue intensive training, regular supervision and co-ordination. Most of the conflicts are expected to be originated at legislative and attitudinal levels.

As presented in Table 2, a series of legislative changes is recorded as the need was identified for success of the community forestry programme. Similarly, the 1993 Act and 1995 Rules are under revision and have already been presented in Parliament for amendment. The attitudinal conflicts are managed mostly through extensive integrated training throughout the country, regular workshops, involvement of the Federation of Community Forests User Groups, Nepal (FECOFUN), extension works through radio programmes and newspapers. By all these efforts, the community forestry policy of Nepal has gained a very high status in development trends. The conflicts are still localized. However, the problem has to be taken seriously, beginning right now.

I want to quote a question raised by a senior journalist from Pakistan. “How did you have democracy in forestry in Nepal long before the democracy of the nation itself?” Yes, Nepal is lucky to have a democratic forest policy that is unique in the regions.

Because management of local forest resources by local people is a new approach, as compared to traditional systems of government production, many new issues and conflicts are expected to arise. But the conflicts are minimized by the democratic process of making decisions and making laws and by quick changes in the attitude of the field actors. Conflict is easily managed in the field. However, the policy-level and intersector level conflicts will take time to solve.

The community forestry concept is now fully followed in many other areas, such as watershed management, conservation of biological diversity and water resource management. There is less conflict when the resources are managed by the users and supported by legislation.

Table 1: Time-Line of CF Policy Evolution, Nepal

	Conventional Forestry
Before 1951	Sale of Timber to India, degradation of NR
	Indigenous Practices
1957	Nationalization of Forests
1958	Wild Animal Protection Act
1961	Introduction of CF in the Law but no By-Laws
1973	National Parks and Wildlife Protection
1976	National Forest Plan - start of People's Participation/PF & PPF concept
Community Forestry	
1978	Formulation of CF By-Laws
1979	First amendment of CF By-Laws
(1982	Soil and Watershed Conservation Act 2039)
(1982	Decentralization Act)
1987	Second amendment of CF By-Law
1988	Master Plan for Forestry Sector - clear Forest Policy
1989	Change of Democratic Government, Government order
1993 Jan.	New Forest Law
1995	New Forest By-Law
1996	Buffer Zone Management By-Law

Table 2: Evolution of CF Legislation in Nepal

<i>Subject</i>	<i>By-Law 1978</i>	<i>1979 Amendment</i>	<i>1987 Amendment</i>	<i>New Act 1993 (1995)</i>
CF area	not more than 125 ha (PF) 250 ha (PPF)	125 ha 500 ha	no limit no limit	no limit no limit
Benefit share % to community	40%	75%	100%	100%
To be spent from the benefit	50% (for forestry)	50% (for forestry)	100% (for forestry)	Surplus fund for any community development
Pricing of products	not less than royalty	not less than royalty	not less than royalty	as per FUG's decision
Plan preparation	by DFO	by DFO	by community	by community
Plan approved by	Conservator	Conservator	Regional director	DFO
Boundary	Political	Political	Political	Use practices
Management units	Panchayat (political unit)	Panchayat	User's committee under panchayat	User Groups (assembly)
Chaired by	Elected village leader	Elected village leader	Selected any body by political body	Selected by the assembly by consensus

Source: Joshi, 1997

Table 3: Forest Handed Over by May 1996

<i>Year</i>	<i>Handed over number</i>	<i>Area (ha)*</i>	<i>Household (no.)</i>
1987/88	3	79,8	398
1988/89	34	518.84	2732
1989/90	29	1916.48	5189
1990/91	54	1949.99	5189
1991/92	354	1991.89	37506
1992/93	634	3592.14	73303
1993/94	950	63308.43	99249
1994/95	1390	* 98530.91	141159
1995 (May 1996)	(325)	26983.28	39255
Not mentioned	(1583)	116446.99	181531
Total	5,356	362,551.5	585,658

* Total forest area of Nepal • 5.5 m. ha
 Potential CF area • 3.355 m. ha (61%)
 Percent of potential CF already handed over • 11% (362,551.5 ha)
 It will take 20-30 years to handover all potential CF.

Table 4: FUGs in Terai and Hills (by May 1996)

	<i>FUG (no.)</i>	<i>Area (ha)</i>	<i>Household (no.)</i>
Terai	270	31,596.34	64,293
Hill	5086	330955.16	521,365
TOTAL	5356	362,551.50	585,658

Figure 1: Years Vs CF Handed Over

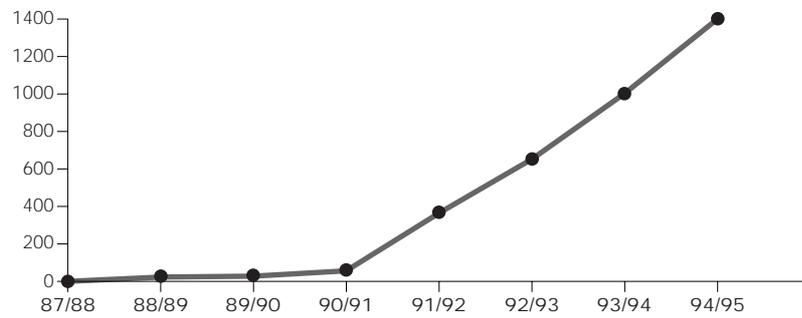
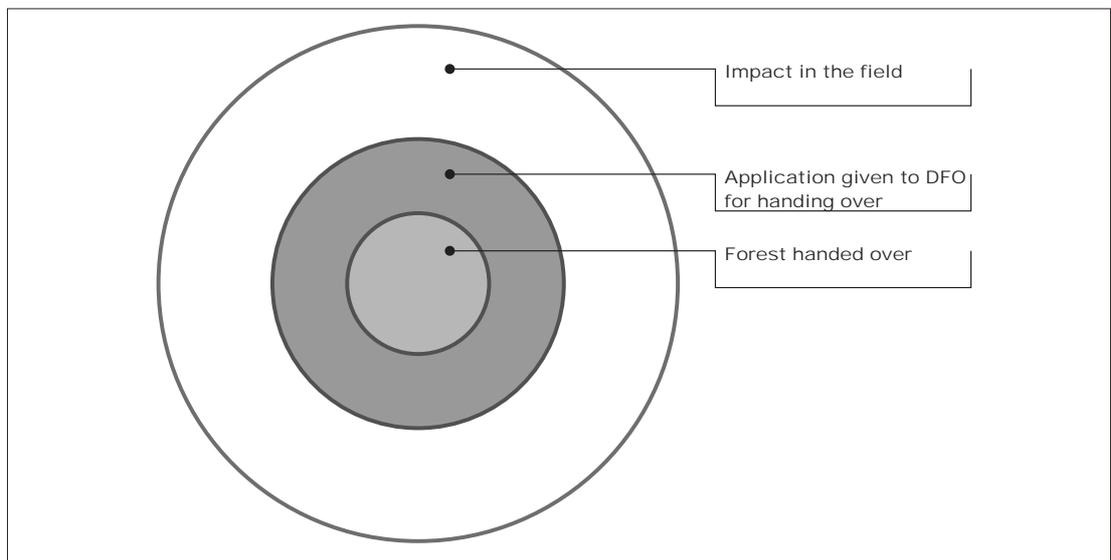


Figure 2: Impact of CF Progress



Appendix 1

The main clauses of the new legislation are:

1. Any part of accessible forests can be handed over to the communities that are traditional users of the resources, if they are interested in managing the forests.
2. Any amount of national forest can be handed over to the Forest User Groups (FUG) if they indicate that they are capable of managing the resources.
3. Conversion of national forests to community forest has priority over conversion to any other forest use, such as leasehold, protected and production forests.
4. Community forestry boundaries are fixed by traditional use practices rather than administrative boundaries.
5. District forest officers (DFOs) are authorized to hand over forests to FUGs. This authority was vested in higher officials or the centre in the past.
6. FUGs have to manage CF as per their constitution and Operational Plan (OP), which are approved by DFOs.
7. FUGs are autonomous and corporate bodies with perpetual succession.
8. FUGs can plant long-term cash crops, such as medicinal herbs, without disturbing the main forestry crops.
9. FUGs can fix prices of forestry products irrespective of the government royalty.
10. FUGs can transport forest products simply by informing DFO.
11. FUGs can establish forest-based industries based on the resources available in their community forest.
12. FUGs can use surplus funds in any kind of community development works.
13. FUGs can amend their OPs simply by informing the DFO.
14. Any government and non-government agency can help user groups to be organized and to manage CF.
15. FUGs can punish any members who break the rules of their constitution of the OP.

16. DFOs can take community forests back from FUGs if they operate against the OP. However, the DFO must give the forest back as soon as possible, once the problem is resolved.

No legislation could be perfect. However, Nepal has become a good example of empowering communities to manage forest resources. It is very difficult to collect updated records of progress. However, a 1996 study reports that by May 1996 about 5 356 FUGs were empowered, with 585 658 households managing 362 551 ha of forest lands, which is about 12 percent of the potential community forests of Nepal.

Source: Joshi, 1997