

# POLICY AND GOVERNANCE

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## Ensuring People's Rights in Forest Resources: Revisiting the Role of Civil Society

*Despite changes in forestry policies to allow local communities to take control over national forests, efforts in facilitating devolution of power fail to recognize the 'rights' of people instead of 'mercy' of the state. The author highlights some fundamental issues that are at the root of many felt problems such as inequity, passive management of forests, limited access of the poor and marginalized in decision-making. The author proposes that rights based approach that focuses on local rights and organizing people can bring change, and Civil Society can play a significant role in this regard.*

### Introduction

Most of Nepal's forest is public property controlled nationally, though the communities have lived with forests since ancient times. The evolution of the Nepali nation state has created centrally dictated institutions and rules governing resource access and use, more or less up until the last decade. After the democratic movement of 90s, forest policies and regulations have been changed in favour of local users which allowed communities to take parts of national forests as community forests. From then, the term community forestry has become rhetoric. Not only that it also has been termed as 'a symbol of rural life'.

In principle, community forestry equates to a devolution of power (decentralization) and a decisive say of local people over the matters that affect their livelihoods. However, the community forestry process has been seen less as an issue of people's rights, than as a bestowal by the government to the people. In essence the de facto power structures have not changed. This very limitation is at the root of many problems such as passive management of forests, inequitable sharing of benefits and low participation of poor, women and disadvantaged in the decision making for forest management. This paper examines how civil society can assist people to assert their rights over forests.

### Major issues and Challenges

There are many obstacles to the achievement of the potential of community forestry initiatives. Some of the socio-political issues which have major influences over the process, will be discussed here.

#### *The need to assert the legitimate rights of the users*

Though there are many contradictions and questions regarding implementation, many policy and legal documents speak about the user's rights over forest resources. Nepal's constitution 1990, Master plan 1988,

Forest Act 1993, CF Regulations 1995 and CF process guidelines form the basis that provides legitimate rights to the users.

Recently, the Government has begun the process of revising forestry sector policies. As a part of this, they have proposed amendments to some of the articles that affect the users' power in decision making. This recent forest bureaucracy moves towards abolishment of community forestry in the Terai, and curtailing several rights of FUGs nation-wide has created an environment of confusion, contradiction, mistrust and misery among users and other stakeholders.

In this sense, one of the major challenges is to make users conscious of their rights to meet their needs from forest resources. I contend that the problem lies in the fact that people's rights to secure livelihoods are still being defined by intellectuals, something that they have no right to do.

Here I will highlight 2 major aspects that influence people's rights.



Locals prohibited but elites allowed - tented camps of starred hotels in Royal Bardiya National Park.

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## Suppression of local wisdom and creativity

Without a doubt the major causes of social deprivation, marginalization and displacement of poorer communities lie with the social and political systems that influence, control and operate institutions. No meaningful change can be brought about until the communities challenge these systems themselves. In that sense, they need a critical understanding of such control mechanisms, as well as a developed capability to influence these in turn.

Nevertheless, we have to be realistic about the current status of the CF promotion process. Whether initiated by the Government or the private sector, most of the CF promotion activities are dependent on foreign investment, which in turn adds an extra power dimension. If we critically examine project planning processes, there is little provision for dialogue with local people, nor any attempt to promote local level analysis, building on their immense knowledge of resource management.

The structures of donor funded projects, in particular, are such that, even when field experiences are accounted for in project documents, they can only be limited to very reductionist interpretation. Such interpretations serve to guide the planning process, but they rarely result in critical self-assessment and challenges to assumptions deep within the donor hierarchy. In this situation, on the one hand, communities feel unable to take responsibilities for the management of forest resources and on the other hand outsider influences are misleading communities that have begun to develop false expectations that neither reflect their own realities nor the realities of the capacities and limitations of other stakeholders.

The promotion of CF requires the fully conscious involvement of local communities, who have the confidence to contribute their wisdom.

## Unjust social structures at all levels

It is an uncomfortable truth that the community forestry process has in many instances exacerbated inequity in local communities. Elite groups gain considerable political capital through draconian protection of forests, at the expense of disadvantaged groups' livelihoods, as well as the health of forest ecosystems.

As with many other issues, the promotion of community forestry is subject to many complex socio-political factors within and outside the local community. Community forestry has been influenced by many distant and hidden interests. A variety of organisations, such as I/NGOs, bilateral and multilateral agencies, involved with CF, have been tied to trade or product promotion interests. As an example, the pressure of debt repayments to industrialised nations is a significant driving force behind marketisation and mass production of forest commodities. Such pressures may benefit the local elite in community forestry whilst sidelining the

subsistence needs of the majority. Indeed such pressures ultimately influence government decisions to allow CF to go ahead or to retain forests within their control.

It is clear that unless the poor can assert themselves to ensure that their needs are given first priority, CF will be little more than another tool for consolidating the power of rich over poor.

NGOs are indeed in the best position to facilitate processes of social change. However, they have been constrained in this respect, partly due to the fact that they take on generic ideas and initiatives that have arisen in central establishments (particularly western one's), rather than commit themselves to new ideas generated by people at the grassroots level.

## Civil society: bound by the same old establishment

In the last decade the number of NGOs in Nepal has mushroomed to around 30,000, particularly following the establishment of the multiparty government in 1990. Although rhetoric suggests that NGOs represent a breakaway from stifling bureaucraties, it seems to be more the case that they have been hijacked by these structures. The author will highlight 3 issues that illustrate this point:

Firstly, there is still a sub-conscious, yet mainstream, perception amongst government and donor agencies, as well as amongst NGOs themselves, that their role is simply that of service deliverer. Very often they are seen as extensions of central agencies, which may even lead to duplication of services. Very few NGOs are oriented to put demands and pressure, originating at the grassroots level, to both government and aid agencies. Yet their activities largely remain out of the field of public scrutiny.

Secondly, NGOs are bound by the need for funding, which means that they also strive for recognition. It is usually the large, centrally placed NGOs that are recognised, rather than village based NGOs (or CBOs). Yet these large NGOs are likely to suffer the same constraints that other cumbersome bureaucracies have.

Thirdly, although there is an undeniable political dimension to development, both government and aid agencies discourage NGOs from involvement in politics. However, the depoliticisation of development processes has led to a failure to inspire the large mass of marginalised people (this is a reality in Nepal that many foreigners fail to understand), and instead serves to make them more passive.

It is time to realise that the role of NGOs is not to preserve the status quo, but rather to facilitate social change. Therefore, for NGOs to collectively call themselves civil society, they have to be more critical of their own roles and responsibilities, such that they are accountable to the people rather than central

agencies.

## Towards Rights-based Approaches in CF

Rights-based Approaches to Development (RAD) have arisen as a means to facilitate people's movements to assert their due rights to secure livelihoods. It works within the constitutional framework and in a non-violent manner, though the approaches themselves also bring many constitutional and legal contradictions to the surface. Depending on the situation, such approaches may focus on issues ranging from the 4 political freedoms in the constitution, to livelihoods issues and even as far as self-rule by cultural groups.

In the forestry sector provisions for people's rights to forest resources have been outlined in the Master Plan 1988, Forest Act 1993, Forest Rules 1995 and CF Guidelines. However, there is little assurance that the government would continue to recognise these rights. However, people's rights to fulfillment of needs from forest resources should not be something to be decided, or adjusted by the government. They need to be defined by people through revitalising elements of cultural identity and cross-cultural interaction.

## What can Civil Society Do?

Some NGOs are now adopting rights based approaches, which has meant shifting away from contractual service delivery work towards facilitating people's movements. It is of utmost importance that this continues in the forestry sector.

Whilst the Department of Forests is attempting to diversify its activities and interventions, their bureaucratic structure and human resource constraints make them unsuitable for fulfilling much beyond purely regulatory roles. There therefore needs to be a clear distinction between the roles of civil society and the Department of Forests.

NGOs in the forestry sector need to orient themselves towards civil society roles, or facilitate the organisation of civil society. Further, the government is decentralizing its power with a big shift. Without a coherent civil society, government moves towards decentralisation, embodied in the CF process, will be little more than rhetoric.

There is a huge opportunity for NGOs (and more specifically CBOs) to assist huge numbers of FUGs, and as many groups that have been excluded from the CF process altogether, in asserting their due rights to forest resources.

Forests have huge subsistence, cultural and potential monetary values to local people in Nepal. The forest sector is accordingly an arena for huge conflicts of interest at all levels and across levels. It is therefore vital that local people have the confidence to organise themselves in such a way that they can secure access to these resources to fulfil their potential for sustained poverty eradication.

## Conditions for Successful Interventions

Although much has been said about rights based approaches, few have been able to understand the conditions that determine the success of such approaches. Here are some points that need to be considered in this respect:

In order to engage in rights based approaches towards the support of people's initiatives, NGOs must truly understand the need for equitable sharing of benefits at all levels.

Facilitator organisations must be transparent about their own backgrounds and capacities, and have the courage to face up to public scrutiny.

Only those who can identify themselves with the marginalised are able to perform this task meaningfully. This requires that the sense of injustice amongst local people is shared by the facilitators who will then have a positive commitment to bring about change with the people.

The success of this approach largely depends on identifying the appropriate supporting mechanisms.

NGOs must not be drawn wholly into contract work for service delivery on behalf of other agents. They must assert their identity as independent stakeholders, representing the interests of particular local communities.

It is equally important to recognize the interests of a multiplicity of stakeholders and create an accommodating environment for these interests.

Wider networking and updates on information are needed to ensure that the facilitator organisation continues to place their work in context, as well as promote continuous critical self-assessment.

## Conclusion

Everybody has fundamental rights to the means of securing their livelihoods - including forest resources. However, local people must not depend on the intellectual elite for these rights, as their roles are to rationalise resources. NGOs, as a part of civil society, can play a critical role in supporting people in both technical and political fields, challenging imposed technical knowledge bases as well as power structures within the forest sector.

For this, it is very crucial to reflect on past experiences and learn from failures, and rethink roles and responsibilities in bringing about social change.

