

SECTION 8

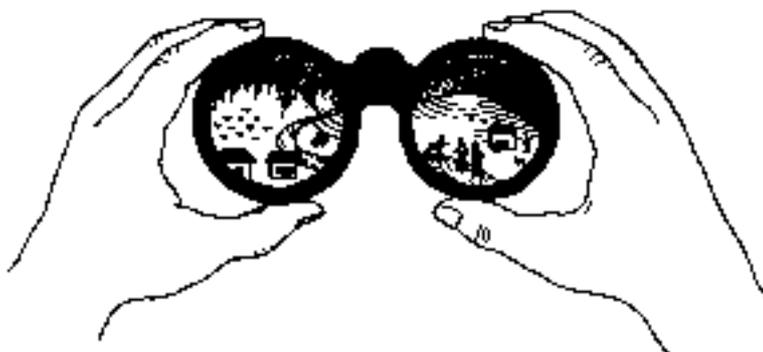


SECTION 8

CASE STUDIES*

8.1 INTRODUCTION

A case study is a training tool to develop analytical skills by drawing examples from real life. Case study exercises concentrate on probing and understanding the complexities of particular situations. This section provides detailed accounts of conflicts and conflict management processes related to community forestry in India, Nepal, Thailand and Bhutan. Each of the cases is based on materials prepared by authors from those countries who have long experience in dealing with natural resource conflict issues.



Each case provides an overview of events, allowing you to identify and analyse the significance of the events, people and circumstances that influenced the situation. The cases also furnish information about conflict management processes, including motives, goals, strategies, ongoing adaptations and the evaluation of outcomes. All the cases consider the role of outsiders as facilitators, mediators, arbitrators and other actors in community-based conflict management processes.

* Section 8 includes four conflict management case studies from Asia. For additional natural resource conflict management case studies from other parts of the world refer to the forthcoming FAO publication entitled "Power, Participation and Protected Areas: Natural Resource Conflict Management Case Studies" FAO 2003.

The cases can be treated separately, but they can also be compared and contrasted. It is important to understand more than just *what* happened or *how* it happened in each case. You need also to consider *why* it happened: what led people to select particular options, what motivated them, what constraints did they perceive or encounter? The process of analysing the cases may resemble detective work. You should consider possible scenarios when examining how a conflict came about and what people did about it. You are encouraged to draw from your knowledge and experiences to analyse the conflicts and the conflict management processes. How do the events, persons and processes portrayed in the case studies compare (or contrast) with situations that you are familiar with? As you and other participants discuss the cases, it will become clear that multiple interpretations are possible for most situations. The clearest understanding often emerges through the weaving together of multiple views.

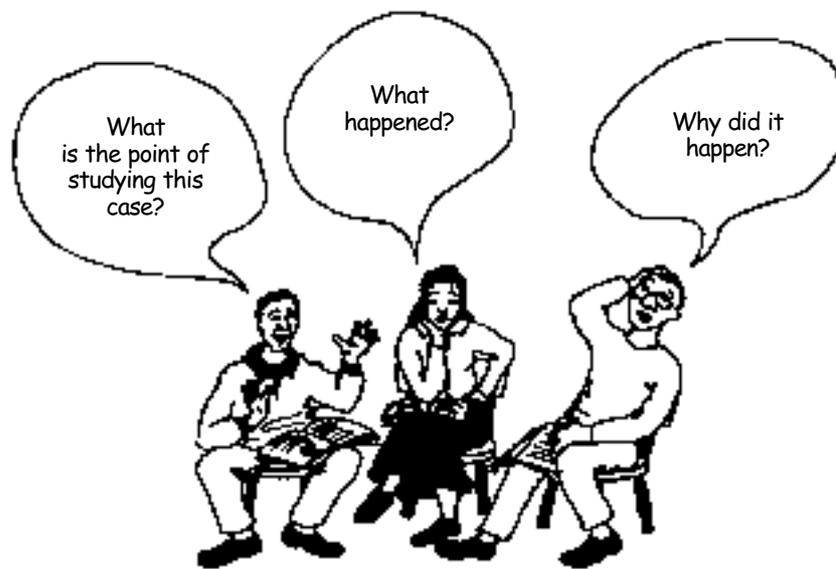
8.1.1 Why use case study exercises?

Case study exercises can be used to build or strengthen conflict analysis skills. They can also help you to identify the constraints and opportunities that are faced in designing and implementing conflict management and resolution processes. The cases allow you to move away from simply seeing a conflict as a one-off occurrence requiring an immediate solution. The case study exercises demonstrate the need to analyse a conflict thoroughly before acting to address it. The cases also encourage the careful weighing of multiple options in managing or resolving conflicts.

8.2 EXERCISE DIRECTIONS

The goal of case study exercises is to encourage training participants to discuss the cases in a thoughtful and thorough manner. Participants must have the opportunity to read the entire case, and time to reflect on it. Given the length of the studies, it is advisable to ask them to read them before attending the discussion session. A rushed reading of the cases will undermine participants' ability to understand and analyse the materials thoughtfully.

The cases are best discussed in small discussion groups in which all participants have ample opportunities to share their views. Thus, it may be necessary to split large gatherings into smaller groups in order to facilitate discussion. The trainer or facilitator should provide direction and guidance for the discussion, but in a way that allows ample time for participants to discuss their views about the materials. Each case study is preceded by questions to serve as the focal points for discussions.



Facilitators can follow the following procedures in carrying out the case study exercises. These are not the only way to conduct such exercises, but are provided as potentially useful techniques. Again, what is important is fostering a setting in which participants have the opportunity to reflect thoughtfully and exchange ideas about the cases.

8.2.1 Step 1

Introduce the case study as an active learning method. A key point is that each case is only a piece of a story, an interpretation of what occurred, and not a full history. The purpose of engaging in case study analysis is to sharpen problem solving skills. Participants gain an appreciation of the need to assess probable causes and determine what additional knowledge is needed in order to design a conflict management strategy. They also learn to recognize the importance of evaluating different options in deciding which strategy to pursue.

8.2.2 Step 2

When opening the discussion of a particular case, reviewing the content helps determine whether all the participants have understood the materials (and how well they have read them).

Rather than simply opening with the broad issue of what happened, provide a series of guiding questions, as listed in Box 8.1.



BOX 8.1 “WHAT HAPPENED?” QUESTIONS

- What were the issues in the case?
- What was the conflict about?
- How did the conflict manifest itself?
- Who emerged as the opposing parties in the conflict?
- Who were the other stakeholders or interest parties?
- Was there a level playing field for the conflicting parties, or did circumstances favour one group over others?
- How did the parties seek to resolve the conflict?
- What particular conflict management or resolution strategy did they use?
- Did the community members seek help from outsiders? (Or did outsiders intervene?)
- What resources were expended in the conflict management/resolution process?
- What was the outcome of the conflict management/resolution process?
- Overall, how effective was the author’s presentation of the case study?
- Did any information seem to be missing that might have helped you to understand the case study better?

8.2.3 Step 3

Having first reviewed what happened, the bulk of the discussion time should then be used to consider the more important issues of why it happened, and what alternative actions and processes were possible. In addition, participants should explore the broad lessons learned from the case study and how these relate to (or contrast with) the circumstances and situations that they themselves have faced.

The questions in Box 8.2 can be useful in fostering discussions to analyse what happened.



BOX 8.2 ANALYSIS QUESTIONS

- Why did the conflict arise?
- Did it have a single cause or multiple causes (and how is this determined)?
- Was the conflict an isolated or anomalous incident?
- Could the conflict have been anticipated?
- What was the role of power or power relationships in the conflict?
- Is a level playing field necessary to resolve conflicts?
- What was the role of culture or gender in the conflict?
- Why did the conflict parties seek to resolve their conflict?
- Why did the conflict parties pursue their particular conflict resolution strategy?
- What other conflict resolution options were (or might have been) available?
- Were sufficient resources available for addressing the conflict?
- If you had been consulted by the parties in the conflict, what conflict resolution strategy would you have recommended?

- If the parties used negotiation, what factors contributed to their success or failure?
- How would you have conducted negotiations in the case?
- Was the conflict adequately addressed by the selected conflict management/resolution processes?
- Was the conflict resolved or simply managed?
- What are the three main lessons to be learned from this case study?
- In your experience, have you met with a similar conflict or conflict management/resolution process?
- Comparing this case with other cases that you are familiar with, what conflict management or resolution processes seem to work best?

These questions can also be given to subgroups of the participants to discuss on their own. After a specified time, all the subgroups can reconvene and exchange their views. Then it might be possible for the group as a whole to reach consensus about the answers.

8.3 ALTERNATIVE USES OF THE CASE STUDY ACTIVE LEARNING APPROACH

8.3.1 Role playing

An alternative method for exploring the cases is to generate group findings through role playing. In this method, the trainer asks each group to assign the character roles from the case study, and develop a script that addresses their conclusions.

Provide 15 minutes per group presentation. Guiding points to the script development include:

- ◆ Identify the individual characters and their involvement in the conflict.
- ◆ Develop a scene in which the characters interact, either in discussion or in a conflict situation, highlighting their interests and underlying concerns.
- ◆ Include a summary scene that explains the group's findings or proposed outcome.



8.3.2 Resolution design and application tool

Any conflict situation can be developed as a case and used as an analysis exercise, or as a resolution component. If stakeholders are to develop a conflict case as part of a facilitated resolution meeting, a case study development forum can be initiated at which to develop ideas and provide a structure.

The purpose of such a forum is to provide time for the various participants to weave their different stories together in a single version representing all the issues that led to the conflict. A basic format for guiding the case study development forum includes the following steps:

- ◆ an introduction to the background information on the conflict, such as the social and physical environments and the wider institutional, political and economic setting;
- ◆ a summary of the conflict, including the stakeholders, basic issues and any underlying needs and concerns;
- ◆ identification of conflict management or resolution strategies, including communication and negotiation practices;
- ◆ documentation of the results to date and any recent or outstanding issues.

8.4 CASE STUDY 1: JOINT FOREST MANAGEMENT AND CONFLICT IN HARYANA, INDIA

by V. Varalakshmi



8.4.1 Case study guidelines

Background

The Joint Forest Management Programme (JFMP) in India represents one of the world's largest attempts to promote state-local natural resource co-management. Such collaborative arrangements are seen as a way to address proactively the conflicts that are inherent to centralized state management of forests and other resources. The change to more collabo-

rative and decentralized styles of resource management, however, has generated new forms of conflicts and intensified some old ones. This case study briefly reviews some of the experiences with conflict and conflict resolution processes in Haryana, India. It is based on materials prepared by V. Varalakshmi of the Tata Energy Research Institute, New Delhi.

Study questions

1. Did the JFMP represent a major departure from forest policy in Haryana?
2. What factors seem to contribute to the development of a collaborative arrangement between communities and government natural resource management agencies?
3. What are the Hill Resource Management Societies (HRMS) and what is their role?
4. What were the major sources of conflict in the societies?
5. Could the conflicts have been anticipated?
6. What were the chief means of conflict management? Were they successful?
7. What do you think is the long-term outlook for conflict in the JFMP?

8.4.2 Introduction

The Haryana JFMP operates in the Shivalik range along the foothills of the Himalayas. This area contains most of the state's limited forest resources. Much of the forest land is under Haryana Forest Department (HFD) ownership, but some of it is managed collectively by villagers or controlled by *panchayats*, the local-level institution for self-governance in India.

The Shivalik forests have become highly degraded, reflecting the immense pressure of the region's human and cattle populations, as well as the limitations of centralized resource management. The removal of trees for timber and fuelwood, combined with heavy grazing, has left hills barren and hardly able to provide the subsistence needs of the people and their livestock. The landscape is marked by rock outcrops, deep gullies and chasms.

By the early 1970s, Sukhna Lake, a reservoir created in 1958, had lost nearly 60 percent of its storage capacity owing to silt from erosion. Water

authorities in nearby Chandigarh, the capital city of Haryana, spent large sums dredging the lake, but they could not halt the problem. Technical experts identified Sukhomajiri village in the Sukhna watershed as the main source of silt. A series of soil conservation and water harvesting structures were built to decrease erosion. Villagers were able to use these structures for irrigation. This first project acted as a catalyst for HFD to elicit local cooperation in regulating forest use to decelerate land degradation. Villagers formed a Water Users' Association (WUA) to protect the watershed and to manage the reservoir.

This initial project highlighted the importance of involving villagers in the management of forests and providing them with alternative sources of livelihood to reduce their dependence on forests. With a dramatic regeneration of vegetation in the pilot watershed, as well as increased fodder and farm production, the local population became more receptive to HFD's advice. People became more willing to collaborate with officials in forest management as they saw how the new measures enhanced their interests. The villagers and the staff of HFD and other agencies combined their skills, knowledge and resources to establish a process for collaborative resource management. During the 1970s and 1980s, this process was extended to other villages in the region, albeit in an unstructured and informal manner. Thus, forms of participatory forest management were practised in the region before the formal onset of the JFMP.

8.4.3 The JFMP in Haryana

In June 1990, the Indian Government issued an order encouraging villages and NGOs to become involved in the regeneration and management of degraded forests. The Haryana State Government followed this by implementing the JFMP involving HFD and NGOs such as the Tata Energy Research Institute (TERI). By 1997, the JFMP had spread to more than 60 villages, involving 60 000 villagers and protecting and managing nearly 16 000 ha of forest.

The JFMP uses participatory and facilitative processes to link people and officials to the co-management of particular forest areas in Haryana. The programme acknowledges the existence of diverse forest users, and attempts to protect their interests through negotiations and consensus agreements. Officials attempt to take into account local historical, cultur-

al and economic linkages with specific forest areas when granting co-management rights or concessions to communities. They also consider customary forest use by residents of more distant villages in such agreements.



The programme supports the sustained collaboration of communities and HFD in managing forest resources. It attempts to provide for the basic needs of disadvantaged and resource-poor households. The JFMP offers four products at low cost: irrigation water from small dams, bhabbar grass for rope making, fodder grass, and bamboo. Long-term resource use agreements and permanent benefits are important factors contributing to the programme's success. These material incentives are also crucial to sustaining community interest in resource management, while ensuring continued restoration and development of degraded sites. The programme has contributed to higher farm output through expanded irrigation, lower fodder prices and increased non-agricultural earnings from sales of bhabbar grass and bamboo items. It has also generally improved the status of local forests and grasslands. The ongoing support of communities and officials for the JFMP indicates its success in meeting a range of needs.

8.4.4 The HRMS

HRMS were formed at the village level specifically for JFMP implementation. This new institution emerged from organizational constraints within the local administrative bodies, the *panchayat*. The inherent strength of the HRMS is that their membership is deliberately formed to include a balanced representation of village subgroups. Their mandate is to link the village and HFD in a partnership to manage forests.

The membership of an HRMS consists of all the adult men and women from all the households in a hamlet, village or group of villages located within or near a particular forest area. The boundaries of the HRMS do not necessarily coincide with those of the *panchayat*. HRMS members enjoy usufruct rights in the forest areas demarcated for protection and management by their group. People from outlying areas whose livelihoods and subsistence needs have traditionally relied on forest produce from these areas are also considered members of the general body of the HRMS.

Each HRMS holds an annual election to nominate its managing committee. Each committee has seven to nine members (depending on the village's size), including at least two women. The number of women is higher in areas where they play major roles in collecting, using or processing forest products. In some cases, women outnumber men on the committee. The management committee must also include at least one person from officially designated scheduled castes and tribes or from the poor.

Individual HRMS derive funds from membership fees and charges levied for harvesting fodder, bhabbar grass, bamboo and water. HFD has a separate co-management agreement with each HRMS. Revenue earned over the annual lease that is due to HFD is deposited in the local HRMS account. In many cases, communities have used these surpluses for installing new infrastructure, such as schools, meeting halls, roads or pipelines. They have even been used to help support the development efforts of local *panchayats*.

Strengths of the HRMS

A primary achievement of the JFMP has been that the HRMS often attain a high level of local involvement in decision-making and management processes. Factors that have contributed to widespread support for the HRMS include the following:

- ◆ HRMS membership consists primarily of people living in villages that are close to the forest. HRMS' small scale and proximity to the resource facilitate communication and interaction among their members.
- ◆ A set of mutually agreeable norms and procedures – both formal and informal – confers equal rights and responsibilities to all members, including minorities and women.
- ◆ Major decisions are made in a participatory manner, and all records are accessible to members for reference and cross-checking.
- ◆ All members, including the village community and HFD, design and agree on rules and penalties. Non-adherence to these rules can result in suspension or termination from the HRMS:
- ◆ The HRMS are registered within the Societies Registration Act of 1860, and thus have an independent legal status to enter into and terminate agreements with HFD.
- ◆ The HRMS receive institutional support through working groups, established at the state, division and range administrative levels, to link the grassroots with wider policy-making bodies. These working groups consist of HRMS representatives, forestry officers, TERI staff and other concerned parties.

Conflicts

In spite of the organizational strengths of the HRMS, conflicts still arise within groups and among neighbouring communities. These conflicts occur in part because of the complexity and diversity of stakeholders, both within and across villages, and their differing interests regarding resources use. The community's socio-economic profile and local commitment to participation in HRMS deliberations influence the specific origins and nature of conflicts. The term "conflict" often implies an adverse or negative situation, but some conflicts have resulted in improved relations among members by increasing local involvement in HRMS affairs. Typical conflicts in the region include the following:

- ◆ *Forest area demarcation:* the establishment of an HRMS, particularly the marking of boundaries, can spark conflicts with neighbouring villages

that have rival claims to the area. At times, a community may stake a claim in the forests without formally establishing an HRMS, thereby generating conflict with its neighbours and with HFD.

- ◆ *Ambiguity in role definition:* any ambiguity in key HRMS roles and relationships can produce conflicts that threaten the smooth functioning of the groups. Conflicts arise if management committee members manipulate or do not adhere to group policies, or if they neglect their official duties. Differences in understanding and/or interpreting rules, regulations or conditions agreed earlier may also lead to conflicting situations among two or more parties in the HRMS.
- ◆ *Financial issues:* lack of transparency in financial transactions is a frequent reason for intra-HRMS conflict. Although HRMS by-laws require that all decisions about allocating funds over Rs 250 be approved by majority vote in general assembly meetings, management committees sometimes ignore the rule. In several such cases, the committee members made bad investments, and the resulting financial loss added to the conflict.
- ◆ *Subletting of leases:* conflicts occur when HRMS members sublet to private contractors for the harvesting of forest products and grass without holding an open auction, or without prior discussion at a general meeting. Other lease issues include offering dam water to contractors at below market rates.
- ◆ *Non-payment of dues:* the non-payment of dues (water charges, fees, etc.) by HRMS members generates conflicts. The outgoing management committee is required to collect all outstanding payments before an election, and this often causes friction between the non-payees and the office bearers. The latter have been known to forego collecting payments from their relatives and close friends, thereby inviting criticism from, and conflict with, others.
- ◆ *Power struggle:* the organizational structure of the HRMS aims at ensuring equality among members. This arrangement often entails challenging the established social order based on the dominance of one group over another. The potential loss of power wielded by local elite groups can cause them to resist the JFMP. The potential losers and winners from the programme sometimes jostle over control of the HRMS and its various facets.
- ◆ *Decentralization and leadership issues:* local political leaders sometimes feel threatened by a perceived loss of power from the decentralized and

democratic decision-making process of the HRMS. This perception, in turn, causes leaders to erect walls of resistance against the new social order. Leaders can become unwilling to abide by the decisions taken by the majority, thereby causing tensions and conflicts.

- ◆ *Benefit sharing:* disagreements about benefit sharing from local common property resources can provoke conflicts. Tension can arise when the customary rights of local forest users clash with the HRMS mandate. Longstanding user rights of villages within and near forest areas in Haryana are not uniform. Nevertheless, the rules and regulations applicable to all HRMS are the same. People may disregard the norms of the HRMS in order to enhance their own access to forest resources, resulting in conflict. Inequities in benefit sharing, at the expense of the poor, also generate discontent and discord within the HRMS and its community.
- ◆ *Resource management and utilization:* conflicts over resource management arise when stakeholders have differing objectives. For instance, one source of income for the HRMS is pisciculture (fish farming), which requires a minimum level of dam water. The management of pisciculture is contracted, generally for five years, to the highest bidder at an open auction. However, all the water in the dam must be drained periodically for irrigation purposes, and this kills the fish. This situation creates a financial conflict between the HRMS and the contractor, who cannot pay the leasing fee because of the loss of the fish. Villagers also clash with HFD field staff over the control and operation of forest resources.



- ◆ *Overlapping and competing jurisdictions*: a source of potential conflict is the recent constitutional change that empowers local authorities in the *panchayats* to assume responsibility for village forest areas, minor forest products, small-scale irrigation, watershed management and other activities controlled by the HRMS. This situation currently appears stable owing to the amiable working relationships between many *panchayats* and the JFMP, but the potential problem of overlapping and possibly competing jurisdictions still exists.

8.4.5 Conflict resolution mechanisms

The HRMS possess their own conflict resolution mechanisms. Their partner institutions, HFD and TERI, which has been a facilitating agency since 1990, support these mechanisms.

The most effective mechanism for managing existing or potential intra-village conflicts is the holding of frequent and regular meetings of the general HRMS membership. Negotiations among members often resolve both intra- and intervillage conflicts. HFD and TERI staff play a neutral facilitative role at these meetings, generally guiding them and serving as mediators when needed.

Most intra-HRMS disputes are resolved through fact-finding exercises that collate information from all parties related to the issue and prepare and discuss a summary. Disputants then negotiate mutually acceptable and binding solutions. While the same mechanisms are applied to inter-village conflict, the assistance of HFD and TERI are regularly sought for facilitating such meetings and, later, for mediating the negotiation process.

TERI and HFD organize training courses for HRMS general members and managing committees in order to clarify their roles and obligations in an attempt to avoid role definition conflicts. HRMS members are taught how to draft and maintain a constitution, by-laws, registration certificates and the formal agreements they make with HFD. The societies also receive training on how to keep registers for membership, water use, fodder and fuel use. In addition, training covers how to manage financial accounts, including cash books, receipt books, bank records, audits and annual reports.

The general body meetings handle all issues concerning the HRMS, and have a goal of involving a cross-section of the community. This broad-based involvement has expanded the concept of widespread participation in community affairs, whereas previously only a few officials and leaders handled local matters. In many villages, HRMS membership has sparked a new attitude, which is demonstrated by enhanced support and improved capacity to address community needs.

8.4.6 Sources

TERI. Joint Forest Management Series No. 1 to 24. New Delhi, TERI.

8.5 CASE STUDY 2: LEARNING TO RESOLVE CONFLICTS IN COMMUNITY FORESTRY: A CASE STUDY FROM DHUNGESHORI, NEPAL

by Hari Lal Paudel



8.5.1 Case study guidelines

Background

Nepal has emerged as a global leader in the decentralization and devolution of authority over forests to the local level. Recent policy changes allow national forest lands to be handed over to communities for man-

agement through local forest user groups. As in the case of the JFMP in India, this new policy not only increases local participation in decision-making, but also serves as a form of proactive conflict management. At the same time, however, the innovative policy has itself become the context for conflicts. This case study is based on materials prepared by Hari Lal Paudel of the Nepal Swiss Community Forestry Project, Kathmandu, Nepal.

Study questions

1. What have been the major causes of conflict in the Dhungeshori CFUG?
2. Who are the stakeholders in these conflicts?
3. What resolution methods have been used to resolve the conflicts?
4. Was the assistance of outsiders necessary in managing the conflicts?
5. Has conflict hurt or benefited the CFUG?

8.5.2 Introduction

Nepal's private forests were nationalized in 1956, but this policy proved ineffective because of a lack of popular support. Large forest areas have been destroyed over the last three decades. In the 1980s, forestry officials began to seek innovative strategies involving local participation to address the problem of deforestation. In 1989, the Government of Nepal approved a new Forestry Sector Master Plan with participatory forestry as its centrepiece. A key aspect of the new plan is the decentralization and devolution to the local level of authority over some State forests through officially recognized CFUGs. The primary task of forestry field staff has become the provision of technical assistance to communities, particularly to the CFUGs. By 1997, 5 316 CFUGs were managing 352 326 ha of forest.

The Community Forestry Programme is considered to have been quite successful by global standards. Success and conflict, however, go side by side. This case study focuses on a series of conflicts faced by a CFUG in Dhungeshori village in Dolakha district, located 160 km east of Kathmandu, the country's capital. It is a small village, with 174 residents. Despite its low population, Dhungeshori is socially diverse, containing members of different castes and ethnic groups. The forestry conflicts that occurred in Dhungeshori are typical of those experienced by other communities in their initial years of participatory management. Conflicts

often emerge over boundary conflicts, misuse of financial funds, intra-boundary disputes and leadership struggles.

The Dhungeshori CFUG was formed in March 1992. It consists of all community members. An elected committee composed of 15 representatives oversees the daily management responsibilities. The government officially handed over 70 ha of forest to the village in July 1994. This land included 10 ha of natural pines and 15 ha of plantations, with the rest consisting of oak woodland. In less than two years, Dhungeshori CFUG had imposed grazing controls on the entire parcel, established an additional 11 ha of plantations and set up a 1 ha demonstration plot. In 1995, the group received first prize for its excellent forestry planning and management, out of 54 CFUGs operating in Dolakha.

8.5.3 CFUG conflicts and their resolution

Despite its fine performance, the Dhungeshori CFUG has experienced a range of conflicts. Instead of undermining the confidence and capabilities of the CFUG, however, the conflicts and their management have served to strengthen the group's commitment. The conflicts also helped to define the rules and incentives that needed to be developed in order to meet local long-term goals. The following paragraphs describe a series of conflicts that the Dhungeshori CFUG faced and resolved during its first years.

Encroachment of community forestry lands by nearby farmers

A cadastral survey documented the boundaries between State forest and private lands in 1989. Afterwards, some farmers with adjacent holdings extended their fields into the forest by clearing small parcels and planting crops. They continued to do so on a small scale for several years. The Department of Forest Operations surveyed the land again when the local CFUG committee took over management of the State forests in 1992. The forestry staff and committee members discovered that the 1989 boundaries were not clearly demarcated. The survey team used their own judgement in placing the boundaries on the CFUG management map. During this survey, however, no permanent signs or markers were used to demarcate the boundaries physically.

The forestry staff who had helped the CFUG to map the boundaries were subsequently transferred from the region. The incoming staff were not informed about the boundary survey. Meanwhile, the CFUG committee also changed its membership. The result was that neither the new foresters nor the new committee members were aware of the two previous forest surveys.

The new committee resurveyed the boundary line and found some encroachment, an issue it raised at the next CFUG assembly. The membership agreed to a series of actions for dealing with the farmers. They formally noted the boundary transgressions and requested that the farmers halt their actions. If the farmers ignored this request, the CFUG decided that it would seize the encroached land and fine each violator Rps 500.

The Dhungeshori CFUG then asked the forestry staff to mark the community forest boundaries on a map. The foresters agreed, but they soon observed that no clear reference points existed. Their survey equipment also turned out to be unreliable. The boundaries could not be clearly and accurately determined.

The CFUG decided to plant tree seedlings on the land under dispute. This action caused further conflict between the group and the farmers, who persisted in their claim to the land. The CFUG general assembly decided to resolve the issue through negotiations, in the hope of reaching an equitable settlement and improving relations with neighbouring land users. Some farmers were unwilling to participate, however, so the negotiations proved unsuccessful.



In response, the CFUG members proposed that a neutral representative be selected to mediate the group conflict. The conflicting parties agreed to ask the district forest authority to resolve their issues. The forest authority called a meeting of the two groups' representatives and proposed solutions for sharing the land under conflict. Everyone agreed that the forest authority should mark the boundary between the private land and the community forest. This settled their conflict.

Conflict over misused money

During its first year, the Dhungeshori CFUG received a grant from the Nepal Swiss Community Forestry Project to establish a tree plantation. The executive committee asked all the members to work together for a few days to establish the plantation, promising to pay everyone for their labour.

The community obtained Rps 20 000 for the project, but the CFUG leadership – the chairperson, secretary and treasurer – misinformed the members about the size of the grant. They first reported only Rps 5 000, then Rps 7 000, as the total funds available. The committee then proposed splitting the grant into small portions, giving equal payments to each CFUG member. The remaining funds were divided among the committee's ten members. Three executive committee members opposed the plan and refused their portions of the money. Many CFUG members complained about the plan's unfairness when they heard about its procedures for dividing the funds.

Forestry and Nepal Swiss Community Forestry Project staff who worked regularly with the Dhungeshori CFUG became aware of the conflict over the division of funds. The foresters and project staff gathered information from local authorities and the CFUG members about the issue. Several informal discussions were held with the conflicting parties. Finally, a CFUG committee meeting was held to document the case officially and establish a mechanism for resolving the conflict. The committee agreed that the grant had been misused, and called for a CFUG general assembly. The committee also decided that all the executive committee members should refund the misused money, a total of Rps 8 236, before the CFUG assembly convened. By the time the general assembly met, the committee members had repaid their obligation. The CFUG membership decided to replace the existing executive committee.

Boundary conflict between two CFUGs

In 1994, the people of Saunepkha, a community adjacent to Dhungeshori, formed their own CFUG. The members of both CFUGs customarily had open access to forest resources in the region, and no clear boundary line demarcated their respective territories. The forestry staff who had worked with Dhungeshori CFUG to establish its boundaries had just been transferred out of the region. The Saunepakha CFUG surveyed its area and included part of the Dhungeshori forest on its map. When the Saunepakha CFUG began to protect its forest, conflicts immediately arose with people from Dhungeshori. Both groups claimed rights to certain forest patches set aside for oak regeneration.

The two groups raised the boundary issue at a CFUG networking workshop. The workshop members suggested that the communities resolve the conflict by negotiating with each other in the presence of forestry staff. The assemblies of both CFUGs authorized their leaders to negotiate and resolve the problem by determining a compromise boundary line.

The representatives of the two CFUGs met on several occasions over more than a year to discuss the issue, but they could not reach a mutually acceptable solution. The forestry staff then called a meeting with representatives from both CFUGs to deal with the case. The conflict was finally resolved when both conflicting parties agreed to a boundary demarcated by the government forest authority.

Leadership conflict

In 1996, a leadership conflict emerged between the chairperson and the secretary of the Dhungeshori CFUG. The chairperson was very active in the CFUG and had a good reputation among the membership. He was also a strong supporter of a political party in the community. A local election came up, and the chairperson decided to run for office. The CFUG secretary also chose to run as another party's candidate. Their political rivalry spilled over into CFUG affairs.

In November 1996, the CFUG met to review its past activities and finances. During the general assembly, the secretary accused the chairperson of unfairly punishing several forest users and paralyzing the interests of some executive committee members. The secretary proposed a no-confidence motion against the chairperson, charging that he regularly made decisions without consulting other executive committee members. The assembly rejected the motion.

The forestry and project staff decided to intervene in the conflict between the two CFUG leaders. They talked individually to the executive committee members, asking if the chairperson had consulted them in making decisions. Each person stated that all decisions had been made jointly. In the meantime, some forest users who supported the secretary's political party collected signatures from executive committee members who agreed to resign from their posts in support of the no-confidence vote. The secretary's supporters wanted to force the chairperson to resign, since a provision in the CFUG operational guidelines specified that the existing executive committee must be dissolved if two-thirds of its members resigned. During the signature drive, some committee members reported that they had signed under duress. The petitioners had made political threats against them. Nevertheless, the resignation list was presented at an executive committee meeting, and an assembly meeting was convened in late December to resolve the issue.

As this and other conflicts unfolded, the disputants sought support from all sectors of the village, including traditionally disadvantaged groups such as the so-called "untouchable" castes. The ideas and interests of these groups received attention because the conflicting parties recognized that every vote counts, and that any one vote might be decisive in the final result.



During the December assembly, the forestry and project staffs facilitated the meeting by introducing ground rules for discussion. All conflicting parties were asked to present their views, then the issues would be open for discussion. The executive committee members all requested that the chairperson not serve again in order to resolve the problem. However, they acknowledged his significant contributions to the CFUG. The chairperson agreed to stand down, provided that he could recommend his own successor. His nominee proved acceptable to all members, and a new committee was formed by consensus of the assembly.

8.5.4 The impacts of conflicts and conflict resolution processes

While these conflicts were at their height they often had a negative impact on CFUG cohesion. This situation was reflected in a decreased number of regular meetings, declining attendance, less effective forest protection and reduced overall participation in CFUG activities. A strain in group relations was also displayed during the conflict resolution process itself. In each conflict, the parties initially used negotiations to seek a resolution. This strategy failed to provide a consensus solution. The disputants needed outside assistance to mediate or arbitrate their concerns.

Ironically, conflicts helped to strengthen the long-term extension and participation components of community forestry in Dhungeshori. The process of negotiation – although it proved unsuccessful in providing a resolution – made community members aware of key issues and diverse stakeholder interests. The conflicting parties and the rest of the village became drawn into discussions regarding their rights and responsibilities in managing the community forest. Similarly, the conflicts increased the creativity and linkages among CFUG members. Conflict parties seeking to rally support engaged many sectors of the communities as participants. These conflicts compelled the newly elected executive committee to be more dynamic, active and democratic. As a result, CFUG members now see these conflicts as having helped to develop a better leadership style.

8.6 CASE STUDY 3: SUPPORTING LOCAL MECHANISMS FOR CONFLICT RESOLUTION IN THE CHIANG MAI HIGHLANDS, THAILAND

by Vitoon Viriyasakultorn



8.6.1 Case study guidelines

Background

Thailand is seeking to increase local participation in protecting and managing forest resources in order to combat deforestation. The watershed protection project in the highlands of Chiang Mai Province in northern Thailand exemplifies the sort of collaborative efforts that are now getting

under way throughout the country. As in the India and Nepal case studies, the promotion of popular participation is often complicated by local conflicts. Such conflicts can be especially complex when they involve members of different ethnic communities. This case study examines two conflicts in a multi-ethnic setting in northern Thailand. It is based on materials prepared by Vitoon Viriyasakultorn of RECOFTC, Bangkok, Thailand.

Study questions

1. What are the underlying causes of conflicts in both situations?
2. What conflict resolution strategies were used in both situations?
3. What went wrong in the resolution process in both situations?
4. In both conflict situations, who played a major role in assisting the negotiations?
5. What was the role or influence of culture in the conflicts and their resolutions?

8.6.2 Introduction

Thailand has experienced rapid and widespread deforestation in recent years. One response from the government has been to set aside areas as forest reserves, parks, wildlife sanctuaries and protected watersheds. The goal of conserving resources by imposing land use controls is not easily attained, however. Such areas are often occupied by villagers, including ethnic minorities, who depend on forest resources for their livelihood. Conflicts can arise among different stakeholders – communities, government officials and NGOs – as a result of policies aimed at mitigating deforestation. Some villages have lost their forest access or experienced relocation (or the threat of it) as a result of conservation efforts. Controversies also arise over the boundaries of protected sites.

Resource conflicts can be found throughout Thailand, but they occur particularly frequently in the north, where forest resources remain plentiful. This case study explores land use and boundary disputes involving three northern ethnic groups: the Karen, the Lua and the Hmong. These groups traditionally practise swidden agriculture in upland forests. Swidden farming, also known as shifting cultivation, is a land use practice that is often misperceived by outsiders. Quite often, swidden farmers and other

ethnic groups are blamed as the major cause of deforestation. Although tribal people do contribute to forest clearance, it is important to remember that their farming practices are often environmentally sound. The conflicts covered in this case study arose in the context of a watershed protection project.

8.6.3 The site and the project

Several Karen, Hmong and Lua villages are located in Mae Tum and Mae Suek watersheds in Mae Chaem District, Chiang Mai Province. CARE International, an NGO, has worked on forestry issues in the province since the early 1980s. In 1994, with the support of the Royal Forest Department and financial assistance from DANCED, Denmark, CARE launched a watershed protection project in Chiang Mai and a neighbouring province. It targeted highland areas that serve as the source of many important streams. The communities in these watersheds are situated either in national forest reserves or at officially designated conservation areas. Currently, the project covers 81 villages, consisting of 2 823 households with a total population of 14 892. This case study will discuss conflicts involving only a few of the project villages.

The overall objective of the project is to rehabilitate and conserve the natural resources of watersheds through sustainable community-managed practices. Three immediate objectives are:

1. to improve the community's capacity to protect, rehabilitate, conserve and manage watersheds;
2. to provide alternative income sources in order to reduce pressure on the forest;
3. to enhance the community's capacity to communicate with government offices for development assistance.

In many cases, several villages are located in the same watershed but are governed by separate administrative units. Villages in the same watershed are in frequent contact, regardless of their administrative organization. Their relationships may be either positive or negative, depending on their farming methods and how they affect the other villages' practices. In order to work more effectively, most northern highland projects use the watershed as their working unit, instead of using administrative boundaries.

To help achieve the project objectives, CARE encouraged the participating villagers to set up the following two types of committees.

Village Forest Conservation Committees (VFCCs)

Every village in Thailand has a Village Development Committee (VDC) to take care of development activities in the village. The VDC is an official administrative unit under the Ministry of the Interior. As part of the project, CARE established VFCCs in all settlements. The VFCCs' functions are to coordinate activities related to land demarcation, the development of watershed management plans and the formulation of rules and procedures for resource protection. In most communities, the same people are members of both the VDC and the VFCC. The size of the VFCC ranges from five to 20 members.

Watershed Management Network Committees (WMNCs)

The WMNC brings together communities located in the same watershed or micro-watershed. The WMNC includes representatives from all the VFCCs in the area. The number of VFCC members represented varies according to the size of the village, but usually ranges from three to seven people. The major objectives of the WMNC are:

1. to resolve conflicts between villages in the same micro-watershed and in different micro-watersheds;
2. to coordinate and negotiate with neighbouring villages, other WMNCs and government agencies (for example, national park officials);
3. to obtain the endorsement of micro-watershed management plans from local government officials.

Initially, the project sought to formulate relatively small WMNCs, each consisting of three to five villages. The number depended on how ready local people were, since the project did not start working in all areas at the same time.

8.6.4 The people and their indigenous conflict resolution strategies

The communities living in the project watershed are from the Karen, Hmong and Lua ethnic minorities. They are distinguished to varying extents from mainstream Thai culture by customs, dress, language and religion. In many cases, their occupation of the northern Thai forest dates back many hundreds of years. They claim their territory through aboriginal or first-clearance rights. From the perspective of the country's forestry laws, however, they are actually illegal occupants of State lands.

The Karen

The Karen are the largest ethnic minority in Thailand. Their settlements are generally found in uplands above 500 m in elevation. They traditionally relied on rice and vegetables grown in swidden plots for the bulk of their subsistence, but many Karen are now engaged in cash cropping in response to opportunities from both domestic and export markets. Others have dropped out of farming owing to poverty, the need for additional cash income or drug addiction. Such farming families have sold or let their lands, usually to Hmong neighbours. Some Karen obtain employment as day labourers on Hmong farms.

In Thailand, the Karen have a reputation as a gentle and compromising people. Their traditional leaders and elders normally play the role of mediators when a conflict occurs. Disputes among the Karen themselves are generally handled by their own customary conflict resolution mechanisms, but the Karen seem to have difficulty dealing with conflicts involving outsiders who have more forceful negotiation styles, including government authorities and some other ethnic groups.

The Hmong

The Hmong or Meo are the second largest ethnic minority in Thailand. In the past, they generally practised swidden agriculture in forest areas. Some Hmong also grew opium as a cash crop. Now they are compelled to settle permanently, using intensive agricultural practices introduced by the Narcotics Control Programme. At present, their households often engage in rice and commercial vegetable growing, including cabbage, Japanese onions and carrots. In many cases, Hmong farmers use chemical fertilizers and insecticides on their cabbage fields, causing conflicts with lowlanders who are concerned about the contamination of water and soil.

Although the Hmong cling closely to their cultural identity – for example, commonly wearing traditional dress – they are quick to adopt modern technology. Examples include not only farm chemicals, but also pick-up trucks to take their produce to distant markets, such as Bangkok. The Hmong also possess a reputation for being experienced traders.

The Hmong retain strong kinship ties. Extended kinship groups known as *sae*, or clans, often provide the framework for handling conflicts within Hmong society. The elders of each clan will try to resolve any disputes among family members. Each clan tries to keep its internal disputes from public view, since such publicity would cause a loss of face. If a conflict occurs between people from different clans, the disputants will look for a suitable person from another *sae* to serve as a mediator. It is customary for the disputing clans to avoid face-to-face negotiations. Instead, the mediator will communicate with the disputants separately, although the two groups will stay close to each other so that they can exchange information and views quickly. Mediators sometimes receive payments for their services, especially in cases involving cash compensation to one of the parties.

The Lua

In some places, it is difficult to distinguish the Lua from other Thais because of years of intermarriage. However, original Lua still live in Chiang Mai Province. Many Lua households still practise traditional swidden agriculture, although they have modified such farming systems over time. Today they grow upland rice, maize and vegetables, and raise cattle, pigs and chickens. Like the Karen, the Lua possess a reputation as a peaceful people. Their elders and local leaders serve as mediators and facilitators when conflicts occur in their community.

Conflict 1: The people of both Mued Long and Sae Do Sa villages claimed the right over a piece of forest and agricultural land of about 300 rai that had been used as the boundary between the two villages.

Mued Long is a Lua village and Sae Do Sa is a Karen village, both situated in the Mae Tum watershed. CARE has worked in both villages since the beginning of the project. Each village has a VFCC. Historically, Mued Long village had used the disputed land, but it had let Sae Do Sa village use this territory for years without taking any action. However, when Sae Do Sa villagers caused fires in forest that is protected by Mued Long village, the latter decided to claim the land back.

Attempts to resolve the conflict got under way in 1994. Several meetings were held, with the VFCC members serving as representatives for each community. CARE project staff attended the meeting as observers. The following is a summary of the meetings and the negotiation process:

◆ *Meeting 1:* The first meeting was held at Sae Do Sa village. The VFCCs of both villages served as negotiators for each side. They reached an agreement, specifying that Sae Do Sa villagers could continue to cultivate the parcel, but that they must control fires from their fields. On returning to Mued Long village, the VFCC members announced the agreement, but traditional community leaders refused to accept it. The leaders insisted that their village must retain ownership over the land.



- ◆ *Meeting 2:* The VFCC members from both villages decided to hold another meeting, this time at Mued Long village. Again, the traditional leaders of Mued Long demanded that their village retain exclusive control of the land. They argued that Mued Long villagers had long protected this forest parcel. The VFCC negotiations failed for the second time.
- ◆ *Meeting 3:* The VFCC representatives now looked for a neutral place for the third meeting. Mae Hae Tae village was selected for the third meeting. The leaders and villagers of Mae Hae Tae village also participated in the negotiating meeting. Again, the negotiation was not successful. The representatives from the two villages in dispute refused to alter their positions.
- ◆ *Meeting 4:* This time the Mae Tum WMNC was involved, since the VFCCs could not bring the disputants to an agreement. The meeting included 36 members from Mae Tum WMNC and representatives from both Mued Long and Sae Do Sa villages. After much discussion, the

committee and villagers decided to walk through the area and clarify the boundaries together. After the meeting, they did so, agreeing that the area would be used by both villages. They put up a signboard stating that the area belongs to both Mued Long and Sae Do Sa villages. The negotiations also produced an agreement that Sae Do Sa villagers must control fires in their fields, and that they are obligated to assist Mued Long villagers in protecting the forest.

Conflict 2: Nine Hmong families encroached on the conservation area in the Mae Tum watershed, causing a land use conflict between Tum village and Pui Nuer village.



In 1990, a conflict occurred in Pang Hin Fon subdistrict when three Hmong families from Pui Nuer village cleared forest in the Mae Tum watershed for cabbage plots. They had not obtained permission from Tum village, a Karen community that viewed the area as under its sphere of influence. The three Hmong pioneers were later followed by six additional families, who extended the land under cultivation.

Representatives from Tum village talked to the Hmong families, who claimed that their parents had traditionally used this land. The Tum villagers subsequently brought the issue before the Pang Hin Fon subdistrict council, the local administrative body. Since Pui Nuer is located within

the subdistrict, it already had representatives on the council. The councilors decided to help with the negotiations, but their efforts failed to produce a mutually acceptable agreement.

The council sent the dispute to district officials for resolution. It was felt that the district administrators had more authority to deal with the problems. These officials could supposedly compel the Hmong families to halt their encroachment because they were occupying national forest lands. This attempt to shift conflict management duties to a higher administrative level proved fruitless, however, because district officials sent the appeal back to the Pang Hin Fon council for reconsideration.

The land under dispute was part of the CARE watershed project, and its staff proposed that the Mae Tum WMNC assist in the negotiations. It organized a meeting in April 1997 at the site of the area under dispute. About 50 people participated, including Mae Tum WMNC members, the Hmong families and their supporters, CARE field workers and a forester from the local Watershed Protection Unit.

The negotiation process: The meeting started on 4 April 1997. A CARE worker and the forester coordinated the meeting. Bringing all the Mae Tum WMNC members to the area was difficult because they came from more than ten villages, some of which were quite distant. Most committee members did not have their own vehicles, so CARE and the Watershed Protection Unit provided transport. The participants, except for the Hmong families, first met at the Watershed Protection Unit before heading to the meeting. Some committee members were unable to attend, including the WMNC chairperson and his assistants. Others who showed up were not prepared to negotiate. Most of the committee members who came were young people who lacked experience in negotiations. The head of Mae Tum village, who is also the secretary of the WMNC, assumed the leadership role. Still, the meeting at the WMNC did not include a discussion of negotiation strategies.

The negotiations got under way on a sunny late afternoon. The site's physical characteristics made it difficult to find an appropriate place for 50 people to sit for discussions. The committee decided to hold the meeting at the curve of a narrow road where the sunlight was reduced. Nevertheless, conditions were such that people along the curve had difficulty hearing the different speakers.

No one was officially appointed as facilitator. The head of Pui Nuer assumed these duties, opening the meeting by introducing the issues for discussion. He also spoke on behalf of the Hmong families, since they came from the same village. The Mae Tum head represented the WMNC in the discussions with the Pui Nuer head and the Hmong families. CARE staff and the forester took notes and drafted an agreement, but they did not intervene in the negotiations.

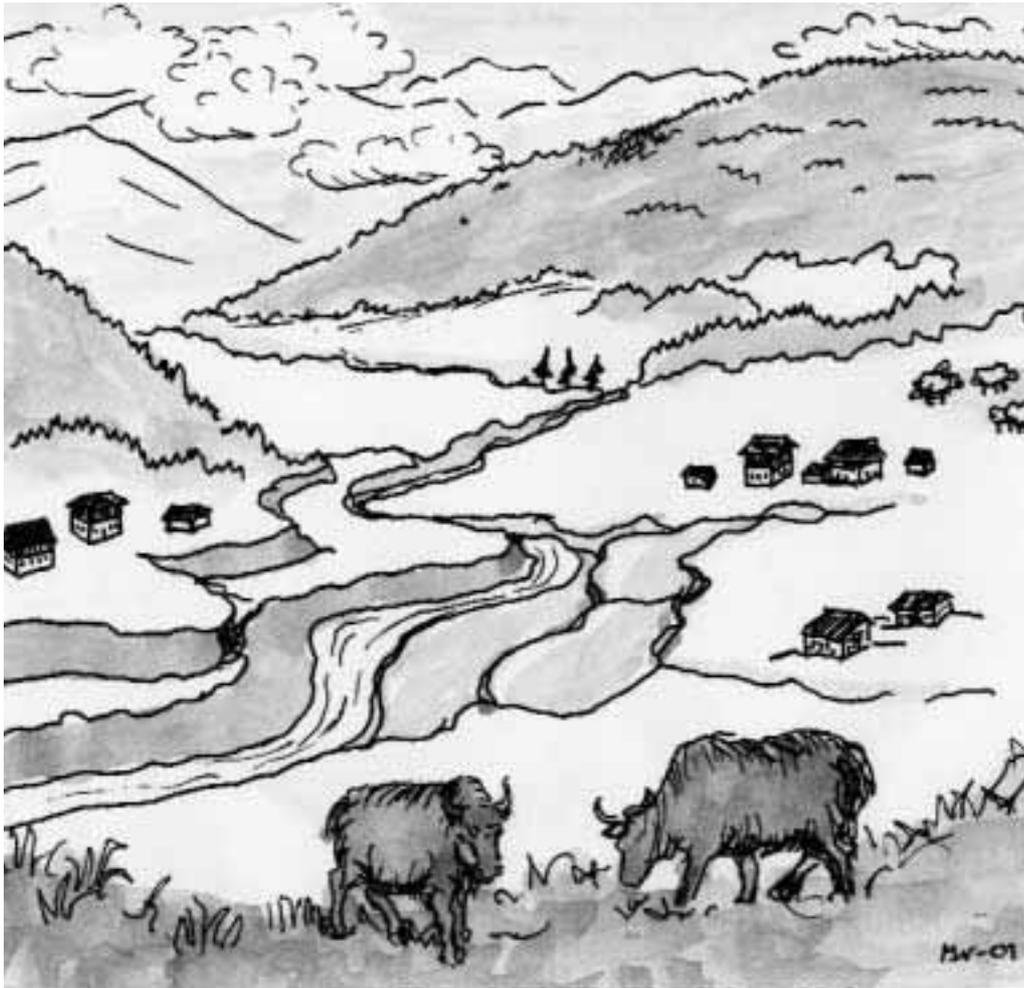
Many arguments occurred between the parties. No clear procedure existed for letting participants give their views and opinions. The Hmong representatives appeared more forceful in presenting their demands. Both the Hmong and the Karen used the Thai language in the negotiations. However, the Hmong talked faster and had more opportunities to present their views.

The resolution process: The Hmong families strongly defended their rights to the land, claiming that their parents had used the parcel and then left it fallow to regenerate. The WMNC members felt that the land now fell under their protection for watershed conservation. Many committee members, however, had difficulties dealing with the Hmong's negotiation style. In addition, they felt unable to reach any decision because the committee chairperson was absent. The WMNC finally agreed that the nine Hmong families could continue using the land, but must not expand their fields. The head of Pui Nuer agreed with the proposal and told the Hmong families that they must accept the conditions. If not, he would refuse to assist them in future conflicts. The agreement was recorded by CARE staff and signed by both parties.

After the signing took place, the villagers, CARE staff and the forester walked together along the boundary to demarcate it by painting trees as markers. This action was aimed at ensuring that the Hmong would not expand their agriculture beyond the agreed site.

8.7 CASE STUDY 4: SOKSHING CONFLICTS IN BHUTAN

by Lam Dorji



8.7.2 Case study guidelines

Background

Conflicts over forest resources can occur among long-term neighbours in small, homogeneous rural communities. This case study describes such a conflict in the Himalayan kingdom of Bhutan. The neighbours were competing over the rights to *sokshing* – forest plots located near settlements. Although all forests are owned by the government, use rights to *sokshing* are allocated to individuals and families. This case study differs from case

studies 1 to 3 in several ways, including the substantial role played by administrative arbitrators and courts in attempting to resolve the conflict. It is based on materials prepared by Lam Dorji of the Royal Society for the Protection of Nature, Thimphu, Bhutan.

Study questions

1. What are the main causes of the conflict?
2. Why do you think that Sonam withdrew his court case against Zangmo in favour of using an arbitration process?
3. How would you differentiate arbitration from negotiation?
4. What would have been some of the possible implications to community forestry in Bhutan if the governor's actions had been fairly implemented?
5. Why did Zangmo persist in pursuing her case?
6. If you had been a neutral in this case, what steps would you have taken to resolve it?
7. Could this conflict have been prevented? If so, how?

Introduction

Bhutan is a small Himalayan kingdom that has opened itself to the outside world since the 1960s. More than 70 percent of the country is covered by forest, and it is official policy to retain extensive tree cover for environmental protection. The Forestry Services Division of the Ministry of Agriculture is responsible for managing forest resources. The government retains ownership of all the nation's forests. Forest lands immediately around settlements, however, are registered as *sokshing* to individual households. Every community has an internal agreement specifying their local *sokshing* boundaries in order to prevent encroachment by others. Households possess use rights to the trees in the *sokshing*, but they hold no legal rights to ownership. In addition, *sokshings* are not formally mapped because the government does not set the boundaries. Only His Majesty the King possesses the authority to issue a written order, or *kasho*, granting government land, including forest, to an individual.

As Bhutan modernizes, conflicts over natural resources are becoming increasingly common. Such conflicts occur mostly between communities and households over land encroachment or unauthorized use of resources. People are liable for a fine or legal action if the owner of the land lodges a complaint, or if they are caught by forestry personnel.

There are both traditional and contemporary methods for resolution. Traditional conflict resolution methods usually involve village elders and heads who assist disputants in negotiating their interests. Failure to resolve a conflict through negotiation ultimately brings people to request a legal resolution. Guided by the kingdom's laws and regulations, legal processes can be conducted at various levels. Unsatisfied parties can file a case that has remained unresolved at the village at a district court. Similarly, if any of the parties is unhappy at the district level, and genuinely feels the need for further inquiry, the case can move to the High Court. A party who is still unsatisfied with the High Court's decision, has the final option of appealing to the King for justice.

If the case reaches the King, it is handed over to the Royal Advisory Council, which consists of the people's elected representatives. The councillors conduct an investigation and report their decision to the King for his action. When the King renders a decision, the Royal Advisory Council declares the resolution through the High Court.

8.7.3 The conflict in Chang Village

Chang village consists of 20 households. The community has a reputation for educating its young. Many of the villagers grow up to become officers in the government or obtain good positions in the private sector. The village's pattern of forest access also reflects the legacy of its past. Only eight families have forest land registered in their names. The other families possess no *sokshing* owing to their ancestors' inability to pay the high taxes imposed in the past. In the past, at least, having a *sokshing* indicated the prosperous status of a family.

The village also had a reputation as a harmonious place. Its elders have customarily played an important role in ensuring good relations within the village, exercising leadership and drafting agreements. The rest of the village traditionally complied with their decisions, even when they did not understand the details, because they trusted in the wisdom and fairness of the elders. Nowadays, less harmony and consensus exist in the community. People increasingly question one another's views and acts concerning community issues. This change in culture and social relations has fostered the rise of conflicts.

In early 1995, a woman named Zangmo discovered that someone had cut trees and cleared land in her *sokshing*. On inquiry, she discovered that it had been a local man named Sonam, an officer with the Royal Body Guard, to do so. Zangmo reported the act to local forestry officials, who claimed not to know that the land belonged to her. Rather, they informed her that Sonam claimed to possess the area through Royal Command. He had sought and obtained their permission to convert the parcel into agricultural land.



8.7.4 Appealing to higher authorities

Zangmo went to the district governor, stating that the King could not authorize Sonam to use her forest. She threatened to approach the King directly, if necessary. Meanwhile, Sonam responded by filing a case against her in the district court. Before she could respond, Sonam offered to submit the case to arbitration. Although Zangmo did not understand why Sonam wanted to use an arbitration process, she agreed and the court case was withdrawn.

The district governor and his councillors served as the arbitrators. They visited the site several times. The governor ruled in Sonam's favour based on:

- ◆ boundary information supplied by the village elders;
- ◆ the Royal Command issued to Sonam entitling him to convert 7 acres of *sokshing* into agricultural land;
- ◆ Zangmo's land record, which showed only 0.6 acres of *sokshing*, while she claimed about 6 acres;
- ◆ The fact that *sokshings* legally belong to the government;
- ◆ Zangmo's lack of formal rights over land registered as *sokshing*.

The decision resulted in Zangmo surrendering almost half of her *sokshing*, since the boundaries were drawn even further inside the plot than was the originally contested borderline.

The governor sent the agreement to Zangmo to be signed. She refused to do so, arguing that the decision was unfair because:

- ◆ the village elders were relatives of Sonam and gave the governor a biased interpretation of the boundary;
- ◆ throughout the country, it is common practice that registered forests actually include a larger use area than is contained on the official land record (and such differences are often noted in the village internal agreement);
- ◆ Sonam had taken advantage of his relations to the Home Minister, under whom the governor serves;
- ◆ the governor was using his political power to force Zangmo to sign a biased agreement.

In addition, Zangmo argued that Sonam only converted forest to farmland on her section of the *sokshing*, rather than on his own land. She revealed that the land Sonam registered for conversion was under his mother's name and covered 7 acres in three separate parcels. He had yet to clear any of this land. Zangmo noted that the governor had not questioned Sonam's failure to do so. She argued that Sonam's sole interest was to obtain her land.

Zangmo asked the governor to direct the case to the district court. The governor denied her request. Instead, he sent the same agreement to Zangmo for her signature. Again, she returned it unsigned, attaching a letter expressing her dissatisfaction with the outcome.

Meanwhile the Home Minister ordered the governor in March 1996 to measure Zangmo's *sokshing* as stated in the land record. The governor and other officials went to the site and marked new boundaries. Although Zangmo's family felt that the survey was biased, they agreed to surrender 2.4 acres of land. They did so because of the tremendous time, energy and complications that changing the survey would have involved.

8.7.5 The re-survey: the conflict intensifies

Shortly after the demarcation, Sonam's mother asked the governor to re-survey Zangmo's land. The governor immediately consented to the request and ordered the surveyors to recalculate Zangmo's *sokshing*. The decision upset Zangmo's family, who warned the governor in an application that the previous agreement would collapse. There were two important reasons for their anger:

Biased arbitration: the governor's decision appeared unfair because it involved an exceptional action. No *sokshings* need to be measured or mapped in Bhutan unless they are slated for conversion. If demarcation is to be implemented, it should be carried out on an equal basis involving all the *sokshings* in a village.

Differing values: the actions of Sonam's family showed that it put the value of owning more land ahead of the value of maintaining harmonious relations in the village. His mother insisted on the measurement to deprive Zangmo of even more of her land. She hoped that the survey would limit Zangmo's *sokshings* to only 0.6 acres, with the rest being declared as gov-

ernment land. In contrast, Zangmo had agreed to relinquish part of her holding for the sake of ending the conflict. She put a higher value on maintaining social relations with a neighbour than on material wealth. The two parties clearly possessed different values and priorities.

Zangmo's rejection of the proposed re-survey met with a stern response. The governor stated that the measurement and possible reallocation would take place whether she participated or not. He informed Zangmo of the exact time and date of the survey. Not seeing any point in agreeing to what she believed were unfair terms, Zangmo did not participate.

Sometime later, a new land agreement arrived, along with a map delineating the new boundaries for Zangmo to sign. Her *sokshing* had now been divided as shown in Table 8.1

 TABLE 8.1 ZANGMO'S AND SONAM'S SOKSHINGS	
Name	Area (acres)
Sonam	1.20
Zangmo	0.60

In response, Zangmo submitted another application refuting the biased decision of the governor. Having failed to arbitrate the land dispute, the governor now ordered Zangmo to serve a month's imprisonment for defying his authority.

8.7.6 Further appeals

Zangmo felt completely frustrated by the administrative arbitration process. She submitted a new application to the district court to seek a legal solution to the problem. The application was refused. The judge did not view the case as a task of the governor.

Sonam felt confident of the support of local authorities, including the governor. He started to construct a shed within the disputed area. Zangmo's family promptly demolished the structure. Sonam's sister reported the act to the police, who forwarded the case to the court. This time the court had no option but to accept the case within the legal system. The district court, however, decided in Sonam's favour. The judge sentenced Zangmo to six months imprisonment and levied a Nu 1 000 penalty. Still believing firmly that she was right, Zangmo refused to accept the verdict.

She appealed to the High Court, which took the case. The judges demanded more specific information about the village boundaries. Sonam and his relatives misrepresented the boundary markers during the court's site verification procedures. Because the majority of verifying households were Sonam's relatives, this manipulation was not detected. The judges accepted the misinformation as correct. The High Court ruled in Sonam's favour in May 1997, determining that no basis existed for Zangmo's case. They also ordered her to serve one year's imprisonment and to pay Nu 2 000 as a penalty.

8.7.7 Seeking a final resolution

Zangmo was disappointed by the court's decision, but she remained adamant about pursuing her interests. Her determination was bolstered by the knowledge that two landmarks had been interchanged by Sonam's supporters to deceive the surveyors and judges. She insisted on presenting her case to the King – the highest authority in the country.

Her application led the local forestry official to order Sonam to halt all work unless he could obtain permission for land clearance from the Ministry of Agriculture. Such permission would ensure that Sonam's actions were not illegal. He ignored the request.

The King asked the Royal Advisory Council to resolve the issue. Their main task consisted of verifying the location and names of the landmarks.

Seven families with *sokshing* in the area were called before the councillors. Six of them identified the high elevation landmark as *Tinchenpo* and a lower landmark as *Gemsarpo*. Only one household positioned *Tinchenpo* as the lower landmark. The councillors had each family sign a declaration acknowledging that providing false information could result in imprisonment.

To show that Sonam and the six households furnished false information, Zangmo produced a document from a few years earlier related to a land case. The entire community had donated 1 acre from *Tingchenpo* to a woman named Tashi. The district court had prepared the document, and all the local households had signed it. At that time Tashi had to measure and map her parcel before it could be registered. The land records and the map clearly showed that *Tingchenpo* was positioned as the lower landmark. This information supported the view of the single household, and it clearly showed that Sonam and his supporters had misled the High Court and the Royal Advisory Council.

The term of the Royal Advisory Council ended before it could reach a decision. The new councillors assumed responsibility for the case. They again conducted an investigation involving the same households. Again, the views of each family were taken regarding the location of the landmarks. No final decision has yet been announced. Although it appears that the Royal Advisory Council is sympathetic to Zangmo's interests, there has been some debate between the councillors and the judges of the High Court. It is not clear how this issue will be resolved.

