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Securing Rights to Livelihoods through Public Land Management: Opportunities and Challenges

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Abstract: Public land management has the potential to promote the right to resources of the landless and the land poor in Nepal. Experiences from three Terai districts in Western Nepal demonstrate that effective management of underutilized public land provides an important asset for communities not only to generate forest resources and supplement forest products but, more importantly, also to reduce vulnerability and generate livelihood opportunities for the landless and the land poor. It is argued that the lack of appropriate legislation covering the tenure rights discourages the poor from large-scale investment and restoration of public land. Furthermore, when it starts to generate income, powerful sections of communities might claim access to benefits derived from the land and if subsequent use rights legislation is unable to adequately embrace what has occurred during the initial period of protection and management conflicts may result. Examples are provided of pro-poor livelihood outcomes through public land management, which call for collective efforts for national and local legislation and policy instruments to protect the use rights of the poor groups engaged in public land management.

Key words: public land, tenure, livelihoods, use rights, Terai, mobilization of local resources.

INTRODUCTION

The natural forests of Nepal's Terai are rich in economic terms due to the abundance of valuable timber species with their relatively easy and abundant regeneration and fast subtropical growth rates. The most important characteristic influencing forest management and use in the Terai is the pattern of forest resource and population distribution. The Terai forests are mostly confined to the environmentally sensitive Churia hills or Siwaliks in many districts, and in some, the Bhabar zone immediately to the south of these hills. The Terai plains themselves are largely devoid of large forests, with the exception of some districts, mainly in the far west. Most people inhabit the plains, with many now distant from the remaining natural forests. Those inhabitants now nearest the remaining forests are generally more recent migrants from the hills. This migration originated in the drive to populate the Terai following the eradication of malaria in the 1950s. (Pokharel and Amatya 2000, Bampton and Cammaert 2006).

Public lands in Nepal are not owned by individuals but are informally used as a traditionally managed land resource: roadsides, wells, springs, ponds and bunds,

grazing fields, cemeteries, *Parti Ailani* (barren unregistered land), *Pati Pauwa* (inns), *Chautara* (platforms under a tree or at crossroads), religious and sacred places, temples, memorials, *Chowk* (public yard), *Dabali* (public entertainment sites), drainage ditches/canals, *Haat Bazaar* (local market sites), playing fields, and those lands which are declared as public lands by the Government of Nepal (GoN) from time to time are called public lands (MoLJ/HMG 1962).

Parti Ailani is the land that is traditionally utilized by communities and defined as 'Number 8' by the Mapping Maintenance Office. However, the ownership of this land remains with government. *Parti Ailani* also includes grazing lands and bush scrubs traditionally used by villagers.

A participatory survey of three Terai districts (Table 1) illustrates that nearly 56,000 hectares (ha) is mostly unmanaged and underutilized public land and located in the southern parts of the districts. A large area of this is in the bush land and *Parti Ailani* categories. Nationally, across Terai districts about 20-23% of the land suitable for agricultural cultivation is classified as public land, which is underutilized and unmanaged (Deuja 2007).

Table 1: Summary of Public Land Area in Three Districts and Land Type

Districts	Land area in hectares								
	Parti Ailani	Bush area	Grazing	River	Public ponds	Lake	Canal sides	Road sides	Total
Rupandehi	895	5291	260	2680	445		254	436	10261
Nawalparasi	1613	24038	949	6673	159		254	549	34235
Kapilvastu		7588		2779	681	432	32	516	12028
Remarks	Category for Kapilvastu: NA								
Total 2 districts (without Kapilvastu)	2508	29329	1209	12132	1285		508	985	47956
In percentage	5	61	3	25	3		1	2	100
Total of 3 districts		40634		12132	1285	432	540	1501	56524

Source: LFP 2003

The community forestry handover mechanisms currently used tend to favour the few communities living in the northern Terai, close to the forests, at the expense of those to the south. If the southern inhabitants are poorer than their northern neighbours, then community forestry will inevitably have lesser impact on overall poverty reduction, unless mechanisms are developed to include them in, or benefit them, from the community forestry programme or alternative options are found such as public land management.

Despite their huge potential to produce suitable forest products, poor public lands have not been utilized. Besides, such lands are generally captured by the elite, and well established power relations based on gender, caste and class play an important role in decision making within society, thus limiting the poor and excluded from drawing benefits. In particular, women are more underprivileged and excluded in the Terai. As a result, breaking such social barriers, along with transforming fallow lands into productive ones, is quite challenging and difficult.

It is encouraging to note that, in some public land management groups of Kapilvastu, Nawalparasi and Rupandehi districts, some members of the elite class are beginning to realize that the poor and excluded should benefit the most from such common lands and are showing their commitment to give recognition and priority to them. At the same time, through active participation and involvement in the formation, planning and implementation of the Public and Institutional Land Management (PILM) group activities, the poor and excluded, including

women, have started to raise their voices for their rights and are engaging to establish access to resources and services. However, long-term sustainability and expansion of such initiatives to other parts of the country require analysing and addressing issues at both policy and operational level.

RIGHTS TO LIVELIHOODS AND PUBLIC LAND MANAGEMENT: A SUSTAINABLE LIVELIHOOD PERSPECTIVE

Sustainable Livelihood Approaches

Livelihoods comprise the capabilities, assets and activities required for a means of living. A livelihood is sustainable when it can cope with and recover from stresses and shocks and maintain or enhance its capabilities and assets both now and in the future without undermining the natural resource base (Chambers and Conway 1992).

People draw on various assets (physical, natural, human, social, financial and political) that may serve as both inputs and outcomes. In rural agrarian societies, policies and institutions that govern the resources filter access to these assets and define who gets access to what assets in what capacity, thus determining the degree to which peoples' livelihood objectives are realized. Vulnerability factors (natural hazards or political/social unrest, etc.) also impact availability and access to assets over which people have little or no immediate control (Carney 1999).

Land and forest resources play a critical role as key assets within a diversified rural

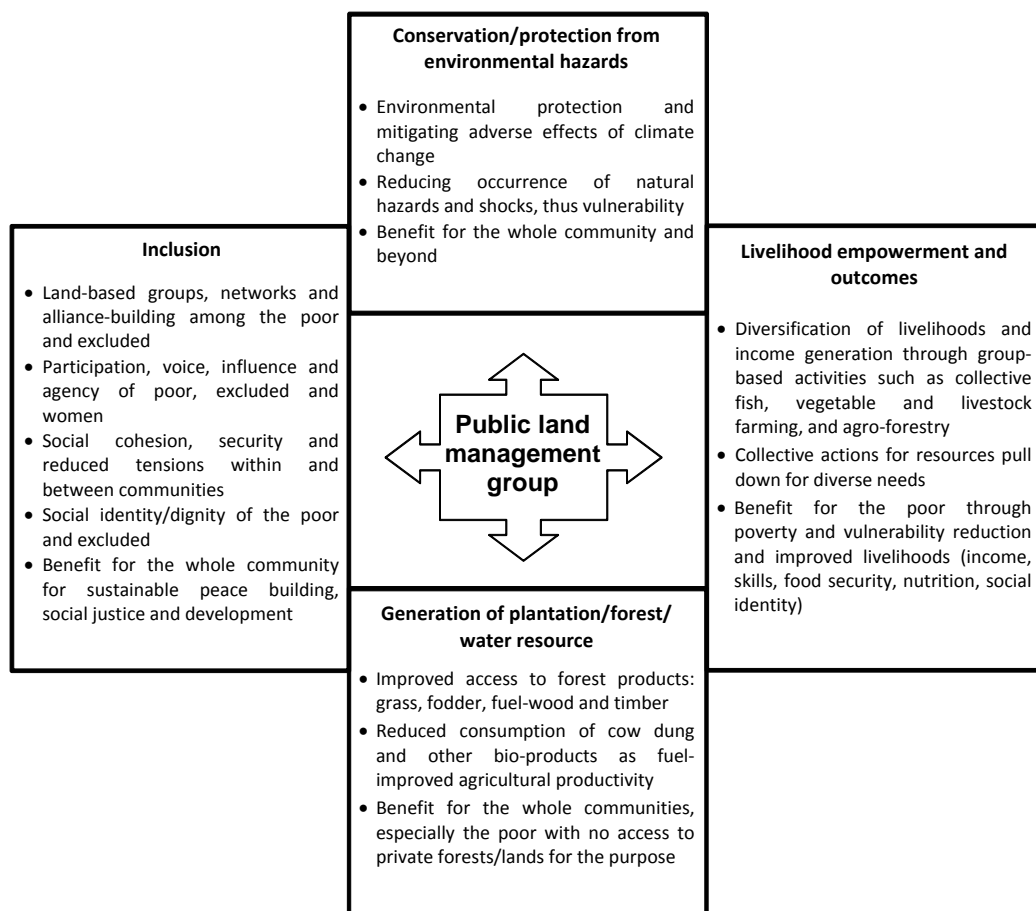
livelihood. In a highly differentiated community with unequal access to land and complementary assets (financial, human and social capital), most of the poor depend on public land and common forests for their livelihoods. Lack of secure access and use rights of the poor to public lands and common forests not only results in inefficient utilization of these resources, but also hampers peoples' livelihood diversification options. It also results in vulnerability, food insecurity and class conflict (Unruh 2004). Thus, any sustainable livelihood-based development cannot avoid the issue of unused public land, its potential for livelihood improvement and corresponding tenurial issues.

Public Land and its Livelihood Potential

Community-based public land management initiatives involve organization and mobilization of communities, especially the land poor, for the protection, conservation and productive land management for potential outcomes, as shown in Figure 1.

The issue of lack of forest resources in the southern Terai could be addressed if suitable tree species are promoted widely in these public lands. At the same time, it is necessary to intercrop trees with grasses, agricultural crops and Non-Timber Forest Products (NTFPs) to provide immediate benefits to poor households by adapting appropriate models based on land potential, user's objectives and maximum return in both short and long term.

Figure 1: Potential of Public Land Management Groups for Generation of Resources and Livelihoods Empowerment and Social Inclusion



In southern Terai, the awareness and empowerment level of the poor and excluded is very low compared to hill/north (LFP 2006b). With pro-poor and inclusive focus it is possible to have active participation of the poor and socially excluded¹ in decision-making to raise voice for their rights, leading to improved social identity, dignity and power balance within the group and beyond. Consequently, it contributes to creating an environment conducive to engaging in public land management and drawing benefits for their livelihoods improvement.

On the other hand, in the Terai, fragmented development interventions are observed, which are of short-term nature, in small and scattered groups. Such initiatives not necessarily contribute to overall livelihoods improvement since there is a possibility of duplication and it could only work as a piece meal. PILM groups are based on natural resources and require the whole community to work together for long periods. As a result, if systematically formed and strengthened, and clear policies and guidelines are available, these groups can become potential entry points for wider development interventions in the south.

However, how effectively this potential can be realized depends on the context in which resource users are mobilized, institutions and organizations facilitating the process operate at various levels, and policy and legislation. Organizations working to strengthen sustainable livelihoods of the poor through land and land-based resources have tremendous opportunities to tap this potential of public land, provided that the operational space, policy environment and political structures, at various levels, allow for secure tenure and related investments.

The current guideline of the Department of Land Reform identifies the prevalence of public land and its untapped potential. However, the guidelines does not foresee the way effective public land management by the poor is linked to livelihood improvements

and thus does not make an explicit recommendation about the ownership of such lands and possible tenurial arrangements to ensure the rights of local poor to use the land.

KEY ISSUES

Unequal Distribution of Land and Common Forests

Nearly 66% of Nepalese are engaged in farming for their livelihoods (CBS 2001). Though land distribution is skewed, it represents a fundamental asset: a primary source of wealth, income, security and status in Nepalese society. The bottom 47% of agricultural households occupy less than 15% of total cultivable land, while the top 10% occupy more than 30% (CBS 2003). Some 22% of agricultural households do not own land and nearly 47% live on marginal land holdings (of <0.5ha). Of the total farming population, 7.3% either depend entirely on land tenancy or lack a secure stake in the land they till. Rural landlessness, inequality in land holding and lack of a secure stake in land are more serious in the Terai than in the hills (Aahuti 2003, Rai Paudyal 2007). As a result, acute poverty and related problems of hunger, malnutrition, social unrest, environmental degradation and natural hazards persist.

Before the eradication of Malaria in the 1950s, some indigenous caste/ethnic groups who were immune to malaria were the only people to settle in the Terai. The migrants, after malaria control, came mainly from two regions: the adjacent hills and India. The continuous influx of migrants has resulted in a high population density and highly heterogeneous communities compared to many hill districts. Hill migrants dominate the northern foothills, while migrants from India dominate the south. The northern and southern belts in the Terai thus are different in terms of language, culture, religion and other natural resource endowments. Because of high population, limited cultivable land and stark inequality in land distribution, access to land and related natural resources is controversial. Except for a few landed classes who can generate forest products on private land, the majority of the people in the south face shortages of fuel wood, fodder and timber, as they are distant

¹ The Poor and Excluded (P&E) include economically poor households and socially disadvantaged groups and individuals-women, lower and formerly 'untouchable' castes (*Dalits*), indigenous/ethnic groups (*Janajati*), religious minorities (Muslims) and marginalized plains dwellers (*Madhesis*).

from existing community forests, and lack regular access to natural forests. Mostly they use cowdung for cooking, which negatively impacts agricultural productivity. The poor, with little or no land and livestock, suffer the most from the lack of access to common forests.

Untapped Potential of Public Land for Livelihoods

There are public lands in the Terai with considerable resource potential to generate opportunities to reduce the vulnerability of

the rural poor and socially excluded. Public land is particularly important for Terai southern belt where rural landlessness and income poverty are high, communities lack access to natural or community forests, and the majority of public land is inadequately managed and underutilized. A survey in some Livelihoods & Forestry Programme (LFP) Terai districts, viz. Rupandehi, Nawalparasi and Kapilvastu, provides an indication of the potential (Table 2).

Table 2: Statistics of Public Land and Poor Landless Households in LFP Terai Districts

Districts	Kapilvastu	Rupandehi	Nawalparasi	Total
Area of public land (ha)	12,028	10,260	34,238	56,530
Households under poverty	22,293	36,025	30,059	88,377
Landless (households)	9,963	27,096	11,789	48,848

Source: LFP 2007

As table 2 shows, landlessness and income poverty on the one hand and huge amounts of fallow and wasteland on the other hand have significant potential for improving livelihoods, as discussed in section 2.2. However, a major issue related to promoting livelihood activities on public land is lack of a clear policy framework under which public land user groups ensure their use rights in the long run².

Tenure Uncertainty and Vulnerability

Land tenure, by defining access and security of use rights to land and other related natural resources--land, ponds, forests and vegetation--affects how groups and individuals might decide to use public land, and whether they will invest in its improvement. Inappropriate tenure policies, unclear legislation and inequitable access may result in lack of motivation, over-cultivation and exploitation of marginal

land. The success of community forestry in Nepal provides ample evidence of the importance of tenure rights on the commons for protective and productive management. Clear use rights and tenure arrangements not only promote better land and natural resource management practices through motivation and rights to technical and financial services, but also encourage individuals and groups to participate in and diversify productive and sustainable use for secure livelihood improvements.

Addressing tenure issues and managing public land in an effective manner is important, not only to reduce environmental degradation and disenfranchisement of the local population to access forest products, but also to secure the reengagement of communities in land utilization and the resulting incentives, including food security and reduced vulnerability among the landless and the poor.

It is argued that the existing policy through the Local Self Governance Act (LSGA) is enough for ensuring the rights of PILM groups. However, without simple, clear devolved policy framework with necessary regulations and guidelines in place, public land management groups could face difficulties in ensuring their rights. Moreover, policy decisions on land rights issues could be driven by different interests with possible power exercise by different

² Though some attempts have been made at local level to legalize the initiatives within the existing framework of community forestry, many are simply registered with the Village Development Committee (VDC) and have been working according to a joint agreement between the VDC and the group. The simple registration or lease contract with the VDCs is not sufficient to ensure the collective use rights of groups to the land they have protected and managed (LFP 2006b).

actors for deviating benefit from such land for other purposes.

'ON THE GROUND': LIVELIHOODS & FORESTRY PROGRAMME EXPERIENCES

The LFP has been working in three districts in western Terai, viz. Nawalparasi, Rupandehi and Kapilvastu, since 2002 and focuses on forestry as a vehicle to reduce the vulnerability and improve the livelihoods of rural people. Initially, it facilitated the preparation of District Forest Sector Plans (DFSP), which involved a participatory baseline survey of forestry interest groups in every VDC and municipality in the districts. One area covered was 'Forestry Activities on Non-Forest Public Lands'. The study identified large areas of public land as described in the introduction section and these lands are underutilized but are facing the threat of encroachment.

The southern belt of the districts, where most public lands exist, is characterized by severe poverty, landlessness, limited access of the vulnerable to capital assets, and illiteracy. The DFSPs recognized the potential of underproductive public lands. Most of these lands are bush and *Parti Ailani* under the jurisdiction of VDCs, but also include riverbanks with potential river-cutting risks. Some public lands are also found around communal ponds, as well as along irrigation canals and roads. The LFP recognized that there were considerable opportunities to help reduce the vulnerability of the poor and excluded through management of public land. More importantly, the poor and excluded can directly benefit and can increase their access and opportunities to livelihoods' capital assets.

The LFP included PILM as one of its thematic areas for its implementation in the three Terai districts. The aim of the PILM programme is to enhance the livelihood opportunities of the poor and marginalized

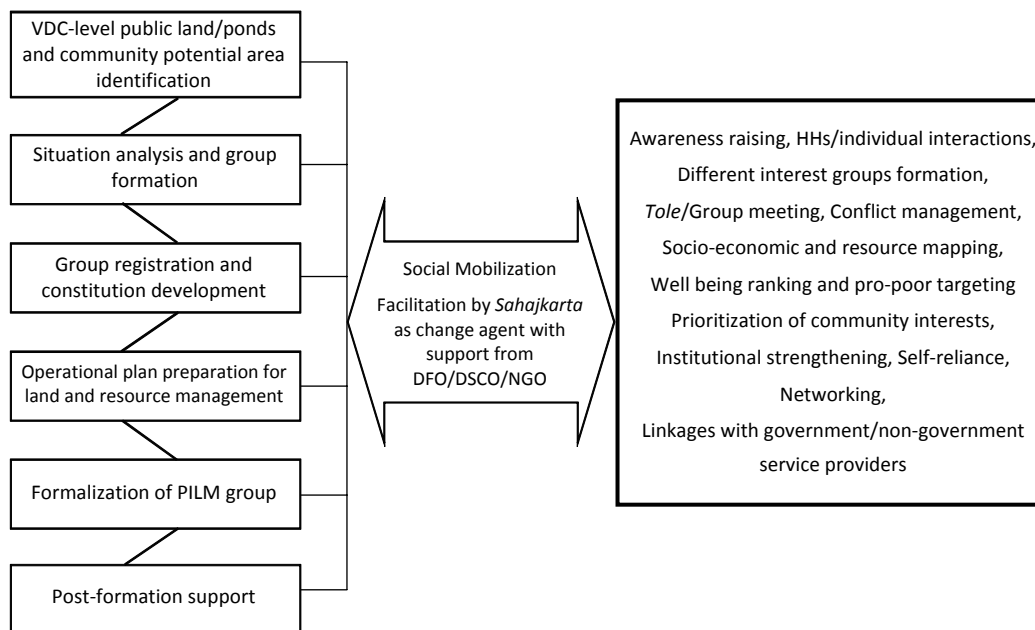
communities through equitable, more productive and diversified management of public land while providing environmental, economic and social benefits. The focus is explicitly pro-poor and on southern Terai VDCs without common forest resources.

Structures and Processes

Social mobilization is a fundamental component of LFP's public land interventions. It involves partnership with NGOs, which locally hire, train and manage an inclusive team of social mobilizers (*Sahajkarta*). These locally capacitated *Sahajkarta* work as change agents and help communities to identify potential land, and facilitate organizing PILM groups with a pro-poor and inclusive focus. They further build the capacity of these community groups to demand and claim services from government and non-government service providers for land protection, management and utilization (Figure 2).

As in other LFP interventions, social mobilization in public land management follows an 'inclusive targeting' approach that balances the targeting of livelihood activities specific to poor and excluded groups with other activities that are of benefit to the general community. This is particularly important as such land management and development activities necessitate the understanding and participation of the whole community (LFP 2006a). While providing support that benefits community members generally, the *Sahajkarta* ensures that a greater proportion of benefits reach and are accessed by the poor and excluded. Within the community, the poorest and landless are identified through participatory well-being ranking, who then organize themselves and utilize the land for subsistence and income generation for their livelihoods. While protection, plantation and restoration-related activities on public land involve the whole community and benefit all, livelihood interventions involve only the poor and benefit them directly through livelihood outcomes.

Figure 2: A Process of Public Land Intervention



In the process of active targeting it is ensured that all members of communities are aware of why this targeting is important, how the identification of targeted households/communities took place, what types of livelihood activities are conducted on the land and how use rights of the poor are ensured. This process needs to be managed to avoid increasing tensions within communities and as part of a long-term strategy to raise awareness of the needs of the poor and excluded.

The process and activities involved in social mobilization for public land management depend on the local context and development space, but often include the following elements:

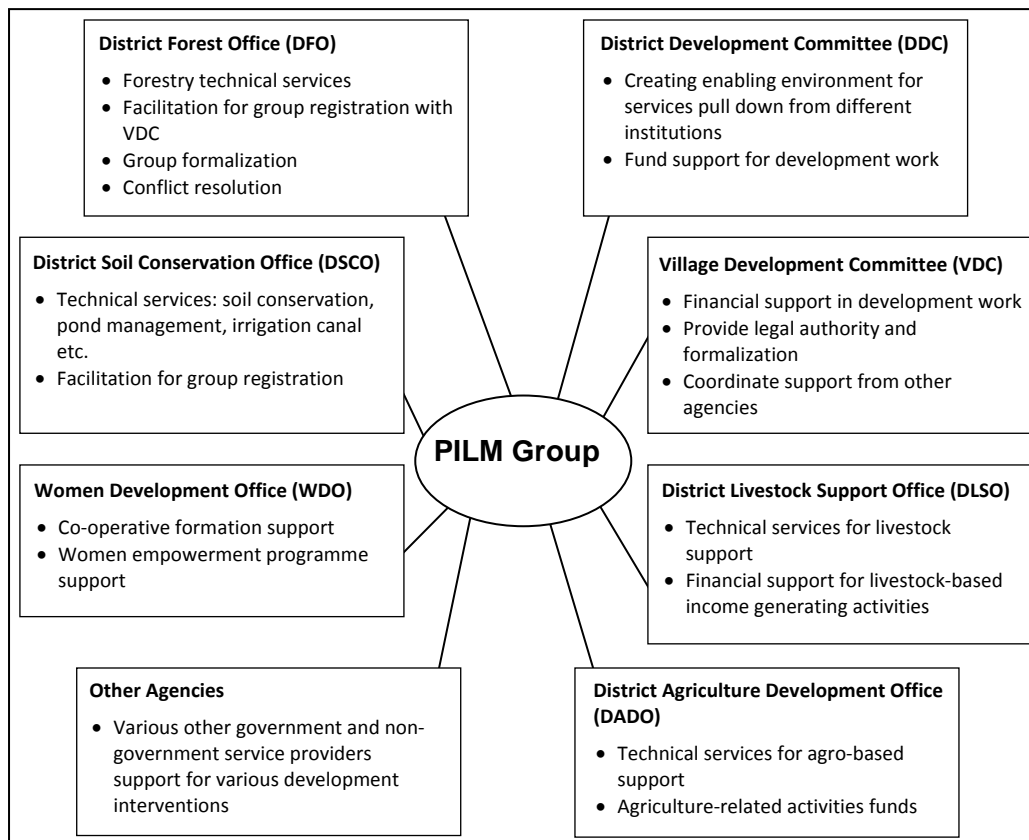
- Social empowerment and land-based group formation/mobilization through

organization, training, voice, influence and agency;

- Collective action for resource protection, conservation and enabling groups to demand and claim services available for this;
- Resource generation through plantation and restoration of land, enabling groups' access to resources from various government and non-government actors through capacity building, exposure visits and by influencing other actors;
- Livelihood activities that deliver livelihood outcomes.

Effective and productive management of public land requires support and services from various government and non-government organizations (Figure 3).

Figure 3: An Example of PILM User Group Getting Services from Different Service Providers



Ideally, once PILM groups start functioning effectively through inclusive governance mechanisms, institutionalized pro-poor and inclusive provisions for resource distribution and are able to claim resources and services required from the relevant organizations, *Sahajkartas* gradually reduce their direct support and facilitate the group to move towards a self-sustained autonomous organization and networks of the poor and excluded.

On the other hand, political parties are also interested to influence decisions according to party interest; as a result, some times it leads to disagreements amongst different sub-groups. A conflict arises when the elite-captured land is to alter into a public land management group that benefits the poor. Similarly, disagreements and conflicts are noticed within group and between a group and outsiders in many PILM groups (Box 1).

Therefore, consistent support from government agencies and local *Sahajkartas* for initial years is required to make group mature and self-reliant in managing groups, resolving conflicts and functioning as a sustainable institution.

Similar to the LFP, SNV's Biodiversity Sector Programme-Siwalik and Terai (BISEP-ST), has also identified the potential of public land and has been mobilizing communities for its productive management in eight Terai districts. A total of 1,508 landless and poor families are managing 102 ha of public fallow land in groups. So far, results are clearly visible from cash crop plantation, whereas forestry crops are planted, but benefits are still awaited (Shrestha and Rana 2007). Figure 4 illustrates BISEP-ST's approach to public land management through groups.

Box 1: Emerging Conflicts in PILM Groups

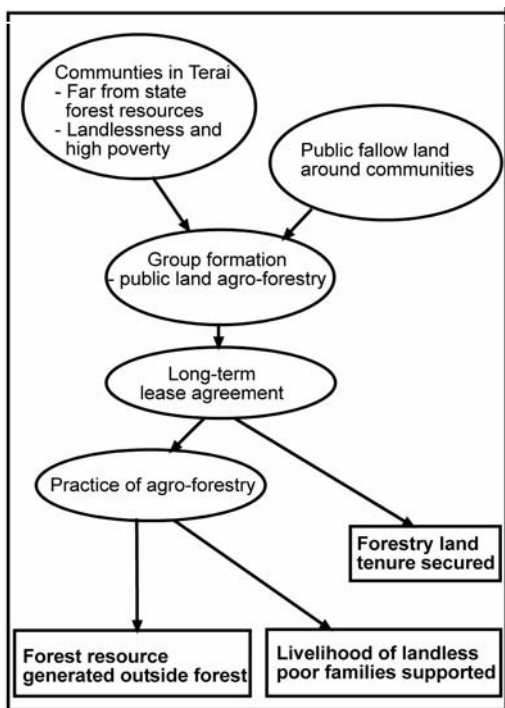
Saraswati group, Nawalparasi: A conflict arose between group members and a local who claimed a piece of public land as his private property and destroyed some trees planted there. He filed four cases related to inappropriate language and violence against female users and *Sahajkarta* in the district court. The court has given verdict in his favour for two cases and other two cases are still pending in the court.

Janajagaran group, Nawalparasi: A group decided to construct a pond in a public land where a plantation existed earlier. A conflict arose when interference was made in the construction of the pond by some outsiders, including a few group members, who raised the concern over damage of the plantation. Initially, during the PILM group formation process they were not interested to be member. Now they demand to be member, but the group is demanding some contributions against their hard work. *Sahajkarta* and the DFO are mediating between the groups and negotiation is ongoing.

This approach focuses on the identification of poor groups to manage and benefit from public land and the benefit-sharing mechanism documented in the lease agreement between a landowner and a group (Shrestha and Rana 2007). However, it is not evident that the issue of tenure right could be solved through such an agreement since

there is no legal enactment to ensure that the bond between the tenant and the land owner will not be broken with minor disagreement. On the other hand, experiences show that exclusive targeting approach for the poor may create social disharmony, leading to conflicts between the rich and the poor and participating and non-participating members, which could put the poor in vulnerable situation at the end.

Figure 4: Process Diagram of Public Land Forestry Development in BISEP-ST



Source: Shrestha and Rana 2007

Livelihoods Outcomes

With LFP’s support, by December 2007, a total of 487 ha of land had been provided to 160 PILM groups for collective use (e.g. agro-forestry, NTFP cultivation and fish farming), organized in 44 VDCs of the southern belt. Some 10,518 households are members, of which 59% are poor, 72% are disadvantaged caste groups (including 24% *Dalits*), and 19% are religious minorities (Box 2).

Improved forest resource regeneration has contributed to addressing the issue of lack of forest products among the southern communities. For example, a total of 560 ha of riverbanks in the districts were protected and new forest areas developed through riverbank management and cultivation in partnership with the DSCO. This has not only reduced the vulnerability of people living along the river to floods, etc., but has also increased access to natural resources--firewood and grass/fodder--for nearly 4,500 households.

Box 2: Social Mobilization: A Catalyst to Organize and Work for Better Incomes in Southern Terai

In Ekala VDC of Rupandehi, social mobilization resulted in the formation of a PILM group, Tiger Top Karbala Karmahawa, by including all the land poor in the area. A public pond was renovated through active participation of members, technical help from DSCO, financial support from the Tourism for Rural Poverty Alleviation Programme (TRPAP) and support for plantation from DFO. The pond is now a community fishpond. The group has intercropped vegetables with tress on the public land. The poor members now have the legal right to sell the harvest (fish and vegetables) and benefit from income. Pond water is used to irrigate fields.

Sudama Pasi, treasurer of the group, explains:

'In the beginning, the social mobilizer went to every house to talk to everyone and convinced us to come to a meeting to form a group. We decided to establish a plantation to help us fulfil our need for firewood and timber. We also allocated land to the landless for vegetable farming. The maintenance of the pond was started in August 2005 and some fish were put into it. First year, we earned NRs 13,500 and till February 2007, 805 kg of fish had been sold and NRs 51,625 earned. Now we plan to invest the income in pro-poor support and other development work.'

Similarly, 15 very poor households were given 3 *katthas* of land each on lease for both seasonal and off-seasonal vegetable farming. In each season each household had earned more than NRs 10,000. 'This is an extra income apart from the home consumption for six or seven family members. We have not bought vegetables since we started farming,' says Biju Pasi, a female member.

After earning from fish and vegetables, the landless farmers' lifestyle has changed. Chinki Harijan says, 'Before we had to work on others' land and it was difficult to earn to eat two square meals a day, and people didn't trust us to lend even NRs.2, but now people easily lend us money. Our living has become possible from vegetable selling.' In addition, farmers have started saving NRs. 5/- monthly and mobilize this fund with a low interest rate. They have also started sending children to school. 'All these possibilities for income and cohesiveness within the group would not have been possible without LFP's support for group mobilization,' adds Sudama Pasi.

Source: LFP 2007

Public land management groups have demonstrated the capability to leverage resources and services. Most of the groups have generated resources internally and have claimed services from multi-sectoral organizations, including the DADO, DFO, DLSO, VDC, DDC, local youth clubs and other bilateral and multilateral organizations in the district (Box 3). The leverage and multi-sectoral engagements have already had demonstrative effects in some neighbouring communities.

Box 3: A Case of Resource and Integrated Service Access and Network Development in Southern VDC

Nadiya Tola Public Land Management Group was formed in 2004 with 17 households at Sukrauli VDC, Nawalparasi. Most of its household members are very poor and from disadvantaged groups and worked in landlords' fields. After the intervention of the social mobilization programme, they organized themselves into groups and managed land and ran different activities collectively. Facilitation was made for public land identification, plantation management and protection, group savings and credit, alternative energy promotion and holistic planning. More importantly, they built a network to access services from different agencies. Before, the public land was underutilized, river flooding affected them during the rainy season and attempts to control the river were unsuccessful.

Now, they have developed natural resources in two ha of public land through agro-forestry. They have also managed to control the Turia River. They have received resources for income-generating activities, plantation and protection and river control from different service providers. Their details are given below.

Service providers	Amount (NRs)	Activities	Remarks
VDC	45,000	River bank protection	
DDC	35,000	River bank protection	Barbed wire support
DFO	11,000	Plantation protection	Seedling support for plantation
LFP	40,000	Vegetable farming	Community Initiative Fund
DSCO	225,000	River bank protection	
DADO/DLSO			Technical support - farming/livestock
Grand Total	401,000		

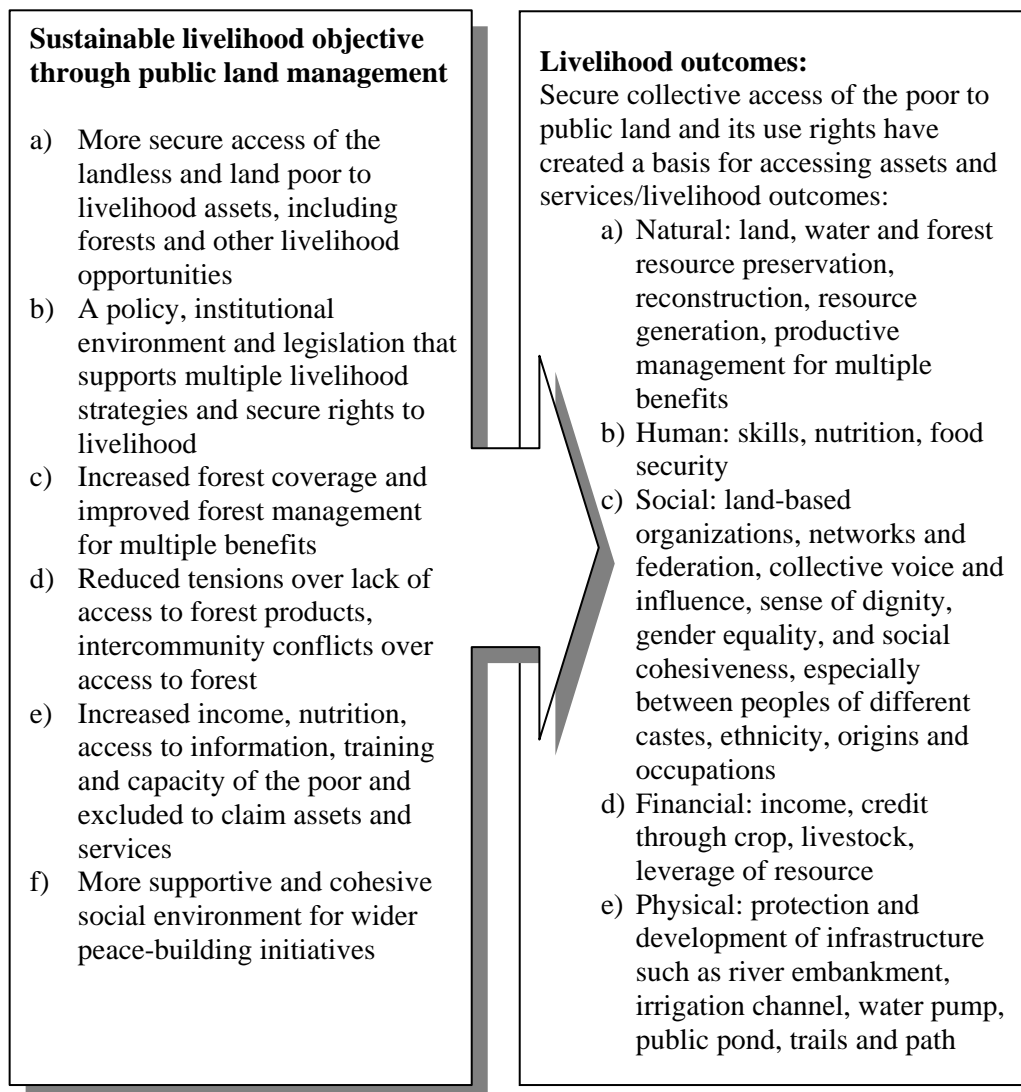
At present, the group members have established a cooperative with the collaboration of other groups functioning in their VDC and the group is affiliated to the VDC-level public land management group network. The network works as a VDC-level advocacy forum to address different issues around public land. At the same time this network is developing into a pressure group to draw other services from institutions for the village. Mr. Radheshyam Koiri, chairperson of the group, says, 'Social mobilization has opened our eyes. We learnt that we can do everything if we work collectively.'

The group was able to voice collectively for the support they require from various service providers and this has brought joint efforts from different line agencies such as DADO, DSCO and DFO for package delivery for livestock-based income-generating activities. Similarly, VDC, with DDC and DSCO, is supporting riverbank protection. It is becoming evident that PILM groups are being recognized as community-based organizations in the south, which could be an entry point for joint service delivery like CFUG in the north. DDC, DFO and VDC have jointly recognized the potential of PILM and expressed their commitment to support these groups to solve tenurial issues within the existing legal framework for registration and formalization, at the same time initiating for policy influence from district level (LFP 2006b).

To conclude, access of the poor to natural assets, mostly cultivable land and forests is essential for sustainable livelihood improvements and poverty reduction. The livelihoods of the landless and poor people with limited or no access to these resources are vulnerable because they have difficulty

in obtaining food, accumulating assets and recovering after shocks or misfortune. LFP's sustainable livelihood development objectives complement the need for pro-poor public land management initiatives, resulting in sustainable livelihood outcomes (Figure 5).

Figure 5: Sustainable Livelihood Objective and Outcomes through Public Land Management



Lessons Learnt

As elsewhere (e.g. Khas land management in Bangladesh), the public land management initiative in the Terai districts has shown considerable scope to utilize waste and underutilized land for livelihood improvements of the poor (ERI 2006, LFP 2006b, Shrestha and Rana 2007). The interventions and conscious support to link the issue of these lands with livelihood rights of the poor has generated considerable interest locally and has

potential to generate political commitment for a legal framework. Forestry development practices in uncultivated public land provide ample opportunities for communities far from national forests to practise community-based forest management, while partially addressing the north-south resource disparity. This also contributes significantly to generating livelihood opportunities for the landless and land-poor families where there are limited livelihood opportunities (LFP 2006b, Shrestha and Rana 2007). The initiative has also shown potential to

generate forest resources and greenery in the south, thus contributing to increased availability of basic forest products (grass, fodder and firewood), while also minimizing tensions between the north and the south over access to forest resources. Through adequate management, public land groups contribute to environmental stability by reducing soil erosion and related natural environmental vulnerability, and by protecting ponds and riverbanks from further degradation.

Experience on the ground provide good evidence of public land as an important resource base for the land-poor not only to improve livelihoods through increased income and reduced vulnerability but also provide them with basic human and social capital (i.e. nutrition, income for immediate survival, organization and membership, leadership and voice, self-confidence and skills, etc.). Similarly, it provides evidence of collective farming and collective action, which is particularly important in the southern belt of the Terai where there are limited forums where the poor and excluded can organize and work for collective interests. These are important for collective bargaining, social harmony and to claim rights to livelihoods. More importantly, this has potential to contribute to wider land reform initiatives in Nepal (Deuja 2007).

Some of the existing legal instruments are used to protect use rights. For example, some PILM groups are already registered as community forest user groups that ensure use rights and where it is not possible, contractual agreements exist with the VDC. Though these are not sufficient to ensure people's rights to resources in the long run, at least people have started raising concerns over their legal rights. The current practice of contracting out the management of land to PILM groups from VDCs cannot be considered pro-poor; however, PILM groups have already started raising demands with the VDCs for reinvestment of the revenue generated from public land for the benefit of the poor of their communities.

Existing Challenges and Opportunities

Challenges

Unclear tenure: Lack of appropriate legislation for public land use rights discourages large-scale investment and

restoration and has the potential to create conflicts if subsequent use rights legislation is unable to adequately embrace what has occurred through protection and management during this informal period. Lack of a clear policy framework and legislation for handover of public land to communities will affect the poor and excluded in the long run as they may not be able to claim the resources they have generated and thus become further marginalized. This is because as in community forests, public land group membership involves all households of a community in proximity.

As most of the public lands are degraded and require significant investment (labour and resources) to make them productive, larger communities (including the elite) have not opposed the small sections of the poor and landless investing resources and generating income and earning their livelihoods. But once land becomes productive and starts generating income and resources, there is a danger that conflicts and competition will arise from within and outside communities that are also interested to claim the resources. Similarly, VDCs themselves might be interested to generate revenue from the land once it becomes more productive and thus might not be interested to continue contracting PILM groups for management and utilization. In both situations, there is a danger that the PILM groups, which have been investing labour and resources to make the land productive, will be left out of long-term utilization and benefits.

Investment of resources and labour without clear legal acceptance increases uncertainty and discourages the poor and excluded from being involved actively in resource generation and management, as their opportunity cost for involvement in the community group is already high. More importantly, lack of legitimacy at local level and its recognition by the national-level policy framework may create tensions in the community in the long run as the resource rich can use their power and influence to claim the benefits once the resource is generated and the poor and excluded become more vulnerable. Similarly, the lack of a clear policy framework also affects the capability of public land groups to demand

and claim legal, technical and material support for productive management, ultimately affecting the realization of the potential of these lands for livelihoods improvement. At present, awareness level about the legal instruments that could protect the use rights of users is low.

More focus on technical support and less on ensuring rights to livelihoods: Most stakeholders involved in the process have taken public land interventions as a land management issue and are more interested to protect the land from further degradation. Though necessary, the exclusive focus on management and avoiding the issue of ensured use rights carries a danger of making the poor more vulnerable in the long run. It is important that the issue of public land management is linked to the right to food security of the poor and needs to be supported to enable them to claim their rights. This creates an environment where other members of community realize the rights of groups and become responsive to their demand for use rights. This would also empower the user groups to protect their use rights from any intentional or unintentional interference. The current level of understanding and skills is inadequate to translate these intentions into practice.

Unclear institutional home for PILM groups: PILM initiatives require engagement of different institutions to provide diversified support, as outlined in Figure 3. When the groups are functioning well, only *Sahajkarta's* input will be enough to support various aspects of group mobilization, but in case of conflict it becomes a challenge for them. In such cases, the government institution's role becomes crucial. Experiences show that where there are good examples, many agencies become interested to support and get recognition, whereas in case of conflicts, institutions show less interest to support. In practice, DFO support these groups in cases of conflict; however, legally there is no defined authority to lead the process. At present, due to this reason, facilitation and extension at field level is a challenge. Apart from support in managing conflict, the institutional home is important

at various stages like registration, handover, post-formation support and playing the role of a focal point for linking with other institutions.

Opportunities

Large areas of underutilized public land in the Terai southern belt represent real opportunities to utilize them for livelihood improvement for the landless and the poor. The government's three-year interim plan has identified a need for a new policy and legislation for the productive management of such unused and unmanaged land. The plan also recommends redistributing such land to the local landless and the poor to protect further encroachment and degradation. The initiative, productive management of public land for the livelihood improvement of the most poor and vulnerable sections of community is strength in itself. If the intention is communicated properly, there is a possibility to generate moral, legal and technical support from the state and other actors to bring this to reality. There is also the possibility that such groups, once legally recognized, may become community development platforms for further development initiatives.

Nepal is in a post-conflict situation and the current socio-political context is represented by a combination of a weakened and chaotic formal system, strong community awareness and robust local organizations, informal tenure and land management activities, along with the presence of political interests and demands regarding agrarian reform from all political parties. While this combination carries risk, as Unruh (2004) argues, it also represents opportunities for alliance-building and action in favour of the poor and most excluded. Exclusive focus on strengthening livelihood opportunities and ensuring collective use rights of the poor to public land creates a moral pressure on all actors, including the non-poor rural elite, government and political actors to help the organization of the poor to achieve the objective.

MOVING AHEAD: A CALL FOR COLLECTIVE ACTION AND RECOMMENDATIONS

Structures and Processes

Organizational structures within the formal land tenure sector in Nepal are weak. While development of public land management legislation would need to be at national and district level, connecting these with community groups and processes needs for significant and sustained efforts. Development interventions need to follow a twin-track approach. On the one hand, it is important to work with like-minded individuals and organizations at policy level to define a policy framework that provides an institutional home for PILM groups. On the other hand, it needs to support community groups for greater voice and influence through capacity development, alliance-building and network mobilization. The latter is based on past experience; unless there is local collective voice and action from below to make the state and other actors accountable, issues related to land ownership cannot be resolved only from working at macro level. The Khas land management movement of tenants in Bangladesh provides similar experience (Barkat *et al.* 2001).

NGOs are of particular note here. They can contribute to build organizations of the poor or structures that represent the poor. As in LFP working districts and elsewhere in the world (e.g. Mozambique), a number of land-related NGOs can operate together to push public land management issues on behalf of the poor, significantly influencing national debate and ultimately policy reform (Unruh 2004).

Informal tenure activities and investment for livelihoods occur quickly, formal tenure systems and legislation-building occurs slowly, which is problematic. Attention needs to be focused on finding out what the formal system can do quickly to engage and stay connected to the evolving informal systems and livelihood investments of the poor. Several district-level workshops and interactions were organized during the past two years where major stakeholders showed interest and commitment to provide legal, technical and material support to user groups. As a result, some groups on the

ground have been legitimized by DFOs through the community forestry policy while some have been registered with VDCs and have been working on lease. However, the arrangements are not adequate to ensure secure tenure rights in the long run as they are susceptible to fluid political and social situations.

Efforts to ensure tenure rights to public land management groups need to look outside the confines of ministries and land commissions, to assess how these institutions, opportunities, processes and problems are progressing on the ground. So, to draw legitimacy from these processes into reformulating national structures, policies and law that guarantee the right to use. Without this purposeful connection, there is a risk of efforts evolving in different directions (Unruh 2004).

Recommendations

While securing access to land is usually needed to make significant investments in production systems connected to public land resources, pursuit of livelihood activities (including management of the land, etc.) can, to a degree, solidify claims in a largely tenure insecure environment. The following strategic engagements at micro-macro levels would help ensure the rights of the poor to use and manage public land for improved livelihoods.

Continue Micro-level Engagements

- a) Build capacity of the existing PILM groups and enhance their understanding of use rights and ways of securing these rights in the long run;
- b) Build federations of groups and link the district-level federations of PILM to district land concern forums (*bhumi sarokar manch*) and national land rights forum (*rastriya bhumi adhikar manch*);
- c) Enhance capacity of *sahajkarta* and partner organizations on rights-based approaches, issue-based people-centred advocacy, and mobilization on land issues;
- d) Develop at least one male and one female leader in each PILM group to represent their constituency in the federation and national land rights forum. In the long run, facilitation

- should gradually move to collective leadership.
- e) It is also important to ensure that there are strong pro-poor organizations at community level that help the poor to claim their rights and protect land from being captured by the rural elite.
 - f) Facilitate group formalization and identification of appropriate institutional homes within the existing legal framework to ensure the poor and the excluded rights to the land for long term.

Alliance-building and Networking for Meso- and Macro-level Engagement

The existing policies are insufficient to ensure collective use rights of public land. Thus, a new policy development task team should be formed at the centre to draft the policy and legislation required for the purpose. The new policy would keep the local development bodies (VDCs and DDCs) as legitimate institutions for registration, to provide collective use rights of the land. The new policy should be made consciously to ensure resources reach of only poor and landless groups. A clear guidelines needs to be drafted nationally along with a policy to ensure the pro-poor's access to public land management. Implementing the policy in phases would create space for learning and revision if required to ensure pro-poor focus and sustained access to land.

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