

Settling local conflicts in Nepal: Different mechanisms and practices



Bishnu Raj Upreti, PhD

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Discussion Paper

Bishnu Raj Upreti

Nepal Centre for Contemporary Research

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1. Introduction

Conflicts are always associated with human being and therefore integral part of all societies (Scimecca 1993). Hence, it is unrealistic to expect conflict-free society. Conflicts arises when interests, values, and perspectives of individuals clash or when positional differences occur among the individuals over belief systems, self-determination, or access to and/or the distribution of power and resources (Felstiner et al. 1981; Upreti 2002a; Warner 2001; Buckles 1999). Consequently, two or more people oppose one another which are reflected on feelings of anger, frustration, anxiety, fear or verbal exchange, physical assault or any act of damaging other party. This situation occurs when individuals' general level of acceptance or tolerance are exceeded (Upreti 2004a, 2004b, 2004c, and 2004d; Walker and Daniels 1997).

Extensive work of author on the issues of conflict (Aditya et al. 2006; Shrestha and Upreti 2011; Upreti and Sigdel 2011; Upreti 2010a; Upreti 2000, 2001, 2002a, 2002b, 2004a, 2004b, 2004c, 2004d, 2006, 2008, 2009, 2010a, 2010b, 2012; Upreti and Muller-Boeker 2010b; Upreti et al. 2013) show that conflict is interpreted differently in different contexts.

Conflicts occur in any society and transforms over time leading to different short-term and long-term effects, which may be positive or negative to society (Scimecca 1993). Conflicts have two stages or modes, i.e. latent conflicts; a relatively permanent condition between disputing parties with divergent and competing interests, and active conflicts, when there is actual interplay of the disputants over a specific problem (Martinelli and Almeida 1998; Dougherty and Pfaltzgraff 1990; Warners and Jones 1998; Buckles 1999). Conflict in a society is influenced by the organization and structure of the society, as well as by its patterns of social interaction and power structures (Galtung 2000; Fisher 1997; Sidaway 1996).

The aim of this paper is to discuss the strategies and practices local people use in dealing with conflict situations in daily life and to draw some lessons based on these observations. This research is based on both primary and secondary sources of information. In the collection of primary data, the tools and techniques of qualitative research, such as observation, in-depth

interviews, focus group discussion, transect visit and triangulation have been employed. The findings are then pulled from different cases documented at various times from different parts of Nepal with specific concentration in the following districts: Surkhet, Ramechhap, Dolakha, Saptari, Sankhuwasabha, Dhankuta, Sunsari, Kaski, and Chitwan.

Several approaches can be used to analyse and interpret social conflicts (Bell et al. 1989). The interpretative approach has been recognized as one of the two common approaches used in social science research (the other being quantitative surveys) due to its practical merits. This method examines conflicts by analysing structures, processes, functions and their relationships, as well as the pattern of interaction among individuals in society, by asking people themselves, who are presumed to know about the social processes of which they form a part. It focuses on inquiries such as what are conflicts, why do they arise, and how are they resolved by local people? It mainly relies on ethnography which is a process of close observation and interpretation of conflict behaviour and actions of people and organizations through intimate participation in a community (Denzin and Lincoln 1998). The personal, psychological, and collective social behaviours of the parties in conflicts are the subject of observation and analysis (Upreti 2001). In the analysis of collective social behaviour, groups, social classes, political intricacies, and religious and ethnic entities, coalitions and cultural systems need to be examined at individual and collective levels. This paper relies on the conceptual framework of this interpretative approach, namely anthropological interpretation (Gulliver 1979; Moore 1995) and communicative interpretation (Habermas 1989; Rölting 1996).

2. Some traditional conflict settlement practices in Nepal

Like many other countries, Nepal has a rich historical tradition of conflict settlement which is a result of the desire for social harmony and co-existence. However, conflict settlement practices in Nepal are shaped and reshaped by local power relations, specific social contexts, and religious beliefs (Upreti 2003). These practices are mainly informal but may be endorsed by the formal system. Formal practices involve official procedures, such as government rules, regulations, and laws, which are applied by government employees, for example, courts, police officers, administrators, etc. (Upreti 2002a). Informal practices are locally developed and enforced by communities. They are organized by local people and may or may not follow the government rules, regulations, and procedures.

Historically, taking the case of immediately before the time of Nepal's unification, Bhandari and Pun (2002) report the existence of local organizations and positions called *kulari* and *yug* for the districts of Kaski and Mustang. In the Kathmandu Valley during the *Lichhavi* period (fifth to ninth centuries), there was a range of traditional institutions involved in settling local issues

and conflicts: the *panchali* (a local mediator looking after social issues such as marriage), *birtawal* (local elite person having land entitlement from the rulers as recognition of services), *lingual* (who settled conflicts related to land and irrigation), *mapchowk* (dealing with conflicts between male and female), *mukhiya* (village chiefs), *bichari* (local legal administrators), and *pancha-bhaladmi* (a five member committee of selected village elders) (Sharma 2004). During the Malla period (1200-1768 AD), in addition to continuing local methods, conflict resolution also occurred through palace officials such as the *praman* (responsible for implementing decisions of the king), the *dware* (responsible for screening and submitting cases to the king if not resolved locally), and the *dandadhash* (an administrator responsible for regulating the social system). Under the Shah kings (fifteenth century to 1768 AD in Gorkha, rulers of the whole of Nepal from 1769 AD), the same combination of royally appointed officials and local elders or notables is also found: the term *pancha-kachhahari* is reported from the time of Ram Shah ; from Prithvi Narayan Shah's reign we hear of *panchas* (five local elites from the community responsible for dealing with local conflicts), *dware*, *thari*, *birtawal*, and *mukhiya* (all forms of local headman and tax collector); from the time of the Rana regime (1845-1951) there are the terms *amal* (local revenue collector appointed by the state) for the Tarai region, and for the hills *kachari* (a local arbitration meeting attended by state's representatives and community) (Upreti 2001; Bhandari and Pun 2002). Even today, *jhankris*, i.e. mediums and shamans, are sometimes used as a method of conflict resolution (Upreti 2002a). In this way the indigenous and local conflict settlement practices have always existed alongside the facilities offered by the functionaries of the state. These local organizations often also perform state-assigned tasks as well.

One of the field research districts (Surkhet district field work in 2004 A.D.) revealed the existence of a local conflict resolution system called *Ghatu*. In an in-depth interview based on his memories going back seven decades, Naina Singh Vishwokarma recalled that being the *Ghatu* was a responsibility assigned to an individual (almost always a man) by the community; this individual held the trust of the community and also was knowledgeable in resolving social conflicts. In this system, the individual was responsible for settling all local conflicts in his assigned territories. Local people engaged in conflicts would go to the chosen individual to complain. The chosen individual then would invite other villagers, mainly neighbours, as witnesses to the meeting. Then he would interrogate the disputants to find the actual cause of the situation and invite the opinion of the people gathered there. Local people arranged 'truth revealing materials' (having spiritual values) which consisted of a water-filled cup, a lit oil-lamp, and flowers. Disputants then one by one touched the 'truth revealing materials' to ensure that they were not giving false witness. After some time witnesses were also asked to touch the 'truth revealing materials'. Based on the expressions of the disputants in the public meeting and the

opinions of the people gathered, the *Ghatu* would give his verdict. In most cases, the disputants accepted the decision first so that they could maintain their social relations (as all neighbours attending the meeting were asked to abide by the decision) and second out of fear of sin if they did not abide by the decision. If one of the disputing parties disagreed with the decision of the *Ghatu* or felt that they were the victim of a poor verdict, he or she was referred to government office in Dailekh where the local *bada hakim*, the administrator appointed from Kathmandu to administer the region,. This arrangement was prevalent (in modified form) until 1962.

In Nepal often informal conflict settlement practices are localized, caste- and ethnicity- specific, and shaped and guided by traditional norms, values, customs, and religions (Khadka 1997; Oli 1998; Upreti 2001, 2002b). For example, in Kaski district, the modern ethnic organisations such as "*Tamudhin*" (*Gurung-ghar* led by *Jimmual/mukhiya*), Magar-samaj and Thakali-samaj evolved during the 1980s were strongly built on the earlier rich traditions of these ethnic groups which are active in settling community level conflicts (Bhandari and Pun 2002). This tradition spread with them as they migrated to Chitwan and other parts of the Tarai region of Nepal. Likewise, "*Mukhiya*" System in Lower Mustang and "*Raja*" system in Upper Mustang are common arrangements of local conflict resolution. In Manang district, there was a system called *Dhapa*, which was very effectively dealt with local conflicts. Under this system four village leaders are elected each year by the villagers of a community to deal with village-level conflicts.¹

Similarly, *Majhi*, an indigenous community of fishermen and boatmen residing along the Tamakosi River, has a system of electing a leader known as *Mijhar* who takes care of the community, settles conflicts, and guides younger people. All members of the community are supposed to respect his decisions. This is one of the most organized societies in terms of leadership and conflict resolution.

Nepal's local conflict management practices shows that in the traditional conflict resolution practices, enforcement of the decision made by local mediators/negotiators is not according to the state laws and regulations but rather by social sanctions, religious faith, morale and ethics and sometimes the threat of use of power by local elites (Khadka 1997; Upreti 2001) to punish poor people further exaggerate social tension and conflict. Research conducted by author in Dolakha district (in-depth case studies in Pawoti and Sailungeshwor Village Development Committees in 1999-2000 as part of the author's PhD research on 'natural resource conflict' (Upreti 2001) reveals that several ongoing social and political conflicts emerged out of the desire of the people to take revenge for the exploitation, abuses, and wrongdoing by the

¹ Interview with Mr Kabi Ghale, 81 years, one of the most knowledgeable persons from Lamjung District on 6 September 2013.

powerful elites at the time of the Panchayat era (1960-90). For example, in 1991, a frustrated mass of Damais (so-called untouchables of the tailoring caste) from ward number 4 of Pawoti VDC killed a powerful local man and three of his family members in revenge for the exploitation they had suffered before 1990. This was somewhat extreme case but so many open conflicts between the local powerful elite of the Panchayat regime and suppressed people at that time were observed during the period of 1990s. For example, 612 conflict cases were reported in the study area (Pawoti and Sailungeshwor VDC) between 1995 to 1998 (Upreti 2004a).

3. Types and nature of local conflicts in Nepal

Previous studies of author (Upreti 2001, 2002b, 2008) on the nature and types of local conflict show that local conflicts tend to be of three major kinds: (i) related to the appropriation, use, and control of locally available natural resources such as land, forest, water, minerals; (ii) family matters (polygamy, alimony, partition of parental property, etc.); (iii) social differences (lending and borrowing, religious and caste/ethnicity discrimination, etc.). In recent times an increasing number of local conflicts are related to political prejudices and feuds.

Land conflicts rank as the most common form of natural resource conflicts in Nepal (Upreti 2004). When a conflict over one issue emerges, it is immediately linked with other concerns making the conflict complicated and multi-dimensional. In numerous parts of Nepal author has observed the land-related conflicts over: boundaries and the demarcation of land (whether between different landowners or between public land and individuals); the passage of irrigation canals, access roads, trails, and drinking water pipelines over the land of particular persons; the obstruction of existing paths and public land encroachment; the seizure of mortgaged land after failure to pay; the control of guthi land (donated for religious purposes and therefore tax-free) and its revenues; the manipulation in classification of land quality; the collection of share/contract amounts without receipts; the looting of crops; crop damage; redemption, land registration and cancellation; fraudulent sales; reclamation; partition and the order of succession; and gifts. Similar observations have been documented by other researchers as well (Khadka 1997; New Era 1988). Perhaps the single most important cause of land conflicts remains the struggle between landlords and tenants. The Land Act 1964 and its various amendments made provision for tenancy rights and the abolition of dual ownership. Hence, tenants, especially after the restoration of democracy in 1990, have wanted to establish their rights in the land they held as tenants, but landlords, making use of their power-network and resources, have attempted in many cases to evict their tenants and avoid granting them tenancy rights. This has caused serious conflict in many parts of Nepal. Other actors are the staff of various land-related offices of the government, local politicians, and powerbrokers

and manipulators, who are all very active at the time of the land survey (Upreti 2001).

The in-depth study (July 2003 to February 2004) of author in Koshi Tappu Wild Life Reserve (KTWR) area, which incorporates three Tarai districts, Sunsari, Saptari, and Udaypur, show a strong relationship between indigenous communities and natural resources in terms of livelihood, culture, tradition, religion, and spirituality. However, in many cases these relations have been ruined by external development interventions, which result in KTWR authorities curtailing the traditional or customary rights of indigenous communities over local natural resources. This has created numerous local conflicts between the KTWR authority and local communities that have been later linked with the bigger, armed conflict. A study of Ben Campbell on the national park in Langtang has also revealed the similar tension between local people and the park authorities and people's resistance (Campbell 2003).

The KTWR conflict study reveals that there is an irresolvable tension between statutory rights and customary practices. This is one of the perennial sources of conflict between the Reserve authority and local people. Since the national parks and other forms of protected areas have come into existence, conflicts between park and people have been escalating (Christie 2003). The main livelihoods of the indigenous community are collecting grass, firewood, driftwood, fishing, and hunting and gathering.

In the course of the research of the author, the participants in focus group discussions and informants consistently highlighted the restrictions they faced on traditional uses of natural resources, which has jeopardized their livelihoods and increased their economic vulnerability. For example, several ethnic settlements were removed by the government to establish the Koshi Tappu Wildlife Reserve in 1975-76. Despite the formation of more than twelve government commissions to settle claims for compensation, many of the displaced households have never received anything. Local elite families and bureaucrats and those linked to them have managed to siphon off the relevant funds, particularly in Sunsari district. These conflicts directly linked with the Maoist insurgency as the Maoists use such injustices to recruit the victims to support their so-called People's War.

The attitudes and perceptions of the upper class (economically rich and well connected with power centres) towards the poor, marginalized, and indigenous community was very negative in this area. They remarked that poor, marginalized people or indigenous communities are lazy and not interested in locally available work because they earn more (up to rupees 500 daily) from the illegal collection of natural resources and fishing. Further, the upper class also believes that they prefer drinking, gambling, or just roaming around and staying idle. Direct observation indicated, however, that poor and indigenous people were hard workers and used all available means of earning in order for

daily survival. The attitude of the upper classes towards indigenous people has sustained silent tension between these two groups (Christie 2003), which has been turning to open conflict after the restoration of democracy in 1990 and particularly after the initiation of the Maoist armed conflict. The indigenous people were Tharus and other socially excluded communities such as Sunaha, Khanwas, Mallahs, Bote, Mushahars, Bantar, Gongi, Mukhia, Dushad, Sahani, Kewat, Danuwars, Darai, Kumal, Barhamus, Dhangar, Pode, Kushars and Majhi. And the 'upper class' were Bahun-Chhetris, Yadhav, Jha and even upper class Tharus in the study area.

Control and use of forest resource is another important source of local conflict in the KTWR. Commonly observed conflicts in the study areas included those regarding forests ownership between individuals and government, the identification of users and access to forest products, royalty payments, the illegal exploitation and export of non-timber forest products, the hunting and poaching of wild animals and animal products from the forests, forest encroachment, the collection of firewood for funerals, the unauthorized use of timbers from the government forest to build wooden bridges over rivers and streams, the leadership of forest user groups (FUG), and the exclusion of poor and marginalized in CFUGs. In addition, irrespective of the equal contribution of all members of the user groups to forest management, powerful and rich people obtained more forest products, which results in conflicts among the users. Conflicts were also observed in the sharing of forest products such as grass, fodder, timber, and edible products from government forests. The conflicts arise when licensed traders from outside the community collect medicinal plants from higher altitude forests managed and used by villagers. Previous studies (Chapagain et al. 1999, Upreti 2001, Oli 1998, Harper and Tarnowski 2003) have also documented similar observations related to forest conflicts.

Another major source of local conflict found in the case study areas is the use and control of water resources for irrigation, drinking water, and commercial use. At a national and international level also water is the cause of major political conflicts. Water-related development interventions (e.g., hydropower plants, large- and small-scale irrigation, and drinking water projects, environmental and social dislocation issues such as contention in Melamchi drinking water project, Kali Gandaki hydropower project, Arun-III hydropower project, etc.) with their associated corruption and kickbacks have been major political issues (Khadka 1997; Upreti 2001, 2004). Earlier studies (IMC 1990; Pradhan et al. 1997) have shown that water conflicts are a normal phenomenon if the same source is used for more than one purpose. The occurrence and intensity of such conflicts is high when the water becomes scarce in the dry season. Conflicts created by development interventions are creating social misunderstanding and tension in society (Christie 2003; Upreti 2002b). The consequences of such a situation result in the loss of faith in community and government, the loss of property, physical fights, and migration.

Other common social conflicts observed in the study areas were related to borrowing and transactions (lending and borrowing, repayment, claiming with fake documents and forgery, receipt of loans, extending credit, wage payment), caste, gender, and class- discriminations, social tensions created by external development interventions (either dividing community between beneficiaries and non-beneficiaries or favouring one segment of society and ignoring another), family matters (manipulation or control of parental property, transactions among the family members), party politics (biases of ruling party, discriminations and revenge taken against opponents), character defamation, prostitution and sexual abuse, religious clashes, etc. The failure to repay a debt in time was the most common cause of conflicts in lending and borrowing. Conflicts also arose due to changes in an original document or the preparation of fake documents. Delayed or lack of payment for animals sold on credit was another common transaction-related conflict. Several family-related conflicts related to polygamy, carelessness to wives, child marriage, inter-caste marriage, fraudulent marriage, separation, alimony and divorce were observed in the study areas. Conflicts between parents and sons and/or between brothers for parental property partition were also observed. Several development-related conflicts erupted simply because of technocratic, top-down development interventions. Most of them were designed to fulfill the vested interests of the self-interested coalitions of technocrats, bureaucrats, and politicians (cf. Pfaff-Czarnecka, this volume). A glaring example of such manipulation can be found in the Asian Development Bank-funded (Irrigation Sector Support Project) irrigation scheme in Sailungeshwori VDC of Dolakha District where 8 million rupees was spent without water ever flowing in the canal. The most common conflicts related to development interventions reported in the study areas were misuse of externally obtained financial sources (cash and kind) and abuse of authority by government officials and executive body of water user groups. It was pointed out that conflicts due to nepotism in the allocation of development funds to party supporters, relatives, and influential people were common (the ADB-funded irrigation project just mentioned is an example). Partisan political activities are one of the major causes of local conflicts.

However, the patterns and intensity of local conflicts have undergone radical change as a result of Maoist intervention in the areas under their control. Maoist threats to local elites have transformed all forms of unequal-power based conflicts (for example not giving receipt of the rent the tenants pay to landlords; false allegation and fine to poor people by the local elite if they did not contribute free labour in agriculture seasons to local elite, punishment or filing false case by local elite if local people do not pay especial presents such as ghee, potato, fruits etc.) at the local level. In addition, the types and natures of conflicts have also changed (Upreti 2004c).

Many customary groups (e.g. locally, culturally or socially initiated institutions to perform specific activities in communities) are engaged in informal conflict settlement practices. Semi-legal groups (saving and credit, agriculture, forests, non-formal education, irrigation, drinking water, infrastructure and other multi-functional groups) and group-based organizations such as NGOs, networks and federations (e.g. FECOFUN, the National Federation of Irrigation Water Users Associations-Nepal, the NGO Federation, etc.), cooperatives, clubs (youth, mother clubs), social movements (Dalit movement, bonded labour movement, etc.), and CBOs are also in one way or another engaged in settling local conflicts.

4. Local conflict settlement practices in Nepal

In simplified terms conflict settlement practices can be divided into the formal and the informal. Formal practices are those which operate according to the government's regulatory provisions, engaging the state's representatives, whereas informal conflict settlement practices are those which operate according to local arrangements with or without following government regulations. In the following section, a brief discussion of these two types of practices is presented.

4.1 Informal conflict settlement practices

Informal methods and practices include the activities of shamans, mediums, priests, headmen, local leaders, and elderly people. In the study areas, the majority of conflicts (except complicated conflicts such as rape, suspected or attempted murder, etc.) were resolved locally in informal ways. Elderly local people often work as mediators to deal with conflicts. Despite their lack of legal status, local people commonly accept their settlements. Such informal practices are a blend of local customs, a sense of justice and religious feeling, rather than official procedures. Generally no written records are maintained in informal conflict settlement practices (Khadka 1997; Upreti 2001). Elderly and socially respected people, traditional landlords, teachers, jhakris (shamans), priests, and headmen (or descendants of headmen), are the principal actors in resolving a wide range of local conflicts. These people do not only mediate conflict as neutral third party but also often decide terms and conditions for the negotiation process. The criteria to resolve conflicts were often not the legal basis, but rather a combination of religious faith, historical considerations, and practical realities.²

Most local negotiators do not charge a fee for their service in resolving conflict. However, they often expect some physical labour from the negotiating

² *Those making statements are made to speak the truth (dharma bhakaune) while placing their hand on a copy of the Bhagavad Gita, or on a basil plant (tulsi), or on an ammonite (shaligram), all sacred to the god Vishnu.*

parties, perhaps for them to work on their farm. Some negotiating parties also voluntarily offer them presents in kind such as ghee, chicken, vegetables, fruit, and so on. Generally the winning party gives such presents and voluntary labour.

Local people learn negotiation skills from experience and involvement in community-level conflict settlement practices. Those who have the time, credibility, temperament, willingness, articulation, and vested interests are more involved in community-level conflict management. Generally they listen carefully to the conflict story from both parties. If relevant, they also inspect the place of conflict, assess the past track records of the disputing parties, and consult neighbors as eyewitnesses. If necessary, they call meetings in public places (or sometimes in their own homes or even in the house of one of the disputing parties if the parties agree) to get the opinion of neighbours. Then, on the basis of their assessment and judgment, they make a decision. Disputing parties almost always accept such decisions. They use many cultural, religious and political proverbs (which highlight the importance of resolving conflicts locally rather than going through a formal process) to convince the disputing parties (Upreti 2001; Khadka 1997). According to the context and situation, they also threaten, harass, and even occasionally beat offenders to reveal the truth and/or to force them to accept the prescribed settlement. Occasionally, they also integrate their resolution measures with formal processes. For example, sometimes the police are invited to execute the decision if the proven offender does not abide by it. Even in formal mechanisms the police or the VDC sometimes take the help of local mediators to resolve conflicts instead of settling it themselves. However, these practices are rapidly decreasing with the expansion and influence of the Maoists in the rural areas.

The main reasons behind preference for local conflict settlement practices are:

- Trust in mediators,
- Ease to settlement
- Maintenance of social harmony and
- Lack of resources (money, knowledge, time, and connections) to go for formal conflict-resolution process.

Nevertheless, particularly after 1990, the credibility of such informal conflict settlement practices has been eroding quickly, a result of social and political change (Khadka 1997). Currently, many people affiliated to a particular political party do not wish to settle a conflict according to a mediator who is not a member of his/her own party. Many people also deliberately question the fairness of local negotiators/mediators/arbitrators citing the potential bias of the individual against supporters of the particular political party with whom the individual is associated. Local conflict management capacity is also inhibited by the formal system. In informal conflict settlement practices, male

domination is common. However, the role of women is often important. At the local level, women particularly from ethnic groups, are directly and actively involved in conflict settlement. The case study at Dolakha district revealed that Tamang women were settling most of the social conflict within their community. The role of a Tamang woman in settling inter-community conflict related to the spring water source was highly appreciated by community. In some cases, women acted as a mediator between husband and wife or when family members have a conflict with neighbours (Khadka 1997).

4.2 Formal conflict settlement provisions

The discussion of the preceding section reveals that the most frequently observed low-intensity social conflict at local level is related to the access, control, and governance of natural resources. Only complicated conflicts which cannot be settled by informal means go to the VDCs, police, or District Administration Offices. Those cases which VDC, police, or District Administration Office cannot settle or those which do not fall under the jurisdictions of these offices go to the courts for resolution. The following are some of the main laws and regulations of the state that contribute to escalating and resolving local conflicts.

A unique feature of these acts is that they contradict each other which serves itself as a source of conflicts. For example, twenty-three Acts and regulations contradict Local Self-Governance Act 1999, the latest in a long line of legislation on decentralization in Nepal (Upreti 2002). Many respondents noted that legal provisions are often manipulated by people who are well informed with these laws and regulations and who have better access to and networks with the law enforcing agencies and political power centres. Many of the respondents felt that the statutory provisions were complicated and ambiguous. The sheer quantity of legislation itself meant that regulations could be used to their advantage by elites and power brokers.

5. Factors affecting local conflict dynamics

Many visible and invisible factors affect the dynamics of local conflicts. Course of settlements of conflicts have been shaped by combinations of more than one factor. These are briefly discussed below.

5.1 Changing context and time

Context and time are very important factors in influencing conflict dynamics. The history of the disputing parties plays an important role. Similarly, the cultural norms and values of the society where conflicts arise also affects course of action in conflict. Likewise, economic and social conditions (if the disputants are rich, socially respected) also influence conflict dynamics. If alternatives are available to people (e.g., if there are other employment

opportunities), disputants do not get entangled in long-term land conflicts with relatives or irrigation conflicts with neighbours. The specific time frame also changes conflict dynamics. For example, if one of the disputant parties has been offered a better opportunity to go to another part of the country, he or she may drop the conflict. Such events were frequently reported during the field study for this research.

5.2 Individual behaviours and level of understanding

Individual personality traits and behavioural characteristics such as adaptive, accommodative, reactive responses, tolerance, and level of understanding and information greatly shape the course of conflict and the level of escalation. For example, in the case of reactions to KTWR, individual members of the Mushahar community, very low in the traditional Tarai caste hierarchy, who are very poor and with low levels of education, were found to be more tolerant to manipulations by Park authority compared to the individual members of Yadav community. Mushahar people were less informed about the legal provisions and were generally accepting of what the Park authority ordered them to do compared to Yadavs, Brahmins, and Chhetris.

5.3 The influences of relative and close networks

It was observed that close or even distant relatives were actively engaged in dealing with many family-related conflicts. When conflicts arise, first, parties in conflicts often contact some of their relatives whom they trust and receive advice from them on how to deal with the conflict, whom to consult and how to settle the conflict in their own favour. The trusted relatives assess the situation, explore the causes of the conflict, examine the strengths, networks, and capability of other side and offer advice. If they advise their relatives to compromise, the disputants often agree. Disputants sometimes also individually consult other social leaders to seek their support.

5.4 Social networks and communication

Social networks also play a crucial role in the creation and settlement of conflicts at local level. It was observed that those who have strong social networks (relations with powerful people, political parties and their leaders, access to the bureaucracy) are most active in conflicts. Both at the national level and at the local level, leading members of all main political parties have strong personal and kin ties to each other, so that whoever is in power, they are able to use their elite connections to their personal and familial advantage. The flow of crucial information is fast and effective to those who have strong social networks.

5.5 The leadership of local mediators

As mentioned earlier, most social conflicts are settled locally with the help of relatives and elderly people in the role of mediators. The quality and fairness of conflict settlement often depend upon the flexibility, neutrality, and past history of the mediators. Some elderly people in each community act as mediators and advisors to community members. The community often accepts their advice because of the individual's credibility and past performance.

6. Conclusions

- Previous studies (Upreti 2001, 2002a; Khadka 1997; Oli 1998; New Era 1988) have shown that indigenous and informal conflict settlement approaches are still effective in resolving social, family, and transaction-related conflicts. In many cases, they are more effective, less expensive, administratively less complicated and easily accessible compared to the provisions of formal conflict resolution. A comparative study on the performance of formal and informal arrangements of conflict resolution conducted by this author in Dolakha district reveals that 66 per cent of respondents view the traditional arrangements as effective in resolving local conflict and 84 per cent suggested a reform of the existing state-sponsored formal conflict resolution arrangements (Upreti 2001).
- At the local level, compromise with collective commitment is a pragmatic framework adopted by people to settle conflicts. Local conflicts are also a means of adjusting the existing pattern of relationships to changing conditions.
- Government laws, rules, and regulations, policies and development interventions and bureaucratic manipulations are major source of local conflicts in society. However, these conflicts are not straightforward and static. They are dynamic, organic, and shaped and reshaped by local social relations and changing power structures in society. State-imposed laws and regulations are therefore not able to address the changing nature and dynamics of local conflicts. The state's ambition to regulate society through legal engineering is too simplistic and does not and cannot address the multi-dimensional nature of local conflicts.
- The implementation of legal provisions and the manipulations of these in actual practice, however, have tremendously contributed to capacity-development of local people as they have to engage in negotiation and renegotiation with different powerful actors. This process strengthens grassroots democracy.

- Indigenous conflict settlement practices are disappearing over time in Nepal. There is a general tendency to interpret indigenous conflict settlement practices as unscientific, abusive, traditional, and lacking in legal authenticity. In addition, the insensitivity of the state legal systems and the negative attitude of influential policy makers are also responsible for the erosion of indigenous practices. The negative characterization of indigenous conflict settlement practices, instead of a selective process of discarding their weaknesses and acknowledging strengths to complement formal legal systems, accelerates the risk of disappearance of these practices that have been developed over hundreds of years of experiences and knowledge.
- Wherever indigenous conflict settlement practices are combined with the legal practices, they are becoming effective (Oli 1998; Khadka 1997; Upreti 2002). Therefore, it is essential to adopt complementary approach by combining strengths of both systems into conflict settlement practices.
- Among the state laws, Local Self-Governance Act 1999 is the most progressive and pragmatic act to develop capacity of local communities to deal with conflicts, thus ultimately contributing to local democracy.
- Allegiance to political parties is today beginning to override other forms of allegiance. This is more common among middle and upper classes, people close to city centres, and the educated. After the restoration of democracy, society was divided into rightist and leftist political camps. Thus conflicts began to be interpreted according to ideology and political interests.
- Research clearly demonstrates that failure to manage local social and resource conflicts has contributed to the escalation of the Maoist's armed rebellion (Upreti 2002a; 2004).
- Case studies of Koshi Tappu Wildlife Reserve area, and in Surkhet and Dolakha, reveal that social conflicts are intrinsically embedded within communities and cannot be divorced from considerations of caste, ethnicity, tribe, and religion, from patterns of interaction and social relations/networking, cultural norms, political, social, economic power, and access to knowledge and information. Further, characteristics of individuals such as attitude, emotion, perception, fear, and reaction greatly affect the dynamics of conflicts. Conflicts are also means of developing, strengthening, and modifying relations in the social shaping of society.

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Nepal Centre for Contemporary Research (NCCR)

Jawalakhel, Lalitpur Sub-metropolitan City,

Ph: +977 1 5000053/5554756

Fax: +977 1 5547756

Webpage: www.nccr.org.np

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About author

Bishnu Raj Upreti holds a PhD from the Netherlands. Dr. Upreti is a senior researcher on conflict management and is known in this field nationally and internationally. He has written and/or co-edited 33 books in conflict, peace, state-building, and security. Besides research, he is also teaching at Kathmandu University. He is engaged with policy-makers, politicians and the national and international media on Nepal's armed conflict and peace process. He is currently the South Asia Regional Coordinator of NCCR North-South, a global research network active in addressing the challenges to sustainable development. He is Trustee of the International Foundations for Sciences (2014-17) and Advisory Board Member of the Centre for Unconventional Security Affairs, University of California, Irvine. Corresponding email address to Dr Upreti is bupreti@nccr.wlink.com.np

About the discussion paper

Conflict is an integral society and it is almost impossible to find the conflict free society. Hence, social conflicts and resources related disputes are integral parts of local communities in Nepal. Hence, amicably settling local level conflicts not only promote harmony within and between communities but also contribute to achieve the peace building aims of Nepal at the time when county is in transition and facing numerous challenges such as to ethnic and communal tension, mistrust and disharmony, attitude of revenge and retaliation, politicization of crimes and criminalization of politics, militarization of youth and radicalization of society, religious intolerances. The locally existed and practiced conflict management mechanisms were also severely disturbed by the decade long bloody armed conflict and their relevance and significances were blatantly undermined. Hence, reviving trust and mutual respects, working in collaboration with different caste, class and ethnic groups hand-in-hand, promoting tolerance and accepting the need of unity within diversity, respecting the multiple social realities. Further, examining the potentials and limitations of the local conflict management mechanisms to promote cooperation and coexistence and settle local disputes and revise them is equally important. Hence, this paper aims to contribute to this direction.

